

## **EXHIBIT D**

Doc No. 20010531660  
3:00pm 11/21/01

RECORDING REQUESTED BY,  
AND WHEN RECORDED RETURN TO:

Simpson Thacher & Bartlett  
425 Lexington Avenue  
New York, New York 10017  
Attn: Sasan Mehrara, Esq.

FIRST AMERICAN TITLE B #601

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**SHORT FORM MEMORANDUM OF LEASE,  
DEED OF TRUST, SECURITY AGREEMENT  
AND FINANCING STATEMENT  
(INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT**

**THIS SHORT FORM MEMORANDUM OF LEASE, DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT (INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT** (this "Memorandum of Lease") dated as of November 21, 2001 is made by and among GENERAL MOTORS CORPORATION, a Delaware corporation having its principal office at Worldwide Real Estate, 200 Renaissance Center, Tower 200, 38<sup>th</sup> Floor, Detroit, Michigan 48265-2000, as lessee and as trustor and debtor (the "Lessee"), in favor of FIRST AMERICAN TITLE INSURANCE COMPANY, with an address of 323 Court Street, San Bernardino, California 92401 ("Trustee"), and AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, with an address c/o Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware 19890-0001, as lessor and as beneficiary and secured party (the "Lessor").

Agreement

In consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor has leased the Property (hereinafter defined) to Lessee and the parties hereto agree as follows:

SECTION 1. Definitions; Interpretation. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Lease dated as of October 31, 2001 between Lessor and Lessee (as supplemented with any Memoranda of Lease and Supplements, and as it may be further amended, supplemented or otherwise modified from time to time in accordance with the terms thereof or of any other Operative Agreement).

SECTION 2. Lease Term.

(a) Pursuant to the terms of the Lease, the Lessor has leased to the Lessee certain property (the "Property") described on the attached Exhibit A. Effective upon the execution and delivery of this Memorandum of Lease by the Lessor and the Lessee, the Property shall be subject to the terms and provisions of the Lease. The Property is leased for a Term commencing

on the date hereof and terminating on October 31, 2008, unless the Term is earlier terminated in accordance with the terms of the Lease.

(b) The Lease contains certain mandatory and optional purchase rights and options during the Term pursuant to which the Lessee may acquire the Property, all as more fully set forth in the Lease.

(c) In addition to those terms referred to herein, the Lease contains numerous other terms, covenants and conditions which affect the Property, and notice is hereby given that reference should be had to the Lease with respect to the details of such terms, covenants and conditions. A copy of the Lease or of the other agreements referenced herein or therein may be obtained from any of the parties hereto at the addresses set forth herein.

(d) Lessee hereby certifies that the Tranche A Percentage for the Property is  $86.31\frac{1}{2}\%$   $\Delta\%$ .

**SECTION 3. Ownership of the Property.** It is the intent of the parties hereto that: (A) the Lease constitutes an "operating lease" pursuant to Statement of Financial Accounting Standards No. 13, as amended, for purposes of the Lessee's financial reporting, (B) for purposes of Federal, state and local income tax and for all other purposes, (i) the transaction contemplated by the Lease is a financing arrangement and preserves ownership of the Property in the Lessee, and (ii) the transaction contemplated by the Lease is a secured borrowing for the purposes of the exercise of remedies hereunder or any enforcement or collection actions pursuant to the terms hereof following the occurrence and during the continuance of a Lease Event of Default, and (x) by the Lease, as supplemented by this Memorandum of Lease, the Lessee grants a deed of trust lien upon and a security interest in and a lien on the Lessee's beneficial ownership interest in the Property for the benefit of the Lessor to secure the Lessee's payment of all amounts owed by the Lessee under the Lease and the other Operative Agreements, and (y) the Lessor holds title to or a ground leasehold interest in the Property so as to create and grant a first lien and prior security interest in the Property subject to the Permitted Liens (a) pursuant to the Lease, as supplemented by this Memorandum of Lease, for the benefit of the Administrative Agent under the Assignment of Lease, to secure to the Administrative Agent the obligations of Lessee under the Lease, as supplemented by this Memorandum of Lease and (b) pursuant to the Deed of Trust to secure to the Administrative Agent the obligations of Lessor under the Deed of Trust, the Loan Facility Agreement and the Participation Agreement. In addition, the parties acknowledge and agree that the characterization of the transaction and the Lessee's obligations as provided in this Section 3 shall not diminish the Lessee's express rights under the Lease and the other Operative Agreements, including, without limitation, the Lessee's right to purchase the Property.

**SECTION 4. Grant of Deed of Trust Lien and Security Interest; Assignment of Leases and Rents.** To secure to the Lessor the payment of all amounts owed to Lessor by Lessee under the Lease and the other Operative Agreements:

(a) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee has caused Lessor to hold title to or a ground leasehold interest in the Property, and does hereby

mortgage, grant, bargain, sell, convey, assign, transfer and set over to the Trustee, its successors and assigns, for the benefit of the Administrative Agent, IN TRUST WITH POWER OF SALE, to the extent permitted by applicable law: (i) all of the Lessee's right, title and interest in the Property, if any, whether heretofore or hereafter existing; (ii) all rights and benefits of whatever nature derived or to be derived by the Lessee under or by virtue of the Lease; and (iii) all of the Lessee's right, title and interest in and to all proceeds of the conversion, whether voluntary or involuntary, of any of the above-described property into cash or other liquid claims, including, without limitation, all awards, payments or proceeds, including interest thereon, and the right to receive the same, which may be made as a result of casualty, any exercise of the right of eminent domain or deed in lieu thereof, the alteration of the grade of any street and any injury to or decrease in the value thereof, the foregoing being referred to hereinafter as the "Security Property."

TO HAVE AND TO HOLD the Security Property, subject however to Permitted Liens, unto the Trustee, its successors and assigns IN TRUST, forever, for the uses and purposes herein expressed, but not otherwise. If Lessee shall pay all sums due under the Lease when due according to the terms thereof and shall otherwise fully and properly perform and comply with all of its obligations under the Lease, then this conveyance shall become null and void.

(b) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee hereby grants to the Lessor a security interest in the Lessee's interest in that portion of the Security Property (the "UCC Property") subject to the Uniform Commercial Code of the State of California (the "UCC"). The Lease, as supplemented by this Memorandum of Lease, shall also be deemed to be a security agreement and shall support any financing statement showing the Lessor's interest as a secured party with respect to any portion of the UCC Property described in such financing statement. The Lessee agrees, at its sole cost and expense, to execute, deliver and file from time to time such further instruments as may be requested by the Lessor to confirm and perfect the lien of the security interest in the collateral described in this Memorandum of Lease, provided, that during the Construction Period with respect to any Construction Period Property, the costs and expenses thereof shall be Transaction Expenses.

(c) To the extent permitted by law, the provisions of this Memorandum of Lease upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" within the meaning of Sections 9-5602 of the UCC, and (i) ~~this~~ Memorandum of Lease covers goods which are or are to become fixtures on the Property, (ii) ~~this~~ Memorandum of Lease is to be recorded in the real estate records, (iii) Lessor is the record owner of the Leased Property, and (iv) products of collateral are also covered.

(d) Notwithstanding that this Memorandum of Lease is an absolute assignment of the Profits and the Subleases and not merely the collateral assignment of, or the grant of a lien or security interest in the Profits and the Subleases, the Lessor grants to the Lessee a revocable license to collect and receive the Profits and to retain, use and enjoy such Profits. Such license shall be automatically revoked upon the occurrence and during the continuance of any Lease Event of Default.

SECTION 5. Remedies.

(a) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor may exercise any one or more of the following rights and remedies as it, in its sole discretion may deem necessary or appropriate:

(i) collect interest on all past due sums at the Overdue Rate;

(ii) terminate the Lease and, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of security, enter upon and take possession of the Property, or any part thereof, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or any part thereof or interest therein, to increase the income therefrom or to protect the security hereof. Upon such termination of Lessee's right to and without further demand or notice, the Lease shall terminate and Lessor may recover from Lessee;

(1) the worth at the time of award of the unpaid Rent (including Basic Rent and Supplemental Rent) which had been earned at the time of termination;

(2) the worth at the time of award of the amount by which the unpaid Rent (including Basic Rent and Supplemental Rent) which would have been earned after termination until the time of award exceeds the amount of such rental loss that Lessee proves could have been reasonably avoided;

(3) the worth at the time of award of the amount by which the unpaid Rent (including Basic Rent and Supplemental Rent) for the balance of the term after the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided;

(4) any other amount necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform Lessee's obligation under the Lease or which in the ordinary course of things would be likely to result therefrom, including the costs and expenses (including reasonable attorneys' fees, advertising costs and brokers' commissions) of recovering possession of the Property, removing Persons or property therefrom, placing the Property in good order, condition, and repair, preparing and altering the Property from reletting, and all other costs and expenses of reletting; and

(5) such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California law.

The "worth at the time of award" of the amounts referred to in clauses (1) and (2) above, is computed by allowing interest at the Overdue Rate. The "worth at the time of award" of the amount referred to in clause (3) above is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

The entering upon and taking possession of the Property, and the collection of such sums as set forth above and the application thereof as aforesaid, shall not cure or waive any Lease Event of Default or notice of a Lease Event of Default hereunder or invalidate any act done in response to such Lease Event of Default and, notwithstanding the continuance in possession of the Lessor or the collection, receipt and application of Profits by the Lessor, the Lessor shall be entitled to exercise every right provided for herein or by law upon the occurrence and during the continuance of any Lease Event of Default, including, without limitation, the right to exercise the power of sale;

(iii) exercise the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations);

(iv) declare all sums secured hereby immediately due and payable by delivery to Trustee and to Lessee of written declaration of the occurrence and continuance of a Lease Event of Default and demand for sale and of written notice of the occurrence and continuance of a Lease Event of Default and of election to cause to be sold said Property, which notice Trustee shall cause to be filed for record. After the lapse of such time as may then be required by law following the recordation of said notice of the occurrence and continuance of a Lease Event of Default, and notice of sale having been given as then required by law, Trustee, without demand on the Lessee, shall sell said Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said Property by public announcement of postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including the Trustee, or the Lessor, may purchase at such sale. After deducting all costs, fees and expenses of Trustee and the Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in accordance with the provisions of Section 21.2 of the Lease;

IT IS ACKNOWLEDGED THAT A POWER OF SALE HAS BEEN GRANTED IN THIS MEMORANDUM OF LEASE; A POWER OF SALE MAY ALLOW LESSOR AND/OR ADMINISTRATIVE AGENT TO TAKE THE PROPERTY AND SELL IT WITHOUT GOING TO COURT IN A FORECLOSURE ACTION UPON DEFAULT BY LESSEE UNDER THIS MEMORANDUM OF LEASE.

(v) in lieu of sale pursuant to the power of sale conferred hereby, foreclose in the manner provided by law for the foreclosure of mortgages or deeds of trust on leasehold interests in real property;

(vi) declare immediately due and payable without notice or demand, except as otherwise required hereunder or under applicable law, all amounts payable by the Lessee hereunder or under the other Operative Agreements which are then unpaid, with all interest and sums accrued, and accelerate payment thereof notwithstanding contrary terms of payment stated therein and exercise all rights and remedies available hereunder, at law, in equity or otherwise;

(vii) as a matter of right, and upon notice to the Lessee or anyone claiming under the Lessee and without regard to the adequacy of its security or the then value of the Property or the interest of the Lessee therein, apply to any court having jurisdiction to appoint a receiver or receivers of the Property and the Lessee hereby irrevocably consents to such appointment and, to the extent permitted by applicable law, waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers of the Lessor provided for in Section 5(a)(ii) above, and shall continue as a receiver and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated by the Lessor in its sole discretion.

Upon the occurrence and during the continuance of a Lease Event of Default, Trustee and the Lessor, and each of them, shall be entitled to enforce payment and performance of any obligations secured hereby and to exercise all rights and powers hereunder or any laws now or hereafter in force, notwithstanding that some or all of said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, Lien, assignment or otherwise. Neither the acceptance nor the enforcement hereof, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or the Lessor's right to realize upon or enforce any other security now or hereafter held by the Lessor, and each of them shall be entitled to enforce the rights and remedies provided for herein and any other security now or hereafter held by the Lessor in such order and manner as they or either of them may in their absolute discretion determine. No remedy conferred upon or reserved to Trustee or the Lessor is intended to be exclusive of any other remedy, but each shall be cumulative and shall be in addition to every other remedy given hereby or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Trustee or the Lessor or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or the Lessor, and either or both of them may pursue inconsistent remedies.

(b) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor, in addition to and not in lieu of or in diminution of the rights and remedies provided above shall have all of the rights and remedies of a secured party under the UCC, which rights and remedies may be exercised without application to any court to the extent permitted by the UCC.

(c) It is the intent of the parties hereto that the Lease be treated as a secured borrowing to the extent provided in Section 3 (B) (iii) above, and that, upon the occurrence and during the continuance of a Lease Event of Default, the Lessor shall have the remedies provided for in this Section 5. In the event that, notwithstanding the intention of the parties, a court of

competent jurisdiction determines that, for the purpose of remedies, the transaction contemplated by the Lease constitutes a leasing arrangement, the parties hereto acknowledge and agree that the Lessor shall have, as a result of such determination, in lieu of the remedies set forth in this Section 5, all of the rights and remedies of a landlord provided for in Section XVII of the Lease, provided that the parties hereto acknowledge and agree that it is their intent that the Lease be construed as provided in Section 3.

SECTION 6. Lessor Grant. (a) The Lessor hereby grants a Lien upon and mortgages, grants, bargains, sells, conveys, assigns, transfers and sets over to trustee IN TRUST WITH POWER OF SALE for the benefit of the Lessee the Property to secure (i) the Lessor's obligations hereunder in respect of the due and punctual transfer by the Lessor to the Lessee of all of the Lessor's right, title and interest in and to the Property when required by and in accordance with the Lease, and (ii) if the Lessor shall then be the subject of any bankruptcy, insolvency or similar proceeding, satisfaction of the Lessee's right to damages and other claims arising out of the rejection of the Lease or unilateral termination of such obligation to transfer to the Lessee all of the Lessor's right, title and interest in and to the Property, against all of the Lessor's right, title and interest in and to the Properties.

(b) During the existence and only during the existence of a Lessor Default (as defined below), the Lessee shall have the power and authority, to the extent provided by Legal Requirements, to exercise any or all of the rights and powers and pursue any and all of the remedies provided under the Operative Agreements or by Legal Requirements in respect of the obligations secured in accordance with clause (a) above (including specific performance of any covenant or agreement contained in the Lease or any other Operative Agreement, in aid of the execution of any power granted in the Lease or any other Operative Agreement, or for the enforcement of any other appropriate legal or equitable remedy). The Lessor shall have all the rights available to a trustor under the laws of the jurisdiction in which the Property is located. The following shall constitute a Lessor default ("Lessor Default"): the Lessee shall have exercised any of its purchase options in the Lease for the Property in accordance with the terms hereof and shall have tendered in full all amounts to be paid by Lessee in connection therewith and complied with all other requirements hereunder in connection with such purchase and all of the Lessor's right, title and interest in and to the Property shall not have been transferred to the Lessee in accordance with the Lease.

(c) The Lien created in clause (a) shall automatically terminate and be deemed released without further act or consideration upon (i) the commencement by the Lessor of the exercise of any remedy in respect of the Property pursuant to Article XVI of the Lease (except in the case of a sale to the Lessee thereunder) or (ii) a Lease Event of Default under Section 17.1(a) or (g) of the Lease.

SECTION 7. Ratification. Except as expressly set forth herein, this Memorandum of Lease does not alter, amend, modify or change the Lease or the exhibits thereto. It is the intent of the parties that this Memorandum of Lease be recorded and give notice of and confirm the Lease and exhibits thereto to the same extent as if all of the provisions of the Lease and exhibits thereto were fully set forth herein. The Lease and exhibits thereto are incorporated by reference in this Memorandum of Lease and, except as expressly modified hereby, the terms and provisions of the Lease are hereby ratified and confirmed and remain in full force and effect.

SECTION 8. Original Memorandum of Lease. Notwithstanding anything to the contrary set forth in the documentary conventions, the single executed original of this Memorandum of Lease marked "THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART" on the signature page thereof and containing the receipt of the Administrative Agent therefor on or following the signature page thereof shall be the Original Executed Counterpart of this Memorandum of Lease (the "Original Executed Counterpart"). To the extent that this Memorandum of Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Memorandum of Lease may be created through the transfer or possession of any counterpart other than the Original Executed Counterpart.

SECTION 9. GOVERNING LAW. THIS LEASE AND THIS MEMORANDUM OF LEASE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), EXCEPT AS TO MATTERS RELATING TO THE CREATION OF THE LEASEHOLD ESTATE AND THE CREATION OF THE LEASEHOLD ESTATE HEREUNDER AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO, WHICH SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED. WITHOUT LIMITING THE FOREGOING, IN THE EVENT THAT THE LEASE IS DEEMED TO CONSTITUTE A FINANCING, WHICH IS THE INTENTION OF THE PARTIES, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), SHALL GOVERN THE CREATION, TERMS AND PROVISIONS OF THE INDEBTEDNESS EVIDENCED THEREBY AND HEREBY, BUT ANY LIEN CREATED HEREBY AND THE CREATION AND PERFECTION OF SAID LIEN AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED.

SECTION 10. Merger. If the fee simple title to the Property and the leasehold interest therein shall be held by the same party, the interest in the Property granted to the Lessor pursuant to the Lease and this Memorandum of Lease shall not terminate or be merged, and the Lease and this Memorandum of Lease shall remain in full force and effect.

SECTION 11. Maximum Interest Rate. No provision of this Memorandum of Lease or any transaction related thereto shall require the payment or permit the collection of interest or any other amount in excess of the maximum permitted by applicable law. If any excess of interest or any other amount in such respect is herein or any other Operative Agreement provided for, the Lessee shall not be obligated to pay such excess interest or any other amounts in excess of the amount permitted by applicable law, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any other provision of this Memorandum of Lease and the other Operative Agreements.

SECTION 12. Assignment to Administrative Agent. Pursuant to the Assignment of Lease, the Lessor has assigned to The Chase Manhattan Bank, as Administrative Agent for the Lenders, all of its right, title and interest in and to the Lease, together with all Rent, and in confirmation thereof the Lessor does hereby assign, transfer and set over unto the Administrative Agent, subject to the terms of the Assignment of Lease, all of the right, title and interest of the Lessor in and to all of the Lease, together with all Rent, all modifications, renewals and extensions thereof and any guarantees of the Lessee's obligations under the Lease.

SECTION 13. Counterparts. This Memorandum of Lease may be executed in several counterparts, each of which shall be an original except as provided in Section 7, above, and all of which together shall constitute but one and the same instrument.

SECTION 14. Security Agreement and Financing Statement. The mailing address of debtor (the Lessee herein) and of the secured party (the Lessor herein) from which information concerning security interests hereunder may be obtained is as set forth in Section 15 hereof. A carbon, photographic or other reproduction of this instrument or of any financing statement related to this instrument shall be sufficient as a financing statement for any of the purposes referenced herein.

SECTION 15. State Law Recitals and Provisions.

(a) This Memorandum of Lease is a construction deed of trust under the UCC to secure an obligation incurred for the construction of improvements on the Property. Any materials, equipment or supplies used or intended for use in the construction, development, or operation of the Improvements, shall also be subject to the lien of this Memorandum of Lease and Lessee, or Lessee's contractor if loan proceeds are paid to such contractor, shall apply the loan proceeds to the payment of lawful claims for labor and material furnished for such construction.

(b) This instrument will be deemed given to secure not only existing financing but also future advances made pursuant to or as provided in the Operative Documents, whether such advances are obligatory or to be made at the option of the Participants or Lessor, or otherwise to the same extent as if such future advances were made on the date of execution of this instrument, although there may be no financing outstanding at the time any advance is made. To the fullest extent permitted by law, the lien of this instrument shall be valid as to all such amounts, including all future advances, from the time this instrument is recorded. Nothing contained herein shall be deemed an obligation to make future advances to any Person.

SECTION 16. Financing Statement. For purposes of this instrument as a fixture filing, and for all other purposes, unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given to any Person shall be given in writing by nationally recognized courier service and any such notice shall become effective (a) five (5) Business Days after being deposited in the mails, certified or registered with appropriate postage prepaid, (b) one (1) Business Day after delivery to a nationally recognized courier service specifying overnight delivery, (c) when delivered by hand, or (d) in the case of facsimile notice, when received (when receipt is either confirmed by confirming transmission equipment or

acknowledged by the addressee or its office) and shall be directed to the address of such Person as indicated:

Address of Lessee/Debtor:

General Motors Corporation  
Worldwide Real Estate  
200 Renaissance Center, Tower 200  
38<sup>th</sup> Floor  
Detroit, Michigan 48265-2000  
Attention: General Director, WRE  
Fax: 313-665-6745

With a copy to:

Mayer, Brown & Platt  
190 S. LaSalle Street  
Chicago, Illinois 60603-3411  
Attention: Robert E. Gordon  
Fax: 312-701-7711

Address of Lessor/Secured Party:

Auto Facilities Real Estate Trust 2001-1  
C/o Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration  
Fax: 302-651-8882

From time to time any party may designate a new address for purposes of notice hereunder by notice to each of the other parties hereto.

**SECTION 17. Liability of Wilmington Trust FSB.** It is expressly understood and agreed by the parties hereto that (a) this Memorandum of Lease is executed and delivered by Wilmington Trust FSB not individually or personally but solely as Co-Trustee of the Trust, in the exercise of the powers and authority conferred and vested in it as such Co-Trustee, (b) each of the representations, undertakings and agreements herein made on the part of the Lessor is made and intended not as personal representations, undertakings and agreements by Wilmington Trust FSB but is made and intended for the purpose of binding only the Lessor, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust FSB, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under no circumstances shall Wilmington Trust FSB be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Lessor under this Memorandum of Lease.

IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware business trust

By: Wilmington Trust FSB, not in its individual capacity but solely as Co-Trustee

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

Name: **JAMES P. LAWLER**  
Title: **Vice President**

LESSEE:

GENERAL MOTORS CORPORATION, a  
Delaware corporation

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

Name:  
Title:

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

LESSOR:

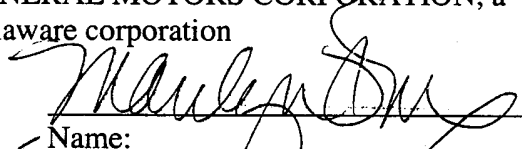
AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware business trust

By: Wilmington Trust FSB, not in its individual  
capacity but solely as Co-Trustee

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

LESSEE:

GENERAL MOTORS CORPORATION, a  
Delaware corporation

By:   
Name: \_\_\_\_\_  
6.F. Title: Marilyn P. Nitz  
Director  
Worldwide Real Estate

STATE OF **Delaware** )  
 )  
COUNTY OF **New Castle** ) SS:

On this 12 day of NOV in the year 2001 before me, Janel R. Havrilla Notary Public of said State, duly commissioned and sworn, personally appeared James P. Lawler, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

Signature Janel R. Havrilla (Seal)

JANEL R. HAVRILLA  
NOTARY PUBLIC-DELAWARE  
My Commission Expires Feb. 2, 2005



Exhibit A  
Legal Description

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Land situated in the State of California, County of San Bernardino, and described as follows:

PARCEL NO. 1:

That portion of Lot 11, Section 14, Township 1 South, Range 7 West, San Bernardino Base and Meridian, in the City of Rancho Cucamonga, County of San Bernardino, State of California, as per plat of Cucamonga Fruit Lands, recorded in Book 4 of Maps, Page 9, Records of said county, lying west of a line which is parallel with and distant westerly 659.20 feet, measured along the south line of said lot from the center line of that certain unnamed street (now known as Turner Avenue) shown on said map along the easterly side of said lot.

Except therefrom the westerly 17.00 feet, measured at right angles, as conveyed to the Atchison, Topeka and Santa Fe Railway Company by instrument recorded April 19, 1967, in Book 6805, Page 985, official records of said county.

PARCEL NO. 2:

That portion of Lot 11, Section 14, Township 1 South, Range 7 West, San Bernardino Base and Meridian, in the City of Rancho Cucamonga, County of San Bernardino, State of California, as per plat of Cucamonga Fruit Lands, recorded in Book 4 of Maps, Page 9, Records of said county, lying east of a line which is parallel with and distant westerly 659.20 feet, measured along the south line of said lot from the center line of that certain unnamed street (now known as Turner Avenue) shown on said map along the easterly side of said lot.

EXHIBIT 'A' CONTINUED

PARCEL NO. 3:

EASEMENT DATED NOVEMBER 7, 2001, RECORDED \_\_\_\_\_ AS INSTRUMENT NO. \_\_\_\_\_, OFFICIAL RECORDS FOR RAILROAD PURPOSES IN, OVER, ALONG, AND ACROSS A PORTION OF THAT CERTAIN PROPERTY DESCRIBED IN DEED RECORDED JULY 25, 2001 IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, AS INSTRUMENT NO. 20000262877, OF OFFICIAL RECORDS BEING A PORTION OF PARCEL 1 OF PARCEL MAP NO. 5044, IN THE CITY OF RANCHO CUCAMONGA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 51 OF PARCEL MAPS, PAGE(S) 100, RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS :

COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL 1 OF PARCEL MAP 5044, THENCE SOUTH 89 DEG. 44' 21" EAST, 17.00 FEET ALONG THE NORTHERLY LINE OF SAID PARCEL 1 TO THE TRUE POINT OF BEGINNING, THENCE SOUTH 00 DEG. 12' 08" EAST, 175 FEET; THENCE SOUTH 89 DEG. 44' 21" EAST, 10 FEET; THENCE NORTH 00 DEG. 12' 08" WEST, 115 FEET; THENCE NORTH 08 DEG. 19' 54" EAST, 60.66 +/- TO A POINT ON THE NORTHERLY LINE OF SAID PARCEL 1; THENCE NORTH 89 DEG. 44' 21" WEST ALONG THE NORTHERLY LINE 19.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL NO. 4:

EASEMENT DATED NOVEMBER 21, 2001, RECORDED \_\_\_\_\_ AS INSTRUMENT NO. \_\_\_\_\_, OFFICIAL RECORDS FOR A "NO-BUILD AREA" IN, ON, OVER AND ACROSS THE WESTERLY 17.0 FEET OF LOT 11 AND THE EASTERLY 17.0 FEET OF LOT 12, AS SAID LOTS ARE SHOWN ON "MAP OF CUCAMONGA LANDS SITUATED IN SAN BERNARDINO COUNTY, CALIFORNIA", RECORDED IN BOOK 4 OF MAPS, PAGE 9, RECORDS OF SAID COUNTY, IN SECTION 14, TOWNSHIP 1 SOUTH, RANGE 7 WEST, SAN BERNARDINO MERIDIAN, SAN BERNARDINO, CALIFORNIA.

R2002063936

SHORT FORM MEMORANDUM OF LEASE,  
MORTGAGE, SECURITY AGREEMENT  
AND FINANCING STATEMENT  
(INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT

by and between

AUTO FACILITIES REAL ESTATE TRUST 2001-1,

Lessor

and

GENERAL MOTORS CORPORATION,

Lessee

APRIL 5, 2002

This Memorandum of Lease has been  
prepared by and after  
recording, please return to:

Property Address:  
1355 Remington Blvd.  
Bolingbrook, Illinois 60440

Simpson Thacher & Bartlett  
425 Lexington Avenue  
New York, New York 10017

ATTN: Sasan Mehrara, Esq.

P.I.N. 12-02-30-403-001

MARY ANN STUKEL

Will County Recorder  
Will County

17P

CA:\nr\Portb\NY02\08617\2167184\_5.DOC

*1 of 17\**

R 2002063936

Page 1 of 17

PC1 Date 04/12/2002 Time 15:38:16

Recording Fees:

56.00

JPMCB-STB-00002638

CC 97

2

**SHORT FORM MEMORANDUM OF LEASE,  
MORTGAGE, SECURITY AGREEMENT  
AND FINANCING STATEMENT  
(INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT**

**THIS SHORT FORM MEMORANDUM OF LEASE, MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT** (this "Memorandum of Lease") dated as of April 5, 2002 is made by and between AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust with an address c/o Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware 19890-0001, as lessor and as mortgagee, beneficiary and secured party (the "Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation having its principal office at Worldwide Real Estate, 200 Renaissance Center, Tower 200, 38<sup>th</sup> Floor, Detroit, Michigan 48265-2000, as lessee and as mortgagor and debtor (the "Lessee").

Agreement

In consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor has leased the Property (hereinafter defined) to Lessee and the parties hereto agree as follows:

SECTION 1. Definitions; Interpretation. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Lease dated as of October 31, 2001 between Lessor and Lessee (as supplemented with any Memoranda of Lease and Supplements, and as it may be further amended, supplemented or otherwise modified from time to time in accordance with the terms thereof or of any other Operative Agreement).

SECTION 2. Lease Term.

(a) Pursuant to the terms of the Lease, the Lessor has leased to the Lessee certain property (the "Property") described on the attached Exhibit A. Effective upon the execution and delivery of this Memorandum of Lease by the Lessor and the Lessee, the Property shall be subject to the terms and provisions of the Lease. The Property is leased for a Term commencing on the date hereof and terminating on October 31, 2008, unless the Term is earlier terminated in accordance with the terms of the Lease.

(b) The Lease contains certain mandatory and optional purchase rights and options during the Term pursuant to which the Lessee may acquire the Property all as more fully set forth in the Lease.

(c) In addition to those terms referred to herein, the Lease contains numerous other terms, covenants and conditions which affect the Property, and notice is hereby given that reference should be had to the Lease with respect to the details of such terms, covenants and

conditions. A copy of the Lease or of the other agreements referenced herein or therein may be obtained from any of the parties hereto at the addresses set forth herein.

(d) Lessee hereby certifies that the Tranche A Percentage for the Property is 88.3690639244%.

SECTION 3. Ownership of the Property. It is the intent of the parties hereto that: (A) the Lease constitutes an "operating lease" pursuant to Statement of Financial Accounting Standards No. 13, as amended, for purposes of the Lessee's financial reporting, (B) for purposes of Federal, state and local income tax and for all other purposes, (i) the transaction contemplated by the Lease is a financing arrangement and preserves ownership of the Property in the Lessee, (ii) the transaction contemplated by the Lease is a secured borrowing for the purposes of the exercise of remedies hereunder or any enforcement or collection actions pursuant to the term hereof following the occurrence and during the continuance of a Lease Event of Default, and (x) by the Lease, as supplemented by this Memorandum of Lease, the Lessee grants a mortgage upon and a security interest in and a lien on the Lessee's beneficial ownership interest in the Property for the benefit of the Lessor to secure the Lessee's payment of all amounts owed by the Lessee under the Lease and the other Operative Agreements, and (y) the Lessor holds title to or a ground leasehold interest in the Property so as to create and grant a first lien and prior security interest in the Property subject to the Permitted Liens (a) pursuant to the Lease, as supplemented by this Memorandum of Lease, for the benefit of the Administrative Agent under the Assignment of Lease, to secure to the Administrative Agent the obligations of Lessee under the Lease, as supplemented by this Memorandum of Lease and (b) pursuant to the Mortgage to secure to the Administrative Agent the obligations of Lessor under the Mortgage, the Loan Facility Agreement and the Participation Agreement. In addition, the parties acknowledge and agree that the characterization of the transaction and the Lessee's obligations as provided in this Section 3 shall not diminish the Lessee's express rights under the Lease and the other Operative Agreements, including, without limitation, the Lessee's right to purchase the Property.

SECTION 4. Grant of Mortgage Lien and Security Interest; Assignment of Rents. To secure to the Lessor the payment of all amounts owed to Lessor by Lessee under the Lease and the other Operative Agreements:

(a) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee has caused Lessor to hold title to the Property, and does hereby mortgage, grant, warrant, assign, transfer and set over to the Lessor, to the extent permitted by applicable law: (i) all of the Lessee's right, title and interest in the Property, if any, whether heretofore or hereafter existing; (ii) all rights and benefits of whatever nature derived or to be derived by the Lessee under or by virtue of the Lease; and (iii) all of the Lessee's right, title and interest in and to all proceeds of the conversion, whether voluntary or involuntary, of any of the above-described property into cash or other liquid claims, including, without limitation, all awards, payments or proceeds, including interest thereon, and the right to receive the same, which may be made as a result of casualty, any exercise of the right of eminent domain or deed in lieu thereof, the alteration of the grade of any street and any injury to or decrease in the value thereof, the foregoing being referred to hereinafter as the "Security Property."

TO HAVE AND TO HOLD the Security Property, subject however to Permitted Liens, unto the Lessor, its successors and assigns, for the uses and purposes herein expressed, but not otherwise.

(a) If Lessee shall pay all sums due under the Lease when due and according to the terms thereof and shall otherwise fully and properly perform and comply with all of Lessee's obligations under the Lease, then this conveyance shall be of no further force as to the Property.

(b) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee hereby grants to the Lessor a security interest in the Lessee's interest in that portion of the Security Property (the "UCC Property") subject to the Uniform Commercial Code of the State of Illinois (the "UCC"). The Lease, as supplemented by this Memorandum of Lease, shall also be deemed to be a security agreement and shall support any financing statement showing the Lessor's interest as a secured party with respect to any portion of the UCC Property described in such financing statement. The Lessee agrees, at its sole cost and expense, to execute, deliver and file from time to time such further writings as may be requested by the Lessor to confirm and perfect the lien of the security interest in the collateral described in this Memorandum of Lease.

(c) To the extent permitted by law, the provisions of this Memorandum of Lease upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" within the meaning of Section 5/9-102 (40) of the UCC, and (i) this Memorandum of Lease covers goods which are or are to become fixtures on the Property, (ii) this Memorandum of Lease is to be recorded in the real estate records, (iii) Lessor is the record owner of the Leased Property, and (iv) products of collateral are also covered.

(d) Notwithstanding that this Memorandum of Lease is an absolute assignment of the Profits and the Subleases and not merely the collateral assignment of, or the grant of a lien or security interest in the Profits and the Subleases, the Lessor grants to the Lessee a revocable license to collect and receive the Profits and to retain, use and enjoy such Profits. Such license shall be automatically revoked upon the occurrence and during the continuance of any Lease Event of Default.

#### SECTION 5. Remedies.

(a) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor may exercise any one or more of the following rights and remedies as it, in its sole discretion may deem necessary or appropriate:

(i) collect interest on all past due sums at the Overdue Rate;

(ii) terminate the Lease and, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of security, enter upon and take possession of the Property, or any part thereof, in its own name, and do any acts which it deems

necessary or desirable to preserve the value, marketability or rentability of the Property, or any part thereof or interest therein, to increase the income therefrom or to protect the security hereof and, with or without taking possession of the Property, to sue for or otherwise to collect the Profits thereof, including, without limitation, those past due and unpaid, and to apply the same, less costs and expenses of operation and collection, including, without limitation, reasonable attorneys' fees, upon any obligations secured hereby, all in such order as the Lessor may determine. The entering upon and taking possession of the Property, and the collection of such Profits and the application thereof as aforesaid, shall not cure or waive any Lease Event of Default or notice of a Lease Event of Default hereunder or invalidate any act done in response to such Lease Event of Default and, notwithstanding the continuance in possession of the Lessor or the collection, receipt and application of Profits by the Lessor, the Lessor shall be entitled to exercise every right provided for herein or by law upon the occurrence and during the continuance of any Lease Event of Default, including, without limitation, the right to exercise the power of sale;

(iii) declare all sums secured hereby immediately due and payable by delivery to Lessor and to Lessee of written declaration of the occurrence and continuance of a Lease Event of Default, to the extent permitted by law, and demand for sale and of written notice of the occurrence and continuance of a Lease Event of Default and of election to cause to be sold said Property, which notice Lessor shall cause to be filed for record. After the lapse of such time as may then be required by law following the recordation of said notice of the occurrence and continuance of a Lease Event of Default, and notice of sale having been given as then required by law, Lessor, without demand on the Lessee, shall sell the Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Lessor may postpone sale of all or any portion of said Property by public announcement of postponement. Lessor shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including the Lessor, may purchase at such sale. After deducting all costs, fees and expenses of Lessor and the Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in accordance with the provisions of Section 21.2 of the Lease;

(iv) in lieu of sale pursuant to the power of sale conferred hereby, foreclose in the manner provided by law for the foreclosure of mortgages or deeds of trust on leasehold interests in real property;

(v) declare immediately due and payable without notice or demand, except as otherwise required hereunder or under applicable law, all amounts payable by the Lessee hereunder or under the other Operative Agreements which are then unpaid, with all interest and sums accrued, and accelerate payment

thereof notwithstanding contrary terms of payment stated therein and exercise all rights and remedies available hereunder, at law, in equity or otherwise;

(vi) as a matter of right, and upon notice to the Lessee or anyone claiming under the Lessee and without regard to the adequacy of its security or the then value of the Property or the interest of the Lessee therein, apply to any court having jurisdiction to appoint a receiver or receivers of the Property and the Lessee hereby irrevocably consents to such appointment and, to the extent permitted by applicable law, waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers of the Lessor provided for in Section 5(a)(ii) above, and shall continue as a receiver and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated by the Lessor in its sole discretion.

Upon the occurrence and during the continuance of a Lease Event of Default, Lessor shall be entitled to enforce payment and performance of any obligations secured hereby and to exercise all rights and powers hereunder or any laws now or hereafter in force, notwithstanding that some or all of said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, Lien, assignment or otherwise. Neither the acceptance nor the enforcement hereof, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Lessor's right to realize upon or enforce any other security now or hereafter held by the Lessor, and Lessor shall be entitled to enforce the rights and remedies provided for herein and any other security now or hereafter held by the Lessor in such order and manner as Lessor may in its absolute discretion determine. No remedy conferred upon or reserved to Lessor is intended to be exclusive of any other remedy, but each shall be cumulative and shall be in addition to every other remedy given hereby or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Lessor or to which Lessor may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Lessor, and Lessor may pursue inconsistent remedies.

(b) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor, in addition to and not in lieu of or in diminution of the rights and remedies provided above shall have all of the rights and remedies of a secured party under the UCC, which rights and remedies may be exercised without application to any court to the extent permitted by the UCC.

(c) It is the intent of the parties hereto that the Lease be treated as a secured borrowing to the extent provided in Section 3 (B) (iii) above, and that, upon the occurrence and during the continuance of a Lease Event of Default, the Lessor shall have the remedies provided for in this Section 5. In the event that, notwithstanding the intention of the parties, a court of competent jurisdiction determines that, for the purpose of remedies, the transaction contemplated by the Lease constitutes a leasing arrangement, the parties hereto acknowledge and agree that the Lessor shall have, as a result of such determination, in lieu of the remedies set forth in this Section 5, all of the rights and remedies of a landlord provided for in Section XVII of the Lease,

provided that the parties hereto acknowledge and agree that it is their intent that the Lease be construed as provided in Section 3.

**SECTION 6. Lessor Grant.** (a) The Lessor hereby grants a Lien upon and mortgages and warrants to the Lessee the Property to secure (i) the Lessor's obligations hereunder in respect of the due and punctual transfer by the Lessor to the Lessee of all of the Lessor's right, title and interest in and to the Property when required by and in accordance with the Lease, and (ii) if the Lessor shall then be the subject of any bankruptcy, insolvency or similar proceeding, satisfaction of the Lessee's right to damages and other claims arising out of the rejection of the Lease or unilateral termination of such obligation to transfer to the Lessee all of the Lessor's right, title and interest in and to the Property, against all of the Lessor's right, title and interest in and to the Property.

(b) During the existence and only during the existence of a Lessor Default (as defined below), the Lessee shall have the power and authority, to the extent provided by Legal Requirements, to exercise any or all of the rights and powers and pursue any and all of the remedies provided under the Operative Agreements or by Legal Requirements in respect of the obligations secured in accordance with clause (a) above (including specific performance of any covenant or agreement contained in the Lease or any other Operative Agreement, in aid of the execution of any power granted in the Lease or any other Operative Agreement, or for the enforcement of any other appropriate legal or equitable remedy). The Lessor shall have all the rights available to a mortgagor under the laws of the jurisdiction in which the Property is located. The following shall constitute a Lessor default ("Lessor Default"): the Lessee shall have exercised any of its purchase options in the Lease for the Property in accordance with the terms thereof and shall have tendered in full all amounts to be paid by Lessee in connection therewith and complied with all other requirements hereunder and under the Lease in connection with such purchase and all of the Lessor's right, title and interest in and to the Property shall not have been transferred to the Lessee in accordance with the Lease.

(c) The Lien created in clause (a) shall automatically terminate and be deemed released without further act or consideration upon (i) the commencement by the Lessor of the exercise of any remedy in respect of the Property pursuant to Article XVI (except in the case of a sale to the Lessee thereunder) or (ii) a Lease Event of Default under Section 17.1(a) or (g) of the Lease.

**SECTION 7. Ratification.** Except as expressly set forth herein, this Memorandum of Lease does not alter, amend, modify or change the Lease or the exhibits thereto. It is the intent of the parties that this Memorandum of Lease be recorded and give notice of and confirm the Lease and exhibits thereto to the same extent as if all of the provisions of the Lease and exhibits thereto were fully set forth herein. The Lease and exhibits thereto are incorporated by reference in this Memorandum of Lease and, except as expressly modified hereby, the terms and provisions of the Lease are hereby ratified and confirmed and remain in full force and effect.

**SECTION 8. Original Memorandum of Lease.** Notwithstanding anything to the contrary set forth in the documentary conventions, the single executed original of this Memorandum of Lease marked "THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART" on the signature page thereof and containing the receipt of the Administrative

Agent therefor on or following the signature page thereof shall be the Original Executed Counterpart of this Memorandum of Lease (the "Original Executed Counterpart"). To the extent that this Memorandum of Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Memorandum of Lease may be created through the transfer or possession of any counterpart other than the Original Executed Counterpart.

SECTION 9. GOVERNING LAW. THE LEASE AND THIS MEMORANDUM OF LEASE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), EXCEPT AS TO MATTERS RELATING TO THE CREATION OF THE LEASEHOLD ESTATE AND THE CREATION OF THE LEASEHOLD ESTATE HEREUNDER AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO, WHICH SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS. WITHOUT LIMITING THE FOREGOING, IN THE EVENT THAT THE LEASE IS DEEMED TO CONSTITUTE A FINANCING, WHICH IS THE INTENTION OF THE PARTIES, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), SHALL GOVERN THE CREATION, TERMS AND PROVISIONS OF THE INDEBTEDNESS EVIDENCED THEREBY AND HEREBY, BUT ANY LIEN CREATED HEREBY AND THE CREATION AND PERFECTION OF SAID LIEN AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF ILLINOIS.

SECTION 10. Merger. If the fee simple title to the Property and the leasehold interest therein shall be held by the same party, the interest in the Property granted to the Lessor pursuant to the Lease and this Memorandum of Lease shall not terminate or be merged, and the Lease and this Memorandum of Lease shall remain in full force and effect.

SECTION 11. Maximum Interest Rate. No provision of this Memorandum of Lease or any transaction related thereto shall require the payment or permit the collection of interest or any other amount in excess of the maximum permitted by applicable law. If any excess of interest or any other amount in such respect is herein or any other Operative Agreement provided for, the Lessee shall not be obligated to pay such excess interest or any other amounts in excess of the amount permitted by applicable law, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any other provision of this Memorandum of Lease and the other Operative Agreements.

SECTION 12. Assignment to Administrative Agent. Pursuant to the Assignment of Lease, the Lessor has assigned to The Chase Manhattan Bank, as Administrative Agent for the Lenders, all of its right, title and interest in and to the Lease, together with all Rent, and in confirmation thereof the Lessor does hereby assign, transfer and set over unto the Administrative Agent, subject to the terms of the Assignment of Lease, all of the right, title and interest of the

Lessor in and to all of the Lease, together with all Rent, all modifications, renewals and extensions thereof and any guarantees of the Lessee's obligations under the Lease.

SECTION 13. Counterparts. This Memorandum of Lease may be executed in several counterparts, each of which shall be an original except as provided in Section 7, above, and all of which together shall constitute but one and the same instrument.

SECTION 14. Security Agreement and Financing Statement. The mailing address of debtor (the Lessee herein) and of the secured party (the Lessor herein) from which information concerning security interests hereunder may be obtained is as set forth in Section 15 hereof. A carbon, photographic or other reproduction of this instrument or of any financing statement related to this instrument shall be sufficient as a financing statement for any of the purposes referenced herein.

SECTION 15. Maximum Amount Secured. The maximum principal amount of all amounts owed by the Lessee under the Lease and the other Operative Agreements at any one time shall not exceed \$47,200,000.

SECTION 16. Financing Statement. For purposes of this instrument as a fixture filing, and for all other purposes, unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given to any Person shall be given in writing by nationally recognized courier service and any such notice shall become effective (a) five (5) Business Days after being deposited in the mails, certified or registered with appropriate postage prepaid, (b) one (1) Business Day after delivery to a nationally recognized courier service specifying overnight delivery, (c) when delivered by hand, or (d) in the case of facsimile notice, when received (when receipt is either confirmed by confirming transmission equipment or acknowledged by the addressee or its office) and shall be directed to the address of such Person as indicated:

Address of Lessee/Debtor:

General Motors Corporation  
Worldwide Real Estate  
200 Renaissance Center, Tower 200  
38<sup>th</sup> Floor  
Detroit, Michigan 48265-2000  
Attention: General Director, WRE  
Fax: 313-665-6745

With a copy to:

Mayer, Brown, Rowe & Maw  
190 S. LaSalle Street  
Chicago, Illinois 60603-3411  
Attention: Robert E. Gordon  
Fax: 312-701-7711

## Address of Lessor/Secured Party

Auto Facilities Real Estate Trust 2001-1  
c/o Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration  
Fax: 302-651-8882

From time to time any party may designate a new address for purposes of notice hereunder by notice to each of the other parties hereto.

SECTION 17. Liability of Wilmington Trust Company. It is expressly understood and agreed by the parties hereto that (a) this Memorandum of Lease is executed and delivered by Wilmington Trust Company not individually or personally but solely as trustee of the Trust, in the exercise of the powers and authority conferred and vested in it, (b) each of the representations, undertakings and agreements herein made on the part of the Lessor is made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company but is made and intended for the purpose of binding only the Lessor, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under no circumstances shall Wilmington Trust Company be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Lessor under this Memorandum of Lease.

SECTION 18. Counterpart Execution. This Memorandum of Lease may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

R2002063936

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware business trust

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

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

Name:

Title:

**Patricia A. Evans**  
Assistant Vice President

LESSEE:

GENERAL MOTORS CORPORATION, a  
Delaware corporation

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

Name:

Title:

STATE OF Delaware )  
 )  
COUNTY OF New Castle ) ss:

On this 3rd day of April in the year 2002 before me, Anita E. Dallago,  
Notary Public of said State, duly commissioned and sworn, personally appeared  
Patricia A. Evans, personally known to me (or proved to me on the basis of satisfactory  
evidence) to be the individual whose name is subscribed to the within instrument and  
acknowledged to me that he/she executed the same in his/her authorized capacity as  
Asst. V.P. of Wilmington Trust Company, not in its individual capacity, but solely as  
trustee of AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, and  
that by his/her signature on the instrument, the individual, or the person upon behalf of which the  
individual acted, executed the instrument.

Anita E. Dallago  
NOTARY PUBLIC

ANITA E. DALLAGO  
NOTARY PUBLIC  
My Commission Expires August 3, 2003



My commission expires: \_\_\_\_\_

(Affix official seal, if applicable)

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IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

LESSOR:

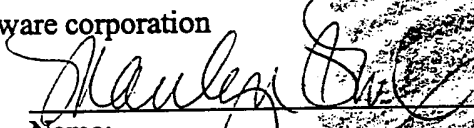
AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware business trust

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

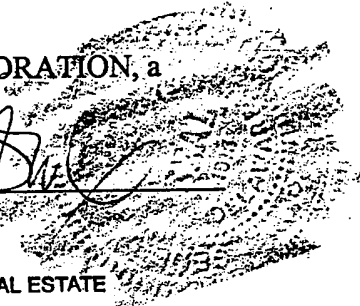
By: \_\_\_\_\_  
Name:  
Title:

LESSEE:

GENERAL MOTORS CORPORATION, a  
Delaware corporation

By:   
Name: MARILYN P. NIX  
Title: DIRECTOR  
WORLDWIDE REAL ESTATE

G.E.  
P&R



STATE OF MICHIGAN,  
COUNTY OF WAYNE } ss:

On this 2 day of April in the year 2002 before me, Nancy A. Devoe Treuter  
Notary Public of said State, duly commissioned and sworn, personally appeared  
Merideth P. Dix, personally known to me (or proved to me on the basis of satisfactory  
evidence) to be the individual whose name is subscribed to the within instrument and  
acknowledged to me that he/she executed the same in his/her authorized capacity, and that by  
his/her signature on the instrument, the individual, or the person upon behalf of which the  
individual acted, executed the instrument.

Nancy A. Devoe Treuter  
NOTARY PUBLIC

My commission expires:

\_\_\_\_\_

(Affix official seal, if applicable)

NANCY A. DEVOE TREUTER  
Notary Public, Oakland County, MI  
My Commission Expires Aug 25, 2004  
acting in Wayne County



R2002063936

Receipt of this original counterpart of the foregoing Memorandum of Lease is hereby acknowledged on this 4<sup>th</sup> day of April, 2002.

JPMORGAN CHASE BANK, as Administrative Agent

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



Name:

Title:

**RICHARD W. DUKER  
VICE PRESIDENT**

R2002063936

Exhibit A  
Legal Description

MARY ANN STUKEL  
WILL COUNTY RECORDER  
58 E. CLINTON STREET  
JOLIET, IL 60432

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JPMCB-STB-00002653

The land referred to in this policy is situated in the State of Illinois, County of Will, and is described as follows:

PARCEL I:

Lot 3 in Carlow Corporate Center South Unit 1, being a subdivision of Part of the Southeast Quarter of Section 30, Township 37 North, Range 10 East of the Third Principal Meridian, in Will County, Illinois, according to the plat thereof recorded August 10, 2001 as document R2001104725.

PARCEL II: Easement for the benefit of parcel 1 as created by ingress/egress and access easement agreement dated May 11, 2001 and recorded as document R2001067179 for ingress and egress over, upon and across that part of the Southeast Quarter of Section 30, Township 37 North, Range 10 East of the Third Principal Meridian, described as follows:

Beginning at the Southwest corner of said Southeast Quarter of Section 30, thence North 01 degrees 12 minutes 51 seconds West along the East line of said Southeast Quarter, 50.00 feet; thence North 88 degrees 16 minutes 03 seconds East, 579.57 feet; thence Northeasterly 768.65 feet along the arc of a non-tangent circle to the left having a radius of 560.00 feet and whose chord bears North 38 degrees 06 minutes 05 seconds East 709.72 feet to a point of tangency; thence North 01 degree 13 minutes 14 seconds West, 1702.35 feet to a point of curvature; thence Northeasterly 352.63 feet along the arc of a circle to the right, having a radius of 995.00 feet and whose chord bears North 08 degrees 55 minutes 56 seconds East 350.79 feet to a point on the North line of the Southeast quarter of said Section 30; thence North 88 degrees 14 minutes 38 seconds East along said North line, 86.15 feet; thence Southwesterly 354.93 feet along the arc of a circle to the left, having a radius of 915.99 feet and whose chord bears South 09 degrees 53 minutes 31 seconds West 352.71 feet to a point of tangency; thence South 01 degrees 13 minutes 14 seconds East, 1702.35 feet to a point of curvature; thence Southwesterly 772.12 feet along the arc of a circle to the right, having a radius of 640.00 feet and whose chord bears South 33 degrees 20 minutes 29 seconds West 726.14 feet to appoint on the South line of said Southeast quarter; thence South 88 degrees 16 minutes 03 seconds West, 697.39 feet along said South line to the point of beginning, in Will County, Illinois.

PARCEL III: Rights and benefits created by the Declaration of Protective Covenants for Carlow Corporate Center recorded March 3, 2000 as document R2000-23488 and the terms and provisions thereof.

17

R2002063936

SHORT FORM MEMORANDUM OF LEASE,  
MORTGAGE, SECURITY AGREEMENT  
AND FINANCING STATEMENT  
(INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT

2

by and between

AUTO FACILITIES REAL ESTATE TRUST 2001-1,

Lessor

and

GENERAL MOTORS CORPORATION,

Lessee

APRIL 5, 2002

This Memorandum of Lease has been  
prepared by and after  
recording, please return to:

Property Address:  
1355 Remington Blvd.  
Bolingbrook, Illinois 60440

Simpson Thacher & Bartlett  
425 Lexington Avenue  
New York, New York 10017

ATTN: Sasan Mehrara, Esq.

P.I.N. 12-02-30-403-001

C:\N\Portb\NY02\086172\167184\_5.DOC

*1 of 17*

MARY ANN STUKEL

17P

Will County Recorder  
Will County

R 2002063936

Page 1 of 17

PC1 Date 04/12/2002

Time 15:38:16

Recording Fees:

56.00

JPMCB-STB-00002655

**SHORT FORM MEMORANDUM OF LEASE,  
MORTGAGE, SECURITY AGREEMENT  
AND FINANCING STATEMENT  
(INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT**

**THIS SHORT FORM MEMORANDUM OF LEASE, MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT** (this "Memorandum of Lease") dated as of April 5, 2002 is made by and between AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust with an address c/o Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware 19890-0001, as lessor and as mortgagee, beneficiary and secured party (the "Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation having its principal office at Worldwide Real Estate, 200 Renaissance Center, Tower 200, 38<sup>th</sup> Floor, Detroit, Michigan 48265-2000, as lessee and as mortgagor and debtor (the "Lessee").

Agreement

In consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor has leased the Property (hereinafter defined) to Lessee and the parties hereto agree as follows:

SECTION 1. Definitions; Interpretation. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Lease dated as of October 31, 2001 between Lessor and Lessee (as supplemented with any Memoranda of Lease and Supplements, and as it may be further amended, supplemented or otherwise modified from time to time in accordance with the terms thereof or of any other Operative Agreement).

SECTION 2. Lease Term.

(a) Pursuant to the terms of the Lease, the Lessor has leased to the Lessee certain property (the "Property") described on the attached Exhibit A. Effective upon the execution and delivery of this Memorandum of Lease by the Lessor and the Lessee, the Property shall be subject to the terms and provisions of the Lease. The Property is leased for a Term commencing on the date hereof and terminating on October 31, 2008, unless the Term is earlier terminated in accordance with the terms of the Lease.

(b) The Lease contains certain mandatory and optional purchase rights and options during the Term pursuant to which the Lessee may acquire the Property all as more fully set forth in the Lease.

(c) In addition to those terms referred to herein, the Lease contains numerous other terms, covenants and conditions which affect the Property, and notice is hereby given that reference should be had to the Lease with respect to the details of such terms, covenants and

conditions. A copy of the Lease or of the other agreements referenced herein or therein may be obtained from any of the parties hereto at the addresses set forth herein.

(d) Lessee hereby certifies that the Tranche A Percentage for the Property is 88.3690639244%.

SECTION 3. Ownership of the Property. It is the intent of the parties hereto that: (A) the Lease constitutes an "operating lease" pursuant to Statement of Financial Accounting Standards No. 13, as amended, for purposes of the Lessee's financial reporting, (B) for purposes of Federal, state and local income tax and for all other purposes, (i) the transaction contemplated by the Lease is a financing arrangement and preserves ownership of the Property in the Lessee, (ii) the transaction contemplated by the Lease is a secured borrowing for the purposes of the exercise of remedies hereunder or any enforcement or collection actions pursuant to the term hereof following the occurrence and during the continuance of a Lease Event of Default, and (x) by the Lease, as supplemented by this Memorandum of Lease, the Lessee grants a mortgage upon and a security interest in and a lien on the Lessee's beneficial ownership interest in the Property for the benefit of the Lessor to secure the Lessee's payment of all amounts owed by the Lessee under the Lease and the other Operative Agreements, and (y) the Lessor holds title to or a ground leasehold interest in the Property so as to create and grant a first lien and prior security interest in the Property subject to the Permitted Liens (a) pursuant to the Lease, as supplemented by this Memorandum of Lease, for the benefit of the Administrative Agent under the Assignment of Lease, to secure to the Administrative Agent the obligations of Lessee under the Lease, as supplemented by this Memorandum of Lease and (b) pursuant to the Mortgage to secure to the Administrative Agent the obligations of Lessor under the Mortgage, the Loan Facility Agreement and the Participation Agreement. In addition, the parties acknowledge and agree that the characterization of the transaction and the Lessee's obligations as provided in this Section 3 shall not diminish the Lessee's express rights under the Lease and the other Operative Agreements, including, without limitation, the Lessee's right to purchase the Property.

SECTION 4. Grant of Mortgage Lien and Security Interest; Assignment of Rents. To secure to the Lessor the payment of all amounts owed to Lessor by Lessee under the Lease and the other Operative Agreements:

(a) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee has caused Lessor to hold title to the Property, and does hereby mortgage, grant, warrant, assign, transfer and set over to the Lessor, to the extent permitted by applicable law: (i) all of the Lessee's right, title and interest in the Property, if any, whether heretofore or hereafter existing; (ii) all rights and benefits of whatever nature derived or to be derived by the Lessee under or by virtue of the Lease; and (iii) all of the Lessee's right, title and interest in and to all proceeds of the conversion, whether voluntary or involuntary, of any of the above-described property into cash or other liquid claims, including, without limitation, all awards, payments or proceeds, including interest thereon, and the right to receive the same, which may be made as a result of casualty, any exercise of the right of eminent domain or deed in lieu thereof, the alteration of the grade of any street and any injury to or decrease in the value thereof, the foregoing being referred to hereinafter as the "Security Property."

TO HAVE AND TO HOLD the Security Property, subject however to Permitted Liens, unto the Lessor, its successors and assigns, for the uses and purposes herein expressed, but not otherwise.

(a) If Lessee shall pay all sums due under the Lease when due and according to the terms thereof and shall otherwise fully and properly perform and comply with all of Lessee's obligations under the Lease, then this conveyance shall be of no further force as to the Property.

(b) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee hereby grants to the Lessor a security interest in the Lessee's interest in that portion of the Security Property (the "UCC Property") subject to the Uniform Commercial Code of the State of Illinois (the "UCC"). The Lease, as supplemented by this Memorandum of Lease, shall also be deemed to be a security agreement and shall support any financing statement showing the Lessor's interest as a secured party with respect to any portion of the UCC Property described in such financing statement. The Lessee agrees, at its sole cost and expense, to execute, deliver and file from time to time such further writings as may be requested by the Lessor to confirm and perfect the lien of the security interest in the collateral described in this Memorandum of Lease.

(c) To the extent permitted by law, the provisions of this Memorandum of Lease upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" within the meaning of Section 5/9-102 (40) of the UCC, and (i) this Memorandum of Lease covers goods which are or are to become fixtures on the Property, (ii) this Memorandum of Lease is to be recorded in the real estate records, (iii) Lessor is the record owner of the Leased Property, and (iv) products of collateral are also covered.

(d) Notwithstanding that this Memorandum of Lease is an absolute assignment of the Profits and the Subleases and not merely the collateral assignment of, or the grant of a lien or security interest in the Profits and the Subleases, the Lessor grants to the Lessee a revocable license to collect and receive the Profits and to retain, use and enjoy such Profits. Such license shall be automatically revoked upon the occurrence and during the continuance of any Lease Event of Default.

#### SECTION 5. Remedies.

(a) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor may exercise any one or more of the following rights and remedies as it, in its sole discretion may deem necessary or appropriate:

(i) collect interest on all past due sums at the Overdue Rate;

(ii) terminate the Lease and, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of security, enter upon and take possession of the Property, or any part thereof, in its own name, and do any acts which it deems

necessary or desirable to preserve the value, marketability or rentability of the Property, or any part thereof or interest therein, to increase the income therefrom or to protect the security hereof and, with or without taking possession of the Property, to sue for or otherwise to collect the Profits thereof, including, without limitation, those past due and unpaid, and to apply the same, less costs and expenses of operation and collection, including, without limitation, reasonable attorneys' fees, upon any obligations secured hereby, all in such order as the Lessor may determine. The entering upon and taking possession of the Property, and the collection of such Profits and the application thereof as aforesaid, shall not cure or waive any Lease Event of Default or notice of a Lease Event of Default hereunder or invalidate any act done in response to such Lease Event of Default and, notwithstanding the continuance in possession of the Lessor or the collection, receipt and application of Profits by the Lessor, the Lessor shall be entitled to exercise every right provided for herein or by law upon the occurrence and during the continuance of any Lease Event of Default, including, without limitation, the right to exercise the power of sale;

(iii) declare all sums secured hereby immediately due and payable by delivery to Lessor and to Lessee of written declaration of the occurrence and continuance of a Lease Event of Default, to the extent permitted by law, and demand for sale and of written notice of the occurrence and continuance of a Lease Event of Default and of election to cause to be sold said Property, which notice Lessor shall cause to be filed for record. After the lapse of such time as may then be required by law following the recordation of said notice of the occurrence and continuance of a Lease Event of Default, and notice of sale having been given as then required by law, Lessor, without demand on the Lessee, shall sell the Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Lessor may postpone sale of all or any portion of said Property by public announcement of postponement. Lessor shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including the Lessor, may purchase at such sale. After deducting all costs, fees and expenses of Lessor and the Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in accordance with the provisions of Section 21.2 of the Lease;

(iv) in lieu of sale pursuant to the power of sale conferred hereby, foreclose in the manner provided by law for the foreclosure of mortgages or deeds of trust on leasehold interests in real property;

(v) declare immediately due and payable without notice or demand, except as otherwise required hereunder or under applicable law, all amounts payable by the Lessee hereunder or under the other Operative Agreements which are then unpaid, with all interest and sums accrued, and accelerate payment

thereof notwithstanding contrary terms of payment stated therein and exercise all rights and remedies available hereunder, at law, in equity or otherwise;

(vi) as a matter of right, and upon notice to the Lessee or anyone claiming under the Lessee and without regard to the adequacy of its security or the then value of the Property or the interest of the Lessee therein, apply to any court having jurisdiction to appoint a receiver or receivers of the Property and the Lessee hereby irrevocably consents to such appointment and, to the extent permitted by applicable law, waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers of the Lessor provided for in Section 5(a)(ii) above, and shall continue as a receiver and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated by the Lessor in its sole discretion.

Upon the occurrence and during the continuance of a Lease Event of Default, Lessor shall be entitled to enforce payment and performance of any obligations secured hereby and to exercise all rights and powers hereunder or any laws now or hereafter in force, notwithstanding that some or all of said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, Lien, assignment or otherwise. Neither the acceptance nor the enforcement hereof, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Lessor's right to realize upon or enforce any other security now or hereafter held by the Lessor, and Lessor shall be entitled to enforce the rights and remedies provided for herein and any other security now or hereafter held by the Lessor in such order and manner as Lessor may in its absolute discretion determine. No remedy conferred upon or reserved to Lessor is intended to be exclusive of any other remedy, but each shall be cumulative and shall be in addition to every other remedy given hereby or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Lessor or to which Lessor may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Lessor, and Lessor may pursue inconsistent remedies.

(b) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor, in addition to and not in lieu of or in diminution of the rights and remedies provided above shall have all of the rights and remedies of a secured party under the UCC, which rights and remedies may be exercised without application to any court to the extent permitted by the UCC.

(c) It is the intent of the parties hereto that the Lease be treated as a secured borrowing to the extent provided in Section 3 (B) (iii) above, and that, upon the occurrence and during the continuance of a Lease Event of Default, the Lessor shall have the remedies provided for in this Section 5. In the event that, notwithstanding the intention of the parties, a court of competent jurisdiction determines that, for the purpose of remedies, the transaction contemplated by the Lease constitutes a leasing arrangement, the parties hereto acknowledge and agree that the Lessor shall have, as a result of such determination, in lieu of the remedies set forth in this Section 5, all of the rights and remedies of a landlord provided for in Section XVII of the Lease,

provided that the parties hereto acknowledge and agree that it is their intent that the Lease be construed as provided in Section 3.

SECTION 6. Lessor Grant. (a) The Lessor hereby grants a Lien upon and mortgages and warrants to the Lessee the Property to secure (i) the Lessor's obligations hereunder in respect of the due and punctual transfer by the Lessor to the Lessee of all of the Lessor's right, title and interest in and to the Property when required by and in accordance with the Lease, and (ii) if the Lessor shall then be the subject of any bankruptcy, insolvency or similar proceeding, satisfaction of the Lessee's right to damages and other claims arising out of the rejection of the Lease or unilateral termination of such obligation to transfer to the Lessee all of the Lessor's right, title and interest in and to the Property, against all of the Lessor's right, title and interest in and to the Property.

(b) During the existence and only during the existence of a Lessor Default (as defined below), the Lessee shall have the power and authority, to the extent provided by Legal Requirements, to exercise any or all of the rights and powers and pursue any and all of the remedies provided under the Operative Agreements or by Legal Requirements in respect of the obligations secured in accordance with clause (a) above (including specific performance of any covenant or agreement contained in the Lease or any other Operative Agreement, in aid of the execution of any power granted in the Lease or any other Operative Agreement, or for the enforcement of any other appropriate legal or equitable remedy). The Lessor shall have all the rights available to a mortgagor under the laws of the jurisdiction in which the Property is located. The following shall constitute a Lessor default ("Lessor Default"): the Lessee shall have exercised any of its purchase options in the Lease for the Property in accordance with the terms thereof and shall have tendered in full all amounts to be paid by Lessee in connection therewith and complied with all other requirements hereunder and under the Lease in connection with such purchase and all of the Lessor's right, title and interest in and to the Property shall not have been transferred to the Lessee in accordance with the Lease.

(c) The Lien created in clause (a) shall automatically terminate and be deemed released without further act or consideration upon (i) the commencement by the Lessor of the exercise of any remedy in respect of the Property pursuant to Article XVI (except in the case of a sale to the Lessee thereunder) or (ii) a Lease Event of Default under Section 17.1(a) or (g) of the Lease.

SECTION 7. Ratification. Except as expressly set forth herein, this Memorandum of Lease does not alter, amend, modify or change the Lease or the exhibits thereto. It is the intent of the parties that this Memorandum of Lease be recorded and give notice of and confirm the Lease and exhibits thereto to the same extent as if all of the provisions of the Lease and exhibits thereto were fully set forth herein. The Lease and exhibits thereto are incorporated by reference in this Memorandum of Lease and, except as expressly modified hereby, the terms and provisions of the Lease are hereby ratified and confirmed and remain in full force and effect.

SECTION 8. Original Memorandum of Lease. Notwithstanding anything to the contrary set forth in the documentary conventions, the single executed original of this Memorandum of Lease marked "THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART" on the signature page thereof and containing the receipt of the Administrative

Agent therefor on or following the signature page thereof shall be the Original Executed Counterpart of this Memorandum of Lease (the "Original Executed Counterpart"). To the extent that this Memorandum of Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Memorandum of Lease may be created through the transfer or possession of any counterpart other than the Original Executed Counterpart.

SECTION 9. GOVERNING LAW. THE LEASE AND THIS MEMORANDUM OF LEASE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), EXCEPT AS TO MATTERS RELATING TO THE CREATION OF THE LEASEHOLD ESTATE AND THE CREATION OF THE LEASEHOLD ESTATE HEREUNDER AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO, WHICH SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS. WITHOUT LIMITING THE FOREGOING, IN THE EVENT THAT THE LEASE IS DEEMED TO CONSTITUTE A FINANCING, WHICH IS THE INTENTION OF THE PARTIES, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), SHALL GOVERN THE CREATION, TERMS AND PROVISIONS OF THE INDEBTEDNESS EVIDENCED THEREBY AND HEREBY, BUT ANY LIEN CREATED HEREBY AND THE CREATION AND PERFECTION OF SAID LIEN AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF ILLINOIS.

SECTION 10. Merger. If the fee simple title to the Property and the leasehold interest therein shall be held by the same party, the interest in the Property granted to the Lessor pursuant to the Lease and this Memorandum of Lease shall not terminate or be merged, and the Lease and this Memorandum of Lease shall remain in full force and effect.

SECTION 11. Maximum Interest Rate. No provision of this Memorandum of Lease or any transaction related thereto shall require the payment or permit the collection of interest or any other amount in excess of the maximum permitted by applicable law. If any excess of interest or any other amount in such respect is herein or any other Operative Agreement provided for, the Lessee shall not be obligated to pay such excess interest or any other amounts in excess of the amount permitted by applicable law, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any other provision of this Memorandum of Lease and the other Operative Agreements.

SECTION 12. Assignment to Administrative Agent. Pursuant to the Assignment of Lease, the Lessor has assigned to The Chase Manhattan Bank, as Administrative Agent for the Lenders, all of its right, title and interest in and to the Lease, together with all Rent, and in confirmation thereof the Lessor does hereby assign, transfer and set over unto the Administrative Agent, subject to the terms of the Assignment of Lease, all of the right, title and interest of the

Lessor in and to all of the Lease, together with all Rent, all modifications, renewals and extensions thereof and any guarantees of the Lessee's obligations under the Lease.

SECTION 13. Counterparts. This Memorandum of Lease may be executed in several counterparts, each of which shall be an original except as provided in Section 7, above, and all of which together shall constitute but one and the same instrument.

SECTION 14. Security Agreement and Financing Statement. The mailing address of debtor (the Lessee herein) and of the secured party (the Lessor herein) from which information concerning security interests hereunder may be obtained is as set forth in Section 15 hereof. A carbon, photographic or other reproduction of this instrument or of any financing statement related to this instrument shall be sufficient as a financing statement for any of the purposes referenced herein.

SECTION 15. Maximum Amount Secured. The maximum principal amount of all amounts owed by the Lessee under the Lease and the other Operative Agreements at any one time shall not exceed \$47,200,000.

SECTION 16. Financing Statement. For purposes of this instrument as a fixture filing, and for all other purposes, unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given to any Person shall be given in writing by nationally recognized courier service and any such notice shall become effective (a) five (5) Business Days after being deposited in the mails, certified or registered with appropriate postage prepaid, (b) one (1) Business Day after delivery to a nationally recognized courier service specifying overnight delivery, (c) when delivered by hand, or (d) in the case of facsimile notice, when received (when receipt is either confirmed by confirming transmission equipment or acknowledged by the addressee or its office) and shall be directed to the address of such Person as indicated:

Address of Lessee/Debtor:

General Motors Corporation  
Worldwide Real Estate  
200 Renaissance Center, Tower 200  
38<sup>th</sup> Floor  
Detroit, Michigan 48265-2000  
Attention: General Director, WRE  
Fax: 313-665-6745

With a copy to:

Mayer, Brown, Rowe & Maw  
190 S. LaSalle Street  
Chicago, Illinois 60603-3411  
Attention: Robert E. Gordon  
Fax: 312-701-7711

## Address of Lessor/Secured Party

Auto Facilities Real Estate Trust 2001-1  
c/o Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration  
Fax: 302-651-8882

From time to time any party may designate a new address for purposes of notice hereunder by notice to each of the other parties hereto.

SECTION 17. Liability of Wilmington Trust Company. It is expressly understood and agreed by the parties hereto that (a) this Memorandum of Lease is executed and delivered by Wilmington Trust Company not individually or personally but solely as trustee of the Trust, in the exercise of the powers and authority conferred and vested in it, (b) each of the representations, undertakings and agreements herein made on the part of the Lessor is made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company but is made and intended for the purpose of binding only the Lessor, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under no circumstances shall Wilmington Trust Company be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Lessor under this Memorandum of Lease.

SECTION 18. Counterpart Execution. This Memorandum of Lease may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

R2002063936

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware business trust

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

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

Name:

Title:

**Patricia A. Evans**  
Assistant Vice President

LESSEE:

GENERAL MOTORS CORPORATION, a  
Delaware corporation

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

Name:

Title:

STATE OF Delaware )  
 )  
COUNTY OF New Castle ) ss:

On this 3rd day of April in the year 2002 before me, Anita E. Dallago,  
Notary Public of said State, duly commissioned and sworn, personally appeared  
Patricia A. Evans, personally known to me (or proved to me on the basis of satisfactory  
evidence) to be the individual whose name is subscribed to the within instrument and  
acknowledged to me that he/she executed the same in his/her authorized capacity as  
Asst. V.P. of Wilmington Trust Company, not in its individual capacity, but solely as  
trustee of AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, and  
that by his/her signature on the instrument, the individual, or the person upon behalf of which the  
individual acted, executed the instrument.



My commission expires: \_\_\_\_\_

(Affix official seal, if applicable)

Anita E. Dallago  
NOTARY PUBLIC

**ANITA E. DALLAGO**  
**NOTARY PUBLIC**  
My Commission Expires August 3, 2003

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IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

LESSOR:

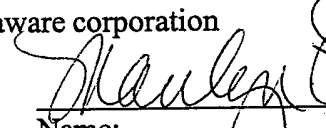
AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware business trust

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

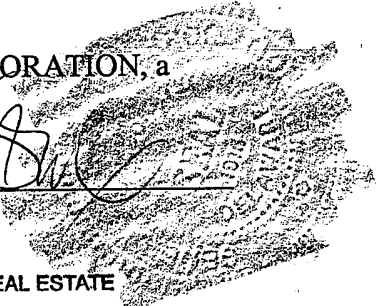
By: \_\_\_\_\_  
Name:  
Title:

LESSEE:

GENERAL MOTORS CORPORATION, a  
Delaware corporation

By:   
Name: MARILYN P. NIX  
Title: DIRECTOR  
WORLDWIDE REAL ESTATE

(S)  
PSE



13

STATE OF MICHIGAN,  
COUNTY OF WAYNE }

ss:

On this 2 day of April in the year 2002 before me, Nancy A. Devoe Treuter  
Notary Public of said State, duly commissioned and sworn, personally appeared  
Merideth P. Dix, personally known to me (or proved to me on the basis of satisfactory  
evidence) to be the individual whose name is subscribed to the within instrument and  
acknowledged to me that he/she executed the same in his/her authorized capacity, and that by  
his/her signature on the instrument, the individual, or the person upon behalf of which the  
individual acted, executed the instrument.

Nancy A. Devoe Treuter  
NOTARY PUBLIC

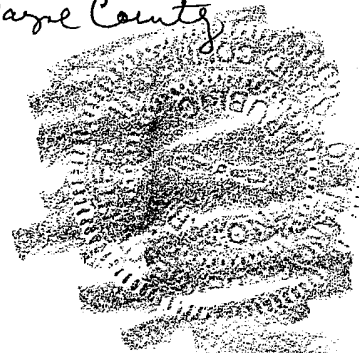
My commission expires:

\_\_\_\_\_

(Affix official seal, if applicable)

NANCY A. DEVOE TREUTER  
Notary Public, Oakland County, MI  
My Commission Expires Aug 25, 2004

Acting in Wayne County



R2002063936

Receipt of this original counterpart of the foregoing Memorandum of Lease is hereby acknowledged on this 4<sup>th</sup> day of April, 2002.

JPMORGAN CHASE BANK, as Administrative Agent

By:



Name:

Title:

**RICHARD W. DUKER**  
**VICE PRESIDENT**

R2002063936

Exhibit A  
Legal Description

MARY ANN STUKEL  
WILL COUNTY RECORDER  
58 E. CLINTON STREET  
JOLIET, IL 60432

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The land referred to in this policy is situated in the State of Illinois, County of Will, and is described as follows:

PARCEL I:

Lot 3 in Carlow Corporate Center South Unit 1, being a subdivision of Part of the Southeast Quarter of Section 30, Township 37 North, Range 10 East of the Third Principal Meridian, in Will County, Illinois, according to the plat thereof recorded August 10, 2001 as document R2001104725.

PARCEL II: Easement for the benefit of parcel 1 as created by ingress/egress and access easement agreement dated May 11, 2001 and recorded as document R2001067179 for ingress and egress over, upon and across that part of the Southeast Quarter of Section 30, Township 37 North, Range 10 East of the Third Principal Meridian, described as follows:

Beginning at the Southwest corner of said Southeast Quarter of Section 30, thence North 01 degrees 12 minutes 51seconds West along the East line of said Southeast Quarter, 50.00 feet; thence North 88 degrees 16 minutes 03 seconds East, 579.57 feet; thence Northeasterly 768.65 feet along the arc of a non-tangent circle to the left having a radius of 560.00 feet and whose chord bears North 38 degrees 06 minutes 05 seconds East 709.72 feet to a point of tangency; thence North 01 degree 13 minutes 14 seconds West, 1702.35 feet to a point of curvature; thence Northeasterly 352.63 feet along the arc of a circle to the right, having a radius of 995.00 feet and whose chord bears North 08 degrees 55 minutes 56 seconds East 350.79 feet to a point on the North line of the Southeast quarter of said Section 30; thence North 88 degrees 14 minutes 38 seconds East along said North line, 86.15 feet; thence Southwesterly 354.93 feet along the arc of a circle to the left, having a radius of 915.99 feet and whose chord bears South 09 degrees 53 minutes 31 seconds West 352.71 feet to a point of tangency; thence South 01 degrees 13 minutes 14 seconds East, 1702.35 feet to a point of curvature; thence Southwesterly 772.12 feet along the arc of a circle to the right, having a radius of 640.00 feet and whose chord bears South 33 degrees 20 minutes 29 seconds West 726.14 feet to a point on the South line of said Southeast quarter; thence South 88 degrees 16 minutes 03 seconds West, 697.39 feet along said South line to the point of beginning, in Will County, Illinois.

PARCEL III: Rights and benefits created by the Declaration of Protective Covenants for Carlow Corporate Center recorded March 3, 2000 as document R2000-23488 and the terms and provisions thereof.

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RPN: 90-050-66

200-87274-7D

THIS INSTRUMENT IS TO BE INDEXED IN THE OFFICE OF THE WASHOE COUNTY RECORDS AS A SHORT FORM OF MEMORANDUM OF LEASE, DEED OF TRUST, SECURITY AGREEMENT AND A FIXTURE FILING

SHORT FORM MEMORANDUM OF LEASE,  
DEED OF TRUST, SECURITY AGREEMENT  
AND FINANCING STATEMENT  
(INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT

among

GENERAL MOTORS CORPORATION,  
Lessee

In favor or

FIRST AMERICAN TITLE COMPANY OF NEVADA,  
Trustee

and

AUTO FACILITIES REAL ESTATE TRUST 2001-1,  
Lessor

~~April~~ <sup>May</sup> 7, 2002

This Memorandum of Lease has been  
prepared by and after  
recording, please return to:

Simpson Thacher & Bartlett  
425 Lexington Avenue  
New York, New York 10017

Attn: Sasan Mehrara, Esq.



**SHORT FORM MEMORANDUM OF LEASE,  
DEED OF TRUST, SECURITY AGREEMENT  
AND FINANCING STATEMENT  
(INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT**

**THIS SHORT FORM MEMORANDUM OF LEASE, DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT (INCLUDING FIXTURE FILING) AND LEASE SUPPLEMENT** (this "Memorandum of Lease") dated as of ~~April~~ <sup>May</sup> 7, 2002 is made by and among GENERAL MOTORS CORPORATION, a Delaware corporation, having its principal office at Worldwide Real Estate, 200 Renaissance Center, Tower 200, 38<sup>th</sup> Floor, Detroit, Michigan 48265-2000, as lessee and as trustor and debtor (the "Lessee"), in favor of FIRST AMERICAN TITLE COMPANY OF NEVADA, with an address of 5310 Kietzke Lane, Suite 100, Reno, Nevada 89511-2043 ("Trustee"), and AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust with an address c/o Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware 19890-0001, as lessor and as beneficiary and secured party (the "Lessor").

Agreement

In consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor has leased the Property (hereinafter defined) to Lessee and the parties hereto agree as follows:

SECTION 1. Definitions; Interpretation. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Lease dated as of October 31, 2001 between Lessor and Lessee (as supplemented with any Memoranda of Lease and Supplements, and as it may be further amended, supplemented or otherwise modified from time to time in accordance with the terms thereof or of any other Operative Agreement.

SECTION 2. Lease Term.

(a) Pursuant to the terms of the Lease, the Lessor has leased to the Lessee certain property (the "Property") described on the attached Exhibit A. Effective upon the execution and delivery of this Memorandum of Lease by the Lessor and the Lessee, the Property shall be subject to the terms and provisions of the Lease. The Property is leased for a Term commencing on the date hereof and terminating on October 31, 2008, unless the Term is earlier terminated in accordance with the terms of the Lease.

(b) The Lease contains certain mandatory and optional purchase rights and options during the Term pursuant to which the Lessee may acquire the Property.

(c) In addition to those terms referred to herein, the Lease contains numerous other terms, covenants and conditions which affect the Property, and notice is hereby given that



reference should be had to the Lease with respect to the details of such terms, covenants and conditions. A copy of the Lease or of the other agreements referenced herein or therein may be obtained from any of the parties hereto at the addresses set forth herein.

(d) Lessee hereby certifies that the Tranche A Percentage for the Property is 89.2631245676%.

SECTION 3. Ownership of the Property. It is the intent of the parties hereto that: (A) the Lease constitutes an "operating lease" pursuant to Statement of Financial Accounting Standards No. 13, as amended, for purposes of the Lessee's financial reporting, (B) for purposes of Federal, state and local income tax and for all other purposes, (i) the transaction contemplated by the Lease is a financing arrangement and preserves ownership of the Property in the Lessee, (ii) the transaction contemplated by the Lease is a secured borrowing for the purposes of the exercise of remedies hereunder or any enforcement or collection actions pursuant to the term hereof following the occurrence and during the continuance of a Lease Event of Default, and (x) by the Lease, as supplemented by this Memorandum of Lease, the Lessee grants a mortgage upon and a security interest in and a lien on the Lessee's beneficial ownership interest in the Property for the benefit of the Lessor to secure the Lessee's payment of all amounts owed by the Lessee under the Lease and the other Operative Agreements, and (y) the Lessor holds title to or a ground leasehold interest in the Property so as to create and grant a first lien and prior security interest in the Property subject to the Permitted Liens (a) pursuant to the Lease, as supplemented by this Memorandum of Lease, for the benefit of the Administrative Agent under the Assignment of Lease, to secure to the Agent the obligations of Lessee under the Lease, as supplemented by this Memorandum of Lease and (b) pursuant to the Deed of Trust to secure to the Administrative Agent the obligations of Lessor under the Deed of Trust, the Loan Facility Agreement and the Participation Agreement. In addition, the parties acknowledge and agree that the characterization of the transaction and the Lessee's obligations as provided in this Section 3 shall not diminish the Lessee's express rights under the Lease and the other Operative Agreements, including, without limitation, the Lessee's right to purchase the Property.

SECTION 4. Grant of Deed of Trust, Lien and Security Interest; Assignment of Rents. To secure to the Lessor the payment of all amounts owed to Lessor by Lessee under the Lease and the other Operative Agreements:

(a) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee has caused Lessor to hold title to or a ground leasehold interest in the Property, and does hereby grant, bargain, sell, convey, assign, transfer and set over to the Trustee, its successors and assigns, for the benefit of the Administrative Agent, IN TRUST, WITH POWER OF SALE, to the extent permitted by applicable law: (i) all of the Lessee's right, title and interest in the Property, if any, whether heretofore or hereafter existing; (ii) all rights and benefits of whatever nature derived or to be derived by the Lessee under or by virtue of the Lease; and (iii) all of the Lessee's right, title and interest in and to all proceeds of the conversion, whether voluntary or involuntary, of any of the above-described property into cash or other liquid claims, including, without limitation, all awards, payments or proceeds, including interest thereon, and the right to receive the same, which may be made as a result of casualty, any exercise of the right of eminent



domain or deed in lieu thereof, the alteration of the grade of any street and any injury to or decrease in the value thereof, the foregoing being referred to hereinafter as the "Security Property."

TO HAVE AND TO HOLD the Security Property, subject however to Permitted Liens, unto the Lessor, its successors and assigns IN TRUST, forever, for the uses and purposes herein expressed, but not otherwise.

(b) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee hereby grants to the Lessor a security interest in the Lessee's interest in that portion of the Security Property (the "UCC Property") subject to the Uniform Commercial Code of the State of Nevada (the "UCC"). The Lease, as supplemented by this Memorandum of Lease, shall also be deemed to be a security agreement and shall support any financing statement showing the Lessor's interest as a secured party with respect to any portion of the UCC Property described in such financing statement. The Lessee agrees, at its sole cost and expense, to execute, deliver and file from time to time such further instruments as may be requested by the Lessor to confirm and perfect the lien of the security interest in the collateral described in this Memorandum of Lease, provided, that during the Construction Period with respect to any Construction Period Property, the costs and expenses thereof shall be Transaction Expenses.

(c) To the extent permitted by law, the provisions of this Memorandum of Lease upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" within the meaning of Section 104.9502(3) of the UCC, and (i) this Memorandum of Lease covers goods which are or are to become fixtures on the Property, (ii) this Memorandum of Lease is to be recorded in the real estate records, (iii) Lessor is the record owner of the Leased Property, and (iv) products of collateral are also covered.

(d) Notwithstanding that this Memorandum of Lease is an absolute assignment of the Profits and the Subleases and not merely the collateral assignment of, or the grant of a lien or security interest in the Profits and the Subleases, the Lessor grants to the Lessee a revocable license to collect and receive the Profits and to retain, use and enjoy such Profits. Such license shall be automatically revoked upon the occurrence and during the continuance of any Lease Event of Default.

#### SECTION 5. Remedies.

(e) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor may exercise any one or more of the following rights and remedies as it, in its sole discretion may deem necessary or appropriate:

- (i) collect interest on all past due sums at the Overdue Rate;
- (ii) terminate the Lease and, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of security, enter upon and take possession of



the Property, or any part thereof, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or any part thereof or interest therein, to increase the income therefrom or to protect the security hereof and, with or without taking possession of the Property, to sue for or otherwise to collect the Profits thereof, including, without limitation, those past due and unpaid, and to apply the same, less costs and expenses of operation and collection, including, without limitation, reasonable attorneys' fees, upon any obligations secured hereby, all in such order as the Lessor may determine. The entering upon and taking possession of the Property, and the collection of such Profits and the application thereof as aforesaid, shall not cure or waive any Lease Event of Default or notice of a Lease Event of Default hereunder or invalidate any act done in response to such Lease Event of Default and, notwithstanding the continuance in possession of the Lessor or the collection, receipt and application of Profits by the Lessor, the Lessor shall be entitled to exercise every right provided for herein or by law upon the occurrence and during the continuance of any Lease Event of Default, including, without limitation, the right to exercise the power of sale;

(iii) subject to NRS 107.080, declare all sums secured hereby immediately due and payable by delivery to Trustee and to Lessee of written declaration of the occurrence and continuance of a Lease Event of Default and demand for sale and of written notice of the occurrence and continuance of a Lease Event of Default and of election to cause to be sold said Property, which notice Trustee shall cause to be filed for record and mailed in accordance with applicable law. After the lapse of such time as may then be required by law following the recordation and mailing of said notice of the occurrence and continuance of a Lease Event of Default, and notice of sale having been given as then required by law, Trustee, without demand on the Lessee, shall sell said Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said Property by public announcement of postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including the Trustee, or the Lessor, may purchase at such sale. After deducting all costs, fees and expenses of Trustee and the Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in accordance with the provisions of Section 21.2 of the Lease;

(iv) in lieu of sale pursuant to the power of sale conferred hereby, foreclose in the manner provided by law for the foreclosure of mortgages or deeds of trust on leasehold interests in real property;

(v) declare immediately due and payable without notice or demand, except as otherwise required hereunder or under applicable law, all amounts



payable by the Lessee hereunder or under the other Operative Agreements which are then unpaid, with all interest and sums accrued, and accelerate payment thereof notwithstanding contrary terms of payment stated therein and exercise all rights and remedies available hereunder, at law, in equity or otherwise;

(vi) as a matter of right, and upon notice to the Lessee or anyone claiming under the Lessee and without regard to the adequacy of its security or the then value of the Property or the interest of the Lessee therein, apply to any court having jurisdiction to appoint a receiver or receivers of the Property and the Lessee hereby irrevocably consents to such appointment and, to the extent permitted by applicable law, waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers of the Lessor provided for in Section 5(a)(ii) above, and shall continue as a receiver and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated by the Lessor in its sole discretion.

Upon the occurrence and during the continuance of a Lease Event of Default, Trustee and the Lessor, and each of them, shall be entitled to enforce payment and performance of any obligations secured hereby and to exercise all rights and powers hereunder or any laws now or hereafter in force, notwithstanding that some or all of said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, Lien, assignment or otherwise. Neither the acceptance nor the enforcement hereof, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or the Lessor's right to realize upon or enforce any other security now or hereafter held by the Lessor, and each of them shall be entitled to enforce the rights and remedies provided for herein and any other security now or hereafter held by the Lessor in such order and manner as they or either of them may in their absolute discretion determine. No remedy conferred upon or reserved to Trustee or the Lessor is intended to be exclusive of any other remedy, but each shall be cumulative and shall be in addition to every other remedy given hereby or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Trustee or the Lessor or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or the Lessor, and either or both of them may pursue inconsistent remedies.

(f) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor, in addition to and not in lieu of or in diminution of the rights and remedies provided above shall have all of the rights and remedies of a secured party under the UCC, which rights and remedies may be exercised without application to any court to the extent permitted by the UCC.

(g) It is the intent of the parties hereto that the Lease be treated as a secured borrowing to the extent provided in Section 3 (B) (iii) above, and that, upon the occurrence and during the continuance of a Lease Event of Default, the Lessor shall have the remedies provided for in this Section 5. In the event that, notwithstanding the intention of the parties, a court of competent jurisdiction determines that, for the purpose of remedies, the transaction contemplated by the Lease constitutes a leasing arrangement, the parties hereto acknowledge and agree that the



Lessor shall have, as a result of such determination, in lieu of the remedies set forth in this Section 5, all of the rights and remedies of a landlord provided for in Section XVII of the Lease, provided that the parties hereto acknowledge and agree that it is their intent that the Lease be construed as provided in Section 3.

**SECTION 6. Lessor Grant.** (a) The Lessor hereby, grants, bargains, sells, conveys, transfers and sets over to trustee IN TRUST WITH POWER OF SALE for the benefit of the Lessee, all of Lessor's right, title and interest in and to the Property to secure (i) the Lessor's obligations hereunder in respect of the due and punctual transfer by the Lessor to the Lessee of all of the Lessor's right, title and interest in and to the Property when required by and in accordance with the Lease, and (ii) if the Lessor shall then be the subject of any bankruptcy, insolvency or similar proceeding, satisfaction of the Lessee's right to damages and other claims arising out of the rejection of the Lease or unilateral termination of such obligation to transfer to the Lessee all of the Lessor's right, title and interest in and to the Property, against all of the Lessor's right, title and interest in and to the Property.

(b) During the existence and only during the existence of a Lessor Default (as defined below), the Lessee shall have the power and authority, to the extent provided by Legal Requirements, to exercise any or all of the rights and powers and pursue any and all of the remedies provided under the Operative Agreements or by Legal Requirements in respect of the obligations secured in accordance with clause (a) above (including specific performance of any covenant or agreement contained in the Lease or any other Operative Agreement, in aid of the execution of any power granted in the Lease or any other Operative Agreement, or for the enforcement of any other appropriate legal or equitable remedy). The Lessor shall have all the rights available to a mortgagor under the laws of the jurisdiction in which the Property is located. The following shall constitute a Lessor default ("Lessor Default"): the Lessee shall have exercised any of its purchase options in the Lease for the Property in accordance with the terms thereof and shall have tendered in full all amounts to be paid by Lessee in connection therewith and complied with all other requirements hereunder in connection with such purchase and all of the Lessor's right, title and interest in and to the Property shall not have been transferred to the Lessee in accordance with the Lease.

(c) The Lien created in clause (a) shall automatically terminate and be deemed released without further act or consideration upon (i) the commencement by the Lessor of the exercise of any remedy in respect of the Property pursuant to Article XVI (except in the case of a sale to the Lessee thereunder) or (ii) a Lease Event of Default under Section 17.1(a) or (g) of the Lease.

**SECTION 7. Ratification.** Except as expressly set forth herein, this Memorandum of Lease does not alter, amend, modify or change the Lease or the exhibits thereto. It is the intent of the parties that this Memorandum of Lease be recorded and give notice of and confirm the Lease and exhibits thereto to the same extent as if all of the provisions of the Lease and exhibits thereto were fully set forth herein. The Lease and exhibits thereto are incorporated by reference in this Memorandum of Lease and, except as expressly modified hereby, the terms and provisions of the Lease are hereby ratified and confirmed and remain in full force and effect.



SECTION 8. Original Memorandum of Lease. Notwithstanding anything to the contrary set forth in the documentary conventions, the single executed original of this Memorandum of Lease marked "THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART" on the signature page thereof and containing the receipt of the Administrative Agent therefor on or following the signature page thereof shall be the Original Executed Counterpart of this Memorandum of Lease (the "Original Executed Counterpart"). To the extent that this Memorandum of Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Memorandum of Lease may be created through the transfer or possession of any counterpart other than the Original Executed Counterpart.

SECTION 9. GOVERNING LAW. THE LEASE AND THIS MEMORANDUM OF LEASE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), EXCEPT AS TO MATTERS RELATING TO THE CREATION OF THE LEASEHOLD ESTATE AND THE CREATION OF THE LEASEHOLD ESTATE HEREUNDER AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO, WHICH SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED. WITHOUT LIMITING THE FOREGOING, IN THE EVENT THAT THE LEASE IS DEEMED TO CONSTITUTE A FINANCING, WHICH IS THE INTENTION OF THE PARTIES, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), SHALL GOVERN THE CREATION, TERMS AND PROVISIONS OF THE INDEBTEDNESS EVIDENCED THEREBY AND HEREBY, BUT ANY LIEN CREATED HEREBY AND THE CREATION AND PERFECTION OF SAID LIEN AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED.

SECTION 10. Merger. If the fee simple title to the Property and the leasehold interest therein shall be held by the same party, the interest in the Property granted to the Lessor pursuant to the Lease and this Memorandum of Lease shall not terminate or be merged, and the Lease and this Memorandum of Lease shall remain in full force and effect.

SECTION 11. Maximum Interest Rate. No provision of this Memorandum of Lease or any transaction related thereto shall require the payment or permit the collection of interest or any other amount in excess of the maximum permitted by applicable law. If any excess of interest or any other amount in such respect is herein or any other Operative Agreement provided for, the Lessee shall not be obligated to pay such excess interest or any other amounts in excess of the amount permitted by applicable law, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any other provision of this Memorandum of Lease and the other Operative Agreements.



SECTION 12. Assignment to Administrative Agent. Pursuant to the Assignment of Lease, the Lessor has assigned to The Chase Manhattan Bank, as Administrative Agent for the Lenders, all of its right, title and interest in and to the Lease, together with all Rent, and in confirmation thereof the Lessor does hereby assign, transfer and set over unto the Administrative Agent, subject to the terms of the Assignment of Lease, all of the right, title and interest of the Lessor in and to all of the Lease, together with all Rent, all modifications, renewals and extensions thereof and any guarantees of the Lessee's obligations under the Lease.

SECTION 13. Counterparts. This Memorandum of Lease may be executed in several counterparts, each of which shall be an original except as provided in Section 7, above, and all of which together shall constitute but one and the same instrument.

SECTION 14. Security Agreement and Financing Statement. The mailing address of debtor (the Lessee herein) and of the secured party (the Lessor herein) from which information concerning security interests hereunder may be obtained is as set forth in Section 15 hereof. A carbon, photographic or other reproduction of this instrument or of any financing statement related to this instrument shall be sufficient as a financing statement for any of the purposes referenced herein.

SECTION 15. Financing Statement. For purposes of this instrument as a fixture filing, and for all other purposes, unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given to any Person shall be given in writing by nationally recognized courier service and any such notice shall become effective (a) five (5) Business Days after being deposited in the mails, certified or registered with appropriate postage prepaid, (b) one (1) Business Day after delivery to a nationally recognized courier service specifying overnight delivery, (c) when delivered by hand, or (d) in the case of facsimile notice, when received (when receipt is either confirmed by confirming transmission equipment or acknowledged by the addressee or its office) and shall be directed to the address of such Person as indicated:

Address of Lessee/Debtor:

General Motors Corporation  
Worldwide Real Estate  
200 Renaissance Center, Tower 200  
38<sup>th</sup> Floor  
Detroit, Michigan 48265-2000  
Attention: General Director, WRE  
Fax: 313-665-6745

With a copy to:

Mayer, Brown, Rowe & Maw  
190 S. LaSalle Street  
Chicago, Illinois 60603-3411  
Attention: Robert E. Gordon



Fax: 312-701-7711

Address of Lessor/Secured Party

Auto Facilities Real Estate Trust 2001-1  
c/o Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration  
Fax: 302-651-8882

From time to time any party may designate a new address for purposes of notice hereunder by notice to each of the other parties hereto.

SECTION 16. Liability of Wilmington Trust FSB. It is expressly understood and agreed by the parties hereto that (a) this Memorandum of Lease is executed and delivered by Wilmington Trust FSB not individually or personally but solely as trustee of the Trust, in the exercise of the powers and authority conferred and vested in it, (b) each of the representations, undertakings and agreements herein made on the part of the Lessor is made and intended not as personal representations, undertakings and agreements by Wilmington Trust FSB but is made and intended for the purpose of binding only the Lessor, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust FSB, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under no circumstances shall Wilmington Trust FSB be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Lessor under this Memorandum of Lease.

SECTION 17. Counterparts. This Memorandum of Lease may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.



2692089  
05/28/2002  
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**IN WITNESS WHEREOF**, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware business trust

By: Wilmington Trust FSB, not in its individual capacity but solely as Co-Trustee

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

Name: **JAMES P. LAWLER**  
Title: **Vice President**

LESSEE:

GENERAL MOTORS CORPORATION, a  
Delaware corporation

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

Name:  
Title:



IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware business trust

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

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

LESSEE:

GENERAL MOTORS CORPORATION, a Delaware corporation

By:   
Name: MARILYN P. NIX  
Title: DIRECTOR  
WORLDWIDE REAL ESTATE

G.I.  
KR



2692089  
05/28/2002  
12 of 24

Receipt of this original counterpart of the foregoing Memorandum of Lease is hereby acknowledged on this \_\_\_\_ day of \_\_\_\_\_, 2002.

JPMORGAN CHASE BANK, as Administrative Agent

By: 

Name:  
Title: RICHARD W. DUKER  
VICE PRESIDENT



2692089  
05/28/2002  
13 of 24

STATE OF ~~Delaware~~ )

SS:

COUNTY OF ~~New Castle~~ )

On this 18<sup>th</sup> day of April in the year 2002 before me, Kathleen A. Fedelini,  
 Notary Public of said State, duly commissioned and sworn, personally appeared  
James P. Lawler, personally known to me (or proved to me on the basis of satisfactory  
 evidence) to be the individual whose name is subscribed to the within instrument and  
 acknowledged to me that he/she executed the same in his/her authorized capacity as  
Vice President of Wilmington Trust FSB, not in its individual capacity, but solely as co-  
 trustee of AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, and  
 that by his/her signature on the instrument, the individual, or the person upon behalf of which the  
 individual acted, executed the instrument.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and  
 year in this certificate first above written.

*Kathleen A. Fedelini*  
 NOTARY PUBLIC

My commission expires:

\_\_\_\_\_

(Affix official seal, if applicable)

**KATHLEENA FEDELINI**  
**NOTARY PUBLIC-DELAWARE**  
 Commission Expires Oct. 31, 2007



STATE OF *Michigan*

COUNTY OF *WAYNE* }

SS:

This instrument was acknowledged before me, a Notary Public, on the 2 day of April, 2002, by Marilyn P. Nixas Director, WRE or General Motors Corporation, a Delaware corporation.

*Nancy A. Devoe Treuter*  
NOTARY PUBLIC

NANCY A. DEVOE TREUTER  
Notary Public, Oakland County, MI  
My Commission Expires Aug 25, 2004  
*Retired in Wayne County*

(Affix official seal)



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## LEGAL DESCRIPTION

### PARCEL 1

All that certain parcel situate within a portion of the West One-Half (W ½) of Sections Thirty (30) and Thirty-One (31), Township Twenty-One (21) North, Range Nineteen (19) East, Mount Diablo Meridian, Reno, Washoe County, Nevada, Being more particularly described as follows:

Beginning at the northwest corner of Parcel 3 of Parcel Map No. 2863 in the Official Records of Washoe County, Nevada, thence from the point of beginning, South 86°50'36" East 323.19 feet; thence South 1°17'01" West 170.33 feet; thence South 88°42'59" East, 165.00 feet; thence South 1°17'01" West, 469.00 feet to a point of curvature; thence 49.23 feet along the arc of a 219.00 foot radius curve to the right, through a central angle of 12°52'50"; thence South 14°09'51" West, 208.36 feet to a point of curvature; thence 63.17 feet along the arc of a 281.00 foot radius curve to the left, through a central angle of 12°51'50"; thence South 01°17'01" West, 666.96 feet to a point of curvature; thence 47.12 feet along the arc of a 30.00 foot radius curve to the right, through a central angle of 90°00'00"; thence North 88° 42' 59" West 655.99 feet; thence North 01°17'01" East, 1669.93 feet to the northerly line of Parcel 1 of Parcel Map No. 2377, File No. 1345017 in the Official Records of Washoe County, Nevada; thence along said northerly line, South 86°50'36" East, 257.14 feet to the northwest corner of the above mentioned Parcel 3 of Parcel Map No. 2863 and the point of beginning all of which parcel is Parcel 3-1A as described in that certain BOUNDARY LINE ADJUSTMENT DEED dated 5-24-02, and recorded 5-28-02 in Book \_\_\_\_\_, Page \_\_\_\_\_, as Instrument No. 2692078, Official Records.

### PARCEL 2 (Railroad easement)

Parcel 2(a) (Airport Authority of Washoe County Parcel) Railroad Easement pursuant to that certain EASEMENT, dated 5-24-02, and recorded 5-28-02 in Book \_\_\_\_\_, Page \_\_\_\_\_, as Instrument No. 2692085, covering the following property:

All that certain parcel situate within a portion of the North One-Half (N ½) of Section Thirty (30), Township Twenty-One (21) North, Range Nineteen (19) East, Mount Diablo Meridian, Reno, Washoe County, Nevada, being a portion of the Washoe County Airport Authority Parcel, Reno-Stead Airport, as shown on Record of Survey Map No. 3533, File No. 2285101 in the Official Records of Washoe County, Nevada, being more particularly described as follows:

An easement for railroad, slope and drainage purposes, a portion being Sixty (60) feet in width, 60 feet northerly of the southerly sideline, and a portion being Seventy-Five (75) feet in width, 75 feet northerly of the southerly sideline, said southerly sideline being more particularly described as follows:



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**BEGINNING** at a point from which the northwest corner of said Parcel 3 of PM 3569 bears, North 88°04'16" West, 0.44 feet and North 01°55'44" East, 276.88 feet distant;

**THENCE** from the **POINT OF BEGINNING**, along the centerline of the 60 foot wide easement, North 07°39'05" East, 102.61 feet to a point of curvature;

**THENCE** continuing along the centerline, 95.44 feet along the arc of a 955.37 foot radius curve to the left, through a central angle of 05°43'26";

**THENCE** continuing along the centerline, North 01°55'39" East, 166.86 feet to a point of curvature;

**THENCE** continuing along the centerline, 408.79 feet along the arc of a 459.28 foot radius curve to the left, through a central angle of 50°59'51";

**THENCE** continuing along the centerline, North 49°04'12" West, 190.95 feet;

**THENCE** continuing along the centerline, 138.88 feet along the arc of a 459.28 foot radius curve to the left, through a central angle of 17°19'32" to the **POINT OF TERMINUS**.

The sidelines of this easement to begin at right angles to the **POINT OF BEGINNING** and be extended or shortened as necessary to end on the northerly parcel line of Parcel 1 of said Parcel Map No. 3569, creating a continuous strip 60 feet in width, over, across and through portions of Parcels 1, 2, 3 and 4 of said Parcel Map No. 3569.

Parcel 2(c) (TMWA) Railroad Easement pursuant to that certain EASEMENT, dated 5-24-02, and recorded 5-28-02 in Book          Page         , as Instrument No. 2692087, covering the following property:

All that certain parcel situate within a portion of the North One-Half (N ½) of Section Thirty (30), Township Twenty-One (21) North, Range Nineteen (19) East, Mount Diablo Meridian, Reno, Washoe County, Nevada, being portions of Parcel 3 and the Silver Lake Water District Co. parcel as said parcels are shown on Parcel Map 2863, File No. 1863191 in the Official Records of Washoe County, Nevada being more particularly described as follows:

An easement for railroad, slope and drainage purposes, Sixty (60) feet in width, 30 feet on each side of centerline, said easement being more particularly described as follows:



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**BEGINNING** at a point from which the northeastern most corner of said Parcel 3 of PM 2863 bears, South 86°50'36" East, 86.81 feet;

**THENCE** from the **POINT OF BEGINNING**, South 01°17'01" West, 26.31 feet;

**THENCE** from a tangent bearing South 75°11'25" West, 24.63 feet along the arc of a 429.28 foot radius curve to the left, through a central angle of 03°17'15";

**THENCE** South 71°54'11" West, 87.86 feet to a point of curvature;

**THENCE** 61.01 feet along the arc of a 489.28 foot radius curve to the right, through a central angle of 07°08'40";

**THENCE** North 01°17'01" East, 61.60 feet to a point of curvature;

**THENCE** from a tangent bearing North 77°18'16" East, 40.47 feet along the arc of a 429.28 foot radius curve to the left, through a central angle of 5°24'06";

**THENCE** North 71°54'11" East, 28.94 feet to the north line of the above mentioned Parcel 3;

**THENCE** along said north line, South 86°50'36" East, 99.00 feet to the **POINT OF BEGINNING**.

Parcel 2(d) (Moya Boulevard Extension Parcel) Railroad Easement pursuant to that certain EASEMENT, dated 5-24-02, and recorded 5-28-02 in Book \_\_\_\_\_, Page \_\_\_\_\_, as Instrument No. 2692074, covering the following property:

All that certain parcel situate within a portion of the North One-Half (N ½) of Section Thirty (30), Township Twenty-One (21) North, Range Nineteen (19) East, Mount Diablo Meridian, Reno, Washoe County, Nevada, being a portion of Parcel 3 of Parcel Map 2863, File No. 1863191 in the Official Records of Washoe County, Nevada being more particularly described as follows:

An easement for railroad, slope and drainage purposes, Sixty (60) feet in width, 30 feet on each side of centerline, said easement being more particularly described as follows:

**BEGINNING** at a point from which the northeastern most corner of said Parcel 3 of PM 2863 bears, South 86°50'36" East, 86.81 feet;

**THENCE** from the **POINT OF BEGINNING**, South 01°17'01" West, 26.31 feet;



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**THENCE** from a tangent bearing North 75°11'25" West, 88.05 feet along the arc of a 429.28 foot radius curve to the right, through a central angle of 11°45'09" to the easterly line of the above mentioned Parcel 3;

**THENCE** along said easterly line, North 03°09'24" East, 7.88 feet to the northeast corner of said Parcel 3;

**THENCE** along said north line, North 86°50'36" West, 86.81 feet to the **POINT OF BEGINNING**, containing 1,348 square feet more or less.

**BASIS OF BEARINGS:** North American Datum of 1983/94 HARN.

Parcel 2(e) (SADE/Michelin Parcel) Railroad Easement pursuant to that certain ~~EASEMENT~~, dated ~~5-24-02~~, and recorded ~~5-28-02~~ in Book \_\_\_\_\_, Page \_\_\_\_\_, as Instrument No. ~~26920~~, covering the following property:

All that certain parcel situate within a portion of the North One-Half (N ½) of Section Thirty (30), Township Twenty-One (21) North, Range Nineteen (19) East, Mount Diablo Meridian, Reno, Washoe County, Nevada, being a portion of Parcel B of Parcel Map 2580, File No. 1536940 in the Official Records of Washoe County, Nevada being more particularly described as follows:

An easement for railroad, slope and drainage purposes, said easement being more particularly described as follows:

**BEGINNING** at the northwestern most corner of said Parcel B of PM 2580,

**THENCE** from the **POINT OF BEGINNING**, South 03°09'24" West, 7.88 feet;

**THENCE** North 86°48'07" East, 71.24 feet to the north line of said Parcel B;

**THENCE** along said north line, North 86°50'36" West, 70.80 feet to the **POINT OF BEGINNING**.

**PARCEL 3 (Grade and Temporary Construction and Access Easement)**

Parcel 3(a) Grade Easement pursuant to that certain EASEMENT, dated 5-24-02, and recorded 5-28-02 in ~~Book~~ \_\_\_\_\_, Page \_\_\_\_\_, as Instrument No. 2692088, covering the following property:

All that certain parcel situate within a portion of the West One-Half (W ½) of Section Thirty (30), Township Twenty-One (21) North, Range Nineteen (19) East, Mount Diablo Meridian, Reno, Washoe County, Nevada, being a portion of the Parcel 1 of Parcel Map 2377, File No. 1345017 in the Official Records of Washoe County, Nevada being more particularly described as follows:



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An easement for construction, slope and drainage purposes, Twenty (20) feet in width, 20 feet westerly of the easterly sideline more particularly described as follows:

**BEGINNING** at a point from which the northeastern most corner of said Parcel 1 of PM 2377, bears, South 86°50'36" East, 257.14 feet;

**THENCE** from the **POINT OF BEGINNING**, along the easterly sideline of the easement, South 01°17'01" West, 1669.83 feet to the **POINT OF TERMINUS**.

The west sideline of the easement to be extended to begin on the north line of said Parcel 1 and end perpendicular to the Point of Terminus.

Parcel 3(b) Construction Easement pursuant to that certain EASEMENT, dated 5-24-02, and recorded 5-28-02 in Book \_\_\_\_\_, Page \_\_\_\_\_, as Instrument No. 2692088, covering the following property:

All that certain parcel situate within a portion of the West One-Half (W ½) of Section Thirty (30), Township Twenty-One (21) North, Range Nineteen (19) East, Mount Diablo Meridian, Reno, Washoe County, Nevada, being a portion of the Parcel 1 of Parcel Map 2377, File No. 1345017 in the Official Records of Washoe County, Nevada being more particularly described as follows:

A temporary easement for construction purposes, Fifty (50) feet in width, 50 feet westerly of the easterly sideline more particularly described as follows:

**BEGINNING** at a point from which the northeastern most corner of said Parcel 1 of PM 2377, bears, South 86°50'36" East, 257.14 feet;

**THENCE** from the **POINT OF BEGINNING**, along the easterly sideline of the easement, South 01°17'01" West, 1669.83 feet to the **POINT OF TERMINUS**.

The west sideline of the easement to be extended to begin on the north line of said Parcel 1 and end perpendicular to the Point of Terminus.

Parcel 3(c) Construction and Access Easement pursuant to that certain EASEMENT, dated 5-24-02, and recorded 5-28-02 in Book \_\_\_\_\_, Page \_\_\_\_\_, as Instrument No. 2692088, covering the following property:

All that certain parcel situate within a portion of the West One-Half (W ½) of Section Thirty (30), Township Twenty-One (21) North, Range Nineteen (19) East, Mount Diablo Meridian, Reno, Washoe County, Nevada, being a portion of the Parcel 1 of Parcel Map 2377, File No. 1345017 in the Official Records of Washoe County, Nevada being more particularly described as follows:



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Exhibit A  
Legal Description

**DOC # 2692089**  
05/28/2002 11:08A Fee:37.00  
BK1  
Requested By  
FIRST AMERICAN TITLE  
Washoe County Recorder  
Kathryn L. Burke - Recorder  
Pg 24 of 24 RPTT 0.00



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SHORT FORM MEMORANDUM OF LEASE /  
LEASE SUPPLEMENT

by and between

AUTO FACILITIES REAL ESTATE TRUST 2001-1,

Lessor

and

GENERAL MOTORS CORPORATION,

Lessee

January <sup>6<sup>th</sup></sup>, 2003

211111  
First American  
39.00  
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**SHORT FORM MEMORANDUM OF LEASE / LEASE SUPPLEMENT**

**THIS SHORT FORM MEMORANDUM OF LEASE AND LEASE SUPPLEMENT** together with MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (INCLUDING FIXTURE FILING) (this "Memorandum of Lease") dated as of January 10<sup>th</sup>, 2003 is made by and between AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust with an address c/o Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware 19890-0001, as lessor and as mortgagee, beneficiary and secured party (the "Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation having its principal office at Worldwide Real Estate, 200 Renaissance Center, Tower 200, 38<sup>th</sup> Floor, Detroit, Michigan, 48265-2000, as lessee and as mortgagor and debtor (the "Lessee").

Agreement

In consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor has leased the Property (hereinafter defined) to Lessee and the parties hereto agree as follows:

SECTION 1. Definitions: Interpretation. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Lease dated as of October 31, 2001 between Lessor and Lessee (as supplemented with any Memoranda of Lease and Supplements, and as it may be further amended, supplemented or otherwise modified from time to time in accordance with the terms thereof or of any other Operative Agreement).

SECTION 2. Lease Term.

(a) Pursuant to the terms of the Lease, the Lessor has leased to the Lessee certain property (the "Property") described on the attached Exhibit A. Effective upon the execution and delivery of this Memorandum of Lease by the Lessor and the Lessee, the Property shall be subject to the terms and provisions of the Lease. The Property is leased for a Term commencing on the date hereof and terminating on October 31, 2008, unless the Term is earlier terminated in accordance with the terms of the Lease.

(b) The Lease contains certain mandatory and optional purchase rights and options during the Term pursuant to which the Lessee may acquire the Property.

(c) In addition to those terms referred to herein, the Lease contains numerous other terms, covenants and conditions which affect the Property, and notice is hereby given that reference should be had to the Lease with respect to the details of such terms, covenants and conditions. A copy of the Lease or of the other agreements referenced herein or therein may be obtained from any of the parties hereto at the addresses set forth herein.

(d) [Lessee hereby certifies that the Tranche A Percentage for the Property is \_\_\_%.]

SECTION 3. Ownership of the Property. It is the intent of the parties hereto that: (A) the Lease constitutes an "operating lease" pursuant to Statement of Financial Accounting Standards No. 13, as amended, and all EITF pronouncements pursuant thereto, (B) for purposes of all federal, state, and local income, sales tax and use tax laws, state and county real estate tax laws (including but not limited to all ad valorem taxes, transfer taxes, county transfer taxes, special assessments and/or charges and all related and/or similar tax, assessment and/or valuation laws), state and federal commercial and corporate tax laws, bankruptcy and insolvency laws, state and federal remedial laws, and for all other purposes, (i) the transaction contemplated by the Lease is a financing arrangement, Lessee will be treated as the owner of the Properties, having the beneficial use thereof, and will be entitled to all tax benefits ordinarily available to an owner of property like the Property for such tax purposes, (ii) the transaction contemplated by the Lease is a secured borrowing for the purposes of the exercise of remedies hereunder or any enforcement or collection actions pursuant to the term hereof following the occurrence and during the continuance of a Lease Event of Default, and (x) by the Lease, as supplemented by this Memorandum of Lease, the Lessee grants a mortgage upon and a security interest in and a lien on the Lessee's ownership interest in the Property for the benefit of the Lessor to secure the Lessee's payment of all amounts owed by the Lessee under the lease and the other Operative Agreements, and (y) the Lessor holds title to or a ground leasehold interest in the Property so as to create and grant a first lien and prior security interest in the Property subject to the Permitted liens (a) pursuant to the Lease, as supplemented by this Memorandum of Lease, for the benefit of the Administrative Agent under the Assignment of Lease, to secure to the Agent the obligations of Lessee under the Lease, as supplemented by this Memorandum of Lease and (b) pursuant to the Mortgage to secure to the Administrative Agent the obligations of Lessor under the Mortgage, the Loan Facility Agreement and the Participation Agreement. In addition, the parties acknowledge and agree that the characterization of the transaction and the Lessee's obligations as provided in this Section 3 shall not diminish the Lessee's express rights under the Lease and the other Operative Agreements, including, without limitation, the Lessee's right to purchase the Property.

SECTION 4. Grant of Mortgage Lien and Security Interest; Assignment of Rents. To secure to the Lessor the payment of all amounts owed to Lessor by Lessee under the Lease and the other Operative Agreements:

Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee has caused Lessor to hold title to or a ground leasehold interest in, or a combination of fee title and ground leasehold interest in, the Property, and does hereby mortgage, grant, bargain, sell, convey, assign, transfer and set over to the Lessor, to the extent permitted by applicable law: (i) all of the Lessee's right, title and interest in the Property, if any; (ii) all rights and benefits of whatever nature derived or to be derived by the Lessee under or by virtue of the Lease; and (iii) all of the Lessee's right, title and interest in and to all proceeds of the conversion, whether voluntary or involuntary, of any of the above-described property into cash or other liquid claims, including, without limitation, all awards, payments or proceeds, including interest thereon, and the right to receive the same, which may be made as a result of casualty, any exercise of the right of eminent domain or deed in lieu thereof, the alteration of the grade of any street and any injury to or decrease in the value thereof, the foregoing being referred to hereinafter as the "Security Property."

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TO HAVE AND TO HOLD the Security Property, subject however to Permitted Liens, unto the Lessor, its successors and assigns IN TRUST, forever, for the uses and purposes herein expressed, but not otherwise.

(e) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee hereby grants to the Lessor a security interest in the Lessee's interest in that portion of the Security Property (the "UCC Property") subject to the Uniform Commercial Code of the State of Michigan (the "UCC"). The Lease, as supplemented by this Memorandum of Lease, shall also be deemed to be a security agreement and shall support any financing statement showing the Lessor's interest as a secured party with respect to any portion of the UCC Property described in such financing statement. The Lessee agrees, at its sole cost and expense, to execute, deliver and file from time to time such further instruments as may be requested by the Lessor to confirm and perfect the lien of the security interest in the collateral described in this Memorandum of Lease, provided, that during the Construction Period with respect to any Construction Period Property, the costs and expenses thereof shall be Transaction Expenses.

(f) Notwithstanding that this Memorandum of Lease is an absolute assignment of the Profits and the Subleases and not merely the collateral assignment of, or the grant of a lien or security interest in the Profits and the Subleases, the Lessor grants to the Lessee a revocable license to collect and receive the Profits and to retain, use and enjoy such Profits. Such license shall be automatically revoked upon the occurrence and during the continuance of any Lease Event of Default.

#### SECTION 5. Remedies.

(a) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor may exercise any one or more of the following rights and remedies as it, in its sole discretion may deem necessary or appropriate:

(i) collect interest on all past due sums at the Overdue Rate;

(ii) terminate the Lease and, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of security, enter upon and take possession of the Property, or any part thereof, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or any part thereof or interest therein, to increase the income therefrom or to protect the security hereof and, with or without taking possession of the Property, to sue for or otherwise to collect the Profits thereof, including, without limitation, those past due and unpaid, and to apply the same, less costs and expenses of operation and collection, including, without limitation, reasonable attorneys' fees, upon any obligations secured hereby, all in such order as the Lessor may determine. The entering upon and taking possession of the Property, and the collection of such Profits and the application thereof as aforesaid, shall

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not cure or waive any Lease Event of Default or notice of a Lease Event of Default hereunder or invalidate any act done in response to such Lease Event of Default and, notwithstanding the continuance in possession of the Lessor or the collection, receipt and application of Profits by the Lessor, the Lessor shall be entitled to exercise every right provided for herein or by law upon the occurrence and during the continuance of any Lease Event of Default, including, without limitation, the right to exercise the power of sale;

(iii) declare all sums secured hereby immediately due and payable by delivery to Trustee and to Lessee of written declaration of the occurrence and continuance of a Lease Event of Default and demand for sale and of written notice of the occurrence and continuance of a Lease Event of Default and of election to cause to be sold said Property, which notice Trustee shall cause to be filed for record. After the lapse of such time as may then be required by law following the recordation of said notice of the occurrence and continuance of a Lease Event of Default, and notice of sale having been given as then required by law, Trustee, without demand on the Lessee, shall sell said Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said Property by public announcement of postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including the Trustee, or the Lessor, may purchase at such sale. After deducting all costs, fees and expenses of Trustee and the Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in accordance with the provisions of Section 21.2 of the Lease;

(iv) in lieu of sale pursuant to the power of sale conferred hereby, foreclose in the manner provided by law for the foreclosure of mortgages or deeds of trust on leasehold interests in real property;

(v) declare immediately due and payable without notice or demand, except as otherwise required hereunder or under applicable law, all amounts payable by the Lessee hereunder or under the other Operative Agreements which are then unpaid, with all interest and sums accrued, and accelerate payment thereof notwithstanding contrary terms of payment stated therein and exercise all rights and remedies available hereunder, at law, in equity or otherwise; and

(vi) as a matter of right, and upon notice to the Lessee or anyone claiming under the Lessee and without regard to the adequacy of its security or the then value of the Property or the interest of the Lessee therein, apply to any court having jurisdiction to appoint a receiver or receivers of the Property and the Lessee hereby irrevocably consents to such appointment and, to the extent permitted by applicable law, waives notice of any application therefor. Any such

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receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers of the Lessor provided for in Section 5(a)(ii) above, and shall continue as a receiver and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated by the Lessor in its sole discretion.

Upon the occurrence and during the continuance of a Lease Event of Default, Trustee and the Lessor, and each of them, shall be entitled to enforce payment and performance of any obligations secured hereby and to exercise all rights and powers hereunder or any laws now or hereafter in force, notwithstanding that some or all of said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, Lien, assignment or otherwise. Neither the acceptance nor the enforcement hereof, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or the Lessor's right to realize upon or enforce any other security now or hereafter held by the Lessor, and each of them shall be entitled to enforce the rights and remedies provided for herein and any other security now or hereafter held by the Lessor in such order and manner as they or either of them may in their absolute discretion determine. No remedy conferred upon or reserved to Trustee or the Lessor is intended to be exclusive of any other remedy, but each shall be cumulative and shall be in addition to every other remedy given hereby or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Trustee or the Lessor or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or the Lessor, and either or both of them may pursue inconsistent remedies.

(b) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor, in addition to and not in lieu of or in diminution of the rights and remedies provided above shall have all of the rights and remedies of a secured party under the UCC, which rights and remedies may be exercised without application to any court to the extent permitted by the UCC.

(c) It is the intent of the parties hereto that the Lease be treated as a secured borrowing to the extent provided in Section 3 (B) (iii) above, and that, upon the occurrence and during the continuance of a Lease Event of Default, the Lessor shall have the remedies provided for in this Section 5. In the event that, notwithstanding the intention of the parties, a court of competent jurisdiction determines that, for the purpose of remedies, the transaction contemplated by the Lease constitutes a leasing arrangement, the parties hereto acknowledge and agree that the Lessor shall have, as a result of such determination, in lieu of the remedies set forth in this Section 5, all of the rights and remedies of a landlord provided for in Section XVII of the Lease, provided that the parties hereto acknowledge and agree that it is their intent that the Lease be construed as provided in Section 3.

SECTION 6. Lessor Grant. (a) The Lessor hereby grants a Lien upon and mortgages and warrants to the Lessee the Properties to secure (i) the Lessor's obligations hereunder in respect of the due and punctual transfer by the Lessor to the Lessee of all of the Lessor's right, title and interest in and to the Properties when required by and in accordance with this Lease, and (ii) if the Lessor shall then be the subject of any bankruptcy, insolvency or similar proceeding, satisfaction of the Lessee's right to damages and other claims arising out of

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the rejection of this Lease or unilateral termination of such obligation to transfer to the Lessee all of the Lessor's right, title and interest in and to the Properties, against all of the Lessor's right, title and interest in and to the Properties.

(b) During the existence and only during the existence of a Lessor Default (as defined below), the Lessee shall have the power and authority, to the extent provided by Legal Requirements, to exercise any or all of the rights and powers and pursue any and all of the remedies provided under the Operative Agreements or by Legal Requirements in respect of the obligations secured in accordance with clause (a) above (including specific performance of any covenant or agreement contained in this Lease or any other Operative Agreement, in aid of the execution of any power granted in this Lease or any other Operative Agreement, or for the enforcement of any other appropriate legal or equitable remedy). The Lessor shall have all the rights available to a mortgagor under the laws of the jurisdiction in which the applicable Property is located. The following shall constitute a Lessor default ("Lessor Default"): the Lessee shall have exercised any of its purchase options in this Lease for any or all of the Properties in accordance with the terms hereof and shall have tendered in full all amounts to be paid by Lessee in connection therewith and complied with all other requirements hereunder in connection with such purchase and all of the Lessor's right, title and interest in and to the applicable Property shall not have been transferred to the Lessee in accordance with this Lease.

(c) The Lien created in clause (a) shall automatically terminate and be deemed released without further act or consideration upon (i) the commencement by the Lessor of the exercise of any remedy in respect of the applicable Property pursuant to Article XVI (except in the case of a sale to the Lessee thereunder) or (ii) a Lease Event of Default under Section 17.1(a) or (g) of the Lease.

SECTION 7. Ratification. Except as expressly set forth herein, this Memorandum of Lease does not alter, amend, modify or change the Lease or the exhibits thereto. It is the intent of the parties that this Memorandum of Lease be recorded and give notice of and confirm the Lease and exhibits thereto to the same extent as if all of the provisions of the Lease and exhibits thereto were fully set forth herein. The Lease and exhibits thereto are incorporated by reference in this Memorandum of Lease and, except as expressly modified hereby, the terms and provisions of the Lease are hereby ratified and confirmed and remain in full force and effect.

SECTION 8. Original Memorandum of Lease. Notwithstanding anything to the contrary set forth in the documentary conventions, the single executed original of this Memorandum of Lease marked "THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART" on the signature page thereof and containing the receipt of the Administrative Agent therefor on or following the signature page thereof shall be the Original Executed Counterpart of this Memorandum of Lease (the "Original Executed Counterpart"). To the extent that this Memorandum of Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Memorandum of Lease may be created through the transfer or possession of any counterpart other than the Original Executed Counterpart.

SECTION 9. GOVERNING LAW. THIS LEASE AND THIS MEMORANDUM OF LEASE SHALL BE GOVERNED BY, AND CONSTRUED AND

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INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), EXCEPT AS TO MATTERS RELATING TO THE CREATION OF THE LEASEHOLD ESTATE AND THE CREATION OF THE LEASEHOLD ESTATE HEREUNDER AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO, WHICH SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED. WITHOUT LIMITING THE FOREGOING, IN THE EVENT THAT THE LEASE IS DEEMED TO CONSTITUTE A FINANCING, WHICH IS THE INTENTION OF THE PARTIES, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), SHALL GOVERN THE CREATION, TERMS AND PROVISIONS OF THE INDEBTEDNESS EVIDENCED THEREBY AND HEREBY, BUT ANY LIEN CREATED HEREBY AND THE CREATION AND PERFECTION OF SAID LIEN AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED.

SECTION 10. Merger. If the fee simple title to the Property and the leasehold interest therein shall be held by the same party, the interest in the Property granted to the Lessor pursuant to the Lease and this Memorandum of Lease shall not terminate or be merged, and the Lease and this Memorandum of Lease shall remain in full force and effect.

SECTION 11. Maximum Interest Rate. No provision of this Memorandum of Lease or any transaction related thereto shall require the payment or permit the collection of interest or any other amount in excess of the maximum permitted by applicable law. If any excess of interest or any other amount in such respect is herein or any other Operative Agreement provided for, the Lessee shall not be obligated to pay such excess interest or any other amounts in excess of the amount permitted by applicable law, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any other provision of this Memorandum of Lease and the other Operative Agreements.

SECTION 12. Assignment to Administrative Agent. Pursuant to the Assignment of Lease, the Lessor has assigned to JPMorgan Chase Bank, as Administrative Agent for the Lenders, all of its right, title and interest in and to the Lease, together with all Rent, and in confirmation thereof the Lessor does hereby assign, transfer and set over unto the Administrative Agent, subject to the terms of the Assignment of Lease, all of the right, title and interest of the Lessor in and to all of the Lease, together with all Rent, all modifications, renewals and extensions thereof and any guarantees of the Lessee's obligations under the Lease.

SECTION 13. Counterparts. This Memorandum of Lease may be executed in several counterparts, each of which shall be an original except as provided in Section 7, above, and all of which together shall constitute but one and the same instrument.

SECTION 14. Security Agreement and Financing Statement. The mailing address of debtor (the Lessee herein) and of the secured party (the Lessor herein) from which

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information concerning security interests hereunder may be obtained is as set forth in Section 15 hereof. A carbon, photographic or other reproduction of this instrument or of any financing statement related to this instrument shall be sufficient as a financing statement for any of the purposes referenced herein.

SECTION 15. Financing Statement. For purposes of this instrument as a fixture filing, and for all other purposes, unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given to any Person shall be given in writing by nationally recognized courier service and any such notice shall become effective (a) five (5) Business Days after being deposited in the mails, certified or registered with appropriate postage prepaid, (b) one (1) Business Day after delivery to a nationally recognized courier service specifying overnight delivery, (c) when delivered by hand, or (d) in the case of facsimile notice, when received (when receipt is either confirmed by confirming transmission equipment or acknowledged by the addressee or its office) and shall be directed to the address of such Person as indicated:

Address of Lessee/Debtor:

General Motors Corporation  
767 Fifth Avenue  
New York, New York 10153  
Attention: Treasurer  
Telephone: (212) 418-6219  
Facsimile: (212) 418-3639

With copies to:

General Motors Corporation  
World Wide Real Estate  
Mail code 482-B38-C96  
200 Renaissance Center  
Tower 200-38<sup>th</sup> Floor  
Detroit, Michigan 48265

Attention: Executive Director

Address of Lessor/Secured Party:

Auto Facilities Real Estate Trust 2001-1  
C/o Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration  
Fax: 302-651-8882

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From time to time any party may designate a new address for purposes of notice hereunder by notice to each of the other parties hereto.

SECTION 16. Liability of Wilmington Trust Company. It is expressly understood and agreed by the parties hereto that (a) this Memorandum of Lease is executed and delivered by Wilmington Trust Company not individually or personally but solely as trustee of the Trust, in the exercise of the powers and authority conferred and vested in it, (b) each of the representations, undertakings and agreements herein made on the part of the Lessor is made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company but is made and intended for the purpose of binding only the Lessor, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under no circumstances shall Wilmington Trust Company be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Lessor under this Memorandum of Lease.

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Instr: 200301100004374 01/10/2003  
P: 11 of 16 F: \$39.00 12:07PM  
Melvin Phillip McCree T20030001301  
Genesee County Register TC

IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

AUTO FACILITIES REAL ESTATE  
TRUST 2001-1, a Delaware business trust,  
Mortgagor

By: Wilmington Trust Company, not in  
its individual capacity but solely as Trustee

By:   
Name: \_\_\_\_\_  
Title: **Michael G. Oller, Jr.**  
**Senior Financial Services Officer**

GENERAL MOTORS CORPORATION, a  
Delaware corporation, Lessee

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

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STATE OF )  
 )  
COUNTY OF ) SS:

On the 2<sup>nd</sup> day of January in the year 2003, before me, the undersigned, a notary public in and for said state, personally appeared Michael G. Oler, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as Jr. Vice Pres. of Wilmington Trust Company, not in its individual capacity, but solely as trustee of AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Dianne Michelle Bruton*  
NOTARY PUBLIC

My commission expires:  
DIANNE MICHELLE BRUTON  
NOTARY PUBLIC  
My Commission Expires Nov. 27, 2003  
(Affix official seal, if applicable)

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Instr: 200301100004374 01/10/2003  
P: 13 of 16 F: \$39.00 12:07PM  
Melvin Phillip McCree T20030001301  
Genesee County Register TC

Receipt of this original counterpart of the foregoing Memorandum of Lease is hereby acknowledged on this 6<sup>th</sup> day of January, 2003.

JPMORGAN CHASE BANK, as Administrative Agent

By: *Melvin S. McCree*  
Name: Melvin S. McCree  
Title: Register

This document drafted by  
and when recorded, return to:

Simpson Thacher & Bartlett  
45 Lexington Avenue  
New York, New York 10017  
212-455-7731

Attn: Farhad Karim



Instr: 200301100004374 01/10/2003  
 P: 14 of 16 F: \$39.00 12:07PM  
 Melvin Phillip McCree T20030001301  
 Genesee County Register TC

IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

AUTO FACILITIES REAL ESTATE  
 TRUST 2001-1, a Delaware business trust,  
 Mortgagor

By: Wilmington Trust Company, not in  
 its individual capacity but solely as Trustee

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

EXECUTION RECOMMENDED  
 WORLDWIDE REAL ESTATE  
 BY: RS - G.F.

GENERAL MOTORS CORPORATION, a  
 Delaware corporation, Lessee

By: [Signature]  
 Name: JOHN K. BLANCHARD  
 Title: DIRECTOR  
 WORLDWIDE REAL ESTATE

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EXHIBIT A  
Legal Description

Instr: 20030110004374 01/10/2003  
P: 16 of 16 F: \$39.00 12:07PM  
Melvin Phillip McCree T20030001301  
Genesee County Register TC

Real property in the Township of Grand Blanc, County of Genesee, State of Michigan,  
and is described as follows:

Unit 1 Grand Pointe Park Condominium as recorded in Master Liber 3661 Pages 672-727  
inclusive, as amended by First Amendment recorded in Liber 3880 Pages 939-944  
inclusive, and designated as Genesee County Condominium Subdivision Plan No. 193  
with rights in General Common Elements and Limited Common Elements as set forth in  
above Master Deed and as described in Act 59 of the Public Acts of Michigan of 1978, as  
amended.

Tax Parcel I.D. Number: 12-07-626-001

Li-37616 Pa-653  
203112830 1/21/2003  
Bernard J. Youngblood  
Wayne Co. Register of Deeds

SHORT FORM MEMORANDUM OF LEASE,  
AND LEASE SUPPLEMENT 20100-01

by and between

AUTO FACILITIES REAL ESTATE TRUST 2001-I,

Lessor

and

GENERAL MOTORS CORPORATION,

Lessee

January 6<sup>th</sup>, 2003

LaMont title

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MEM 17 pgs scj

**SHORT FORM MEMORANDUM OF LEASE AND LEASE SUPPLEMENT**

**THIS SHORT FORM MEMORANDUM OF LEASE AND LEASE SUPPLEMENT** together with MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (INCLUDING FIXTURE FILING) (this "Memorandum of Lease") dated as of January 6<sup>th</sup>, 2003 is made by and between AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust with an address c/o Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware 19890-0001, as lessor and as mortgagee, beneficiary and secured party (the "Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation having its principal office at Worldwide Real Estate, 200 Renaissance Center, Tower 200, 38<sup>th</sup> Floor, Detroit, Michigan, 48265-2000, as lessee and as mortgagor and debtor (the "Lessee").

Agreement

In consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor has leased the Property (hereinafter defined) to Lessee and the parties hereto agree as follows:

SECTION 1. Definitions; Interpretation. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Lease dated as of October 31, 2001 between Lessor and Lessee (as supplemented with any Memoranda of Lease and Supplements, and as it may be further amended, supplemented or otherwise modified from time to time in accordance with the terms thereof or of any other Operative Agreement).

SECTION 2. Lease Term.

(a) Pursuant to the terms of the Lease, the Lessor has leased to the Lessee certain property (the "Property") described on the attached Exhibit A. Effective upon the execution and delivery of this Memorandum of Lease by the Lessor and the Lessee, the Property shall be subject to the terms and provisions of the Lease. The Property is leased for a Term commencing on the date hereof and terminating on October 31, 2008, unless the Term is earlier terminated in accordance with the terms of the Lease.

(b) The Lease contains certain mandatory and optional purchase rights and options during the Term pursuant to which the Lessee may acquire the Property.

(c) In addition to those terms referred to herein, the Lease contains numerous other terms, covenants and conditions which affect the Property, and notice is hereby given that reference should be had to the Lease with respect to the details of such terms, covenants and conditions. A copy of the Lease or of the other agreements referenced herein or therein may be obtained from any of the parties hereto at the addresses set forth herein.

(d) [Lessee hereby certifies that the Tranche A Percentage for the Property is

\_\_\_%.]

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**SECTION 3. Ownership of the Property.** It is the intent of the parties hereto that: (A) the Lease constitutes an "operating lease" pursuant to Statement of Financial Accounting Standards No. 13, as amended, and all EITF pronouncements pursuant thereto, (B) for purposes of all federal, state, and local income, sales tax and use tax laws, state and county real estate tax laws (including but not limited to all ad valorem taxes, transfer taxes, county transfer taxes, special assessments and/or charges and all related and/or similar tax, assessment and/or valuation laws), state and federal commercial and corporate tax laws, bankruptcy and insolvency laws, state and federal remedial laws, and for all other purposes, (i) the transaction contemplated by the Lease is a financing arrangement, Lessee will be treated as the owner of the Properties, having the beneficial use thereof, and will be entitled to all tax benefits ordinarily available to an owner of property like the Property for such tax purposes, (ii) the transaction contemplated by the Lease is a secured borrowing for the purposes of the exercise of remedies hereunder or any enforcement or collection actions pursuant to the term hereof following the occurrence and during the continuance of a Lease Event of Default, and (x) by the Lease, as supplemented by this Memorandum of Lease, the Lessee grants a mortgage upon and a security interest in and a lien on the Lessee's ownership interest in the Property for the benefit of the Lessor to secure the Lessee's payment of all amounts owed by the Lessee under the lease and the other Operative Agreements, and (y) the Lessor holds title to or a ground leasehold interest in the Property so as to create and grant a first lien and prior security interest in the Property subject to the Permitted liens (a) pursuant to the Lease, as supplemented by this Memorandum of Lease, for the benefit of the Administrative Agent under the Assignment of Lease, to secure to the Agent the obligations of Lessee under the Lease, as supplemented by this Memorandum of Lease and (b) pursuant to the Mortgage to secure to the Administrative Agent the obligations of Lessor under the Mortgage, the Loan Facility Agreement and the Participation Agreement. In addition, the parties acknowledge and agree that the characterization of the transaction and the Lessee's obligations as provided in this Section 3 shall not diminish the Lessee's express rights under the Lease and the other Operative Agreements, including, without limitation, the Lessee's right to purchase the Property.

**SECTION 4. Grant of Mortgage Lien and Security Interest: Assignment of Rents.** To secure to the Lessor the payment of all amounts owed to Lessor by Lessee under the Lease and the other Operative Agreements:

Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee has caused Lessor to hold title to or a ground leasehold interest in, or a combination of fee title and ground leasehold interest in, the Property, and does hereby mortgage, grant, bargain, sell, convey, assign, transfer and set over to the Lessor, to the extent permitted by applicable law: (i) all of the Lessee's right, title and interest in the Property, if any; (ii) all rights and benefits of whatever nature derived or to be derived by the Lessee under or by virtue of the Lease; and (iii) all of the Lessee's right, title and interest in and to all proceeds of the conversion, whether voluntary or involuntary, of any of the above-described property into cash or other liquid claims, including, without limitation, all awards, payments or proceeds, including interest thereon, and the right to receive the same, which may be made as a result of casualty, any exercise of the right of eminent domain or deed in lieu thereof, the alteration of the grade of any street and any injury to or decrease in the value thereof, the foregoing being referred to hereinafter as the "Security Property."

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TO HAVE AND TO HOLD the Security Property, subject however to Permitted Liens, unto the Lessor, its successors and assigns IN TRUST, forever, for the uses and purposes herein expressed, but not otherwise.

(e) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee hereby grants to the Lessor a security interest in the Lessee's interest in that portion of the Security Property (the "UCC Property") subject to the Uniform Commercial Code of the State of Michigan (the "UCC"). The Lease, as supplemented by this Memorandum of Lease, shall also be deemed to be a security agreement and shall support any financing statement showing the Lessor's interest as a secured party with respect to any portion of the UCC Property described in such financing statement. The Lessee agrees, at its sole cost and expense, to execute, deliver and file from time to time such further instruments as may be requested by the Lessor to confirm and perfect the lien of the security interest in the collateral described in this Memorandum of Lease, provided, that during the Construction Period with respect to any Construction Period Property, the costs and expenses thereof shall be Transaction Expenses.

(f) Notwithstanding that this Memorandum of Lease is an absolute assignment of the Profits and the Subleases and not merely the collateral assignment of, or the grant of a lien or security interest in the Profits and the Subleases, the Lessor grants to the Lessee a revocable license to collect and receive the Profits and to retain, use and enjoy such Profits. Such license shall be automatically revoked upon the occurrence and during the continuance of any Lease Event of Default.

#### SECTION 5. Remedies.

(a) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor may exercise any one or more of the following rights and remedies as it, in its sole discretion may deem necessary or appropriate:

- (i) collect interest on all past due sums at the Overdue Rate;
- (ii) terminate the Lease and, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of security, enter upon and take possession of the Property, or any part thereof, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or any part thereof or interest therein, to increase the income therefrom or to protect the security hereof and, with or without taking possession of the Property, to sue for or otherwise to collect the Profits thereof, including, without limitation, those past due and unpaid, and to apply the same, less costs and expenses of operation and collection, including, without limitation, reasonable attorneys' fees, upon any obligations secured hereby, all in such order as the Lessor may determine. The entering upon and taking possession of the Property, and the collection of such Profits and the application thereof as aforesaid, shall

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not cure or waive any Lease Event of Default or notice of a Lease Event of Default hereunder or invalidate any act done in response to such Lease Event of Default and, notwithstanding the continuance in possession of the Lessor or the collection, receipt and application of Profits by the Lessor, the Lessor shall be entitled to exercise every right provided for herein or by law upon the occurrence and during the continuance of any Lease Event of Default, including, without limitation, the right to exercise the power of sale;

(iii) declare all sums secured hereby immediately due and payable by delivery to Trustee and to Lessee of written declaration of the occurrence and continuance of a Lease Event of Default and demand for sale and of written notice of the occurrence and continuance of a Lease Event of Default and of election to cause to be sold said Property, which notice Trustee shall cause to be filed for record. After the lapse of such time as may then be required by law following the recordation of said notice of the occurrence and continuance of a Lease Event of Default, and notice of sale having been given as then required by law, Trustee, without demand on the Lessee, shall sell said Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said Property by public announcement of postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including the Trustee, or the Lessor, may purchase at such sale. After deducting all costs, fees and expenses of Trustee and the Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in accordance with the provisions of Section 21.2 of the Lease;

(iv) in lieu of sale pursuant to the power of sale conferred hereby, foreclose in the manner provided by law for the foreclosure of mortgages or deeds of trust on leasehold interests in real property;

(v) declare immediately due and payable without notice or demand, except as otherwise required hereunder or under applicable law, all amounts payable by the Lessee hereunder or under the other Operative Agreements which are then unpaid, with all interest and sums accrued, and accelerate payment thereof notwithstanding contrary terms of payment stated therein and exercise all rights and remedies available hereunder, at law, in equity or otherwise; and

(vi) as a matter of right, and upon notice to the Lessee or anyone claiming under the Lessee and without regard to the adequacy of its security or the then value of the Property or the interest of the Lessee therein, apply to any court having jurisdiction to appoint a receiver or receivers of the Property and the Lessee hereby irrevocably consents to such appointment and, to the extent permitted by applicable law, waives notice of any application therefor. Any such

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receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers of the Lessor provided for in Section 5(a)(ii) above, and shall continue as a receiver and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated by the Lessor in its sole discretion.

Upon the occurrence and during the continuance of a Lease Event of Default, Trustee and the Lessor, and each of them, shall be entitled to enforce payment and performance of any obligations secured hereby and to exercise all rights and powers hereunder or any laws now or hereafter in force, notwithstanding that some or all of said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, Lien, assignment or otherwise. Neither the acceptance nor the enforcement hereof, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or the Lessor's right to realize upon or enforce any other security now or hereafter held by the Lessor, and each of them shall be entitled to enforce the rights and remedies provided for herein and any other security now or hereafter held by the Lessor in such order and manner as they or either of them may in their absolute discretion determine. No remedy conferred upon or reserved to Trustee or the Lessor is intended to be exclusive of any other remedy, but each shall be cumulative and shall be in addition to every other remedy given hereby or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Trustee or the Lessor or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or the Lessor, and either or both of them may pursue inconsistent remedies.

(b) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor, in addition to and not in lieu of or in diminution of the rights and remedies provided above shall have all of the rights and remedies of a secured party under the UCC, which rights and remedies may be exercised without application to any court to the extent permitted by the UCC.

(c) It is the intent of the parties hereto that the Lease be treated as a secured borrowing to the extent provided in Section 3 (B) (iii) above, and that, upon the occurrence and during the continuance of a Lease Event of Default, the Lessor shall have the remedies provided for in this Section 5. In the event that, notwithstanding the intention of the parties, a court of competent jurisdiction determines that, for the purpose of remedies, the transaction contemplated by the Lease constitutes a leasing arrangement, the parties hereto acknowledge and agree that the Lessor shall have, as a result of such determination, in lieu of the remedies set forth in this Section 5, all of the rights and remedies of a landlord provided for in Section XVII of the Lease, provided that the parties hereto acknowledge and agree that it is their intent that the Lease be construed as provided in Section 3.

**SECTION 6. Lessor Grant.** (a) The Lessor hereby grants a Lien upon and mortgages and warrants to the Lessee the Properties to secure (i) the Lessor's obligations hereunder in respect of the due and punctual transfer by the Lessor to the Lessee of all of the Lessor's right, title and interest in and to the Properties when required by and in accordance with this Lease, and (ii) if the Lessor shall then be the subject of any bankruptcy, insolvency or similar proceeding, satisfaction of the Lessee's right to damages and other claims arising out of

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the rejection of this Lease or unilateral termination of such obligation to transfer to the Lessee all of the Lessor's right, title and interest in and to the Properties, against all of the Lessor's right, title and interest in and to the Properties.

(b) During the existence and only during the existence of a Lessor Default (as defined below), the Lessee shall have the power and authority, to the extent provided by Legal Requirements, to exercise any or all of the rights and powers and pursue any and all of the remedies provided under the Operative Agreements or by Legal Requirements in respect of the obligations secured in accordance with clause (a) above (including specific performance of any covenant or agreement contained in this Lease or any other Operative Agreement, in aid of the execution of any power granted in this Lease or any other Operative Agreement, or for the enforcement of any other appropriate legal or equitable remedy). The Lessor shall have all the rights available to a mortgagor under the laws of the jurisdiction in which the applicable Property is located. The following shall constitute a Lessor default ("Lessor Default"): the Lessee shall have exercised any of its purchase options in this Lease for any or all of the Properties in accordance with the terms hereof and shall have tendered in full all amounts to be paid by Lessee in connection therewith and complied with all other requirements hereunder in connection with such purchase and all of the Lessor's right, title and interest in and to the applicable Property shall not have been transferred to the Lessee in accordance with this Lease.

(c) The Lien created in clause (a) shall automatically terminate and be deemed released without further act or consideration upon (i) the commencement by the Lessor of the exercise of any remedy in respect of the applicable Property pursuant to Article XVI (except in the case of a sale to the Lessee thereunder) or (ii) a Lease Event of Default under Section 17.1(a) or (g) of the Lease.

SECTION 7. Ratification. Except as expressly set forth herein, this Memorandum of Lease does not alter, amend, modify or change the Lease or the exhibits thereto. It is the intent of the parties that this Memorandum of Lease be recorded and give notice of and confirm the Lease and exhibits thereto to the same extent as if all of the provisions of the Lease and exhibits thereto were fully set forth herein. The Lease and exhibits thereto are incorporated by reference in this Memorandum of Lease and, except as expressly modified hereby, the terms and provisions of the Lease are hereby ratified and confirmed and remain in full force and effect.

SECTION 8. Original Memorandum of Lease. Notwithstanding anything to the contrary set forth in the documentary conventions, the single executed original of this Memorandum of Lease marked "THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART" on the signature page thereof and containing the receipt of the Administrative Agent therefor on or following the signature page thereof shall be the Original Executed Counterpart of this Memorandum of Lease (the "Original Executed Counterpart"). To the extent that this Memorandum of Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Memorandum of Lease may be created through the transfer or possession of any counterpart other than the Original Executed Counterpart.

SECTION 9. GOVERNING LAW. THIS LEASE AND THIS MEMORANDUM OF LEASE SHALL BE GOVERNED BY, AND CONSTRUED AND

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INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), EXCEPT AS TO MATTERS RELATING TO THE CREATION OF THE LEASEHOLD ESTATE AND THE CREATION OF THE LEASEHOLD ESTATE HEREUNDER AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO, WHICH SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED. WITHOUT LIMITING THE FOREGOING, IN THE EVENT THAT THE LEASE IS DEEMED TO CONSTITUTE A FINANCING, WHICH IS THE INTENTION OF THE PARTIES, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), SHALL GOVERN THE CREATION, TERMS AND PROVISIONS OF THE INDEBTEDNESS EVIDENCED THEREBY AND HEREBY, BUT ANY LIEN CREATED HEREBY AND THE CREATION AND PERFECTION OF SAID LIEN AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED.

SECTION 10. Merger. If the fee simple title to the Property and the leasehold interest therein shall be held by the same party, the interest in the Property granted to the Lessor pursuant to the Lease and this Memorandum of Lease shall not terminate or be merged, and the Lease and this Memorandum of Lease shall remain in full force and effect.

SECTION 11. Maximum Interest Rate. No provision of this Memorandum of Lease or any transaction related thereto shall require the payment or permit the collection of interest or any other amount in excess of the maximum permitted by applicable law. If any excess of interest or any other amount in such respect is herein or any other Operative Agreement provided for, the Lessee shall not be obligated to pay such excess interest or any other amounts in excess of the amount permitted by applicable law, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any other provision of this Memorandum of Lease and the other Operative Agreements.

SECTION 12. Assignment to Administrative Agent. Pursuant to the Assignment of Lease, the Lessor has assigned to JPMorgan Chase Bank, as Administrative Agent for the Lenders, all of its right, title and interest in and to the Lease, together with all Rent, and in confirmation thereof the Lessor does hereby assign, transfer and set over unto the Administrative Agent, subject to the terms of the Assignment of Lease, all of the right, title and interest of the Lessor in and to all of the Lease, together with all Rent, all modifications, renewals and extensions thereof and any guarantees of the Lessee's obligations under the Lease.

SECTION 13. Counterparts. This Memorandum of Lease may be executed in several counterparts, each of which shall be an original except as provided in Section 7, above, and all of which together shall constitute but one and the same instrument.

SECTION 14. Security Agreement and Financing Statement. The mailing address of debtor (the Lessee herein) and of the secured party (the Lessor herein) from which

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information concerning security interests hereunder may be obtained is as set forth in Section 15 hereof. A carbon, photographic or other reproduction of this instrument or of any financing statement related to this instrument shall be sufficient as a financing statement for any of the purposes referenced herein.

SECTION 15. Financing Statement. For purposes of this instrument as a fixture filing, and for all other purposes, unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given to any Person shall be given in writing by nationally recognized courier service and any such notice shall become effective (a) five (5) Business Days after being deposited in the mails, certified or registered with appropriate postage prepaid, (b) one (1) Business Day after delivery to a nationally recognized courier service specifying overnight delivery, (c) when delivered by hand, or (d) in the case of facsimile notice, when received (when receipt is either confirmed by confirming transmission equipment or acknowledged by the addressee or its office) and shall be directed to the address of such Person as indicated:

Address of Lessee/Debtor:

General Motors Corporation  
767 Fifth Avenue  
New York, New York 10153  
Attention: Treasurer  
Telephone: (212) 418-6219  
Facsimile: (212) 418-3639

With copies to:

General Motors Corporation  
World Wide Real Estate  
Mail code 482-B38-C96  
200 Renaissance Center  
Tower 200-38<sup>th</sup> Floor  
Detroit, Michigan 48265

Attention: Executive Director

Address of Lessor/Secured Party:

Auto Facilities Real Estate Trust 2001-1  
C/o Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration  
Fax: 302-651-8882

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From time to time any party may designate a new address for purposes of notice hereunder by notice to each of the other parties hereto.


SECTION 16. Liability of Wilmington Trust Company. It is expressly understood and agreed by the parties hereto that (a) this Memorandum of Lease is executed and delivered by Wilmington Trust Company not individually or personally but solely as trustee of the Trust, in the exercise of the powers and authority conferred and vested in it, (b) each of the representations, undertakings and agreements herein made on the part of the Lessor is made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company but is made and intended for the purpose of binding only the Lessor, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under no circumstances shall Wilmington Trust Company be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Lessor under this Memorandum of Lease.

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IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

AUTO FACILITIES REAL ESTATE  
TRUST 2001-1, a Delaware business trust,  
Mortgagor

By: Wilmington Trust Company, not in  
its individual capacity but solely as Trustee

By:   
Name: **Michael G. Oller, Jr.**  
Title: **Senior Financial Services Officer**

GENERAL MOTORS CORPORATION, a  
Delaware corporation, Lessee

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

STATE OF )  
 )  
COUNTY OF ) SS:

On the 2<sup>nd</sup> day of January in the year 2003 before me, the undersigned, a notary public in and for said state, personally appeared Michael G. Oller, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as an officer of Wilmington Trust Company, not in its individual capacity, but solely as trustee of AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Anne Michelle Bruton*  
NOTARY PUBLIC

My commission expires:  
ANNE MICHELLE BRUTON  
NOTARY PUBLIC

~~My Commission Expires Nov. 27, 2003~~

(Affix official seal, if applicable)

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IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

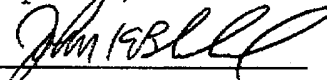
AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, Mortgagor

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

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

EXECUTION RECOMMENDED.  
WORLDWIDE REAL ESTATE  
BY PSR -- G.F.

GENERAL MOTORS CORPORATION, a Delaware corporation, Lessee

By:   
Name: JOHN K. BLANCHARD  
Title: DIRECTOR  
WORLDWIDE REAL ESTATE

STATE OF Michigan )  
 )  
COUNTY OF Wayne )

ss:

On the 2 day of January in the year 2003 before me, the undersigned, a notary public in and for said state, personally appeared John K. Blarek, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (he)(she) executed the same in (his)(her) capacity as Director, WLL of GENERAL MOTORS CORPORATION, a Delaware corporation, and that by (his)(her) signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, after first having been duly authorized by said company so to do.

Nancy A. Devoe Treuter  
NOTARY PUBLIC

My commission expires:

\_\_\_\_\_

NANCY A. DEVOE TREUTER  
Notary Public, Oakland County, MI  
My Commission Expires Aug 25, 2004  
Oakland County

(Affix official seal, if applicable)

03010885 JAN 21 2003

Li-37616

Pa-667

Exhibit A

Legal Description

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Description: Wayne, MI Document-Book. Page 37616.653 Page: 15 of 17  
Order: GM 1 Comment:

JPMCB-STB-00002726

Receipt of this original counterpart of the foregoing Memorandum of Lease is hereby acknowledged on this 6<sup>th</sup> day of January, 2003.

JPMORGAN CHASE BANK, as Administrative Agent

By:   
Name: **JULIE S. LONG**  
Title: **VICE PRESIDENT**

This document drafted by  
and when recorded, return to:

Simpson Thacher & Bartlett  
425 Lexington Avenue  
New York, New York 10017  
212-455-7731

Attn: Farhad Karim

When recorded return to:  
LaMont Title Corporation  
211 West Fort Street  
Suite 950  
Detroit, MI 48226

## Exhibit A

(Combined Parcels 6 & C)

Part of Private Claim 2 and Private Claim 5, City of Detroit, Wayne County, Michigan, also being part of Lots 1, 2, 3, and 4 of "Plat of Antoine Beaubien Farm 1846" as recorded in Liber 27 of Deeds, Page 197, and Part of Lots 1 through 7, both inclusive, of "Plat of the Subdivision of the C. Moran Farm" as recorded in Liber 1 of Deeds, Page 254, and part of Vacated Atwater Street (50' wide), more particularly described as:

Commencing at the intersection of the Southerly right-of-way of Jefferson Avenue and the Westerly right-of-way of St. Antoine Street (50 feet wide); thence S26°05'38"E, 709.36 feet along said Westerly line of St. Antoine Street to the extension of the Northerly line of new Atwater Street; thence N59°49'57"E, 81.21 feet along said extension of the Northerly line of Atwater Street to the intersection of the Northerly line of Atwater Street and the Easterly line of St. Antoine Street (81 feet wide) and the Point of Beginning; thence N26°05'38"W, 236.99 feet along said Easterly line of St. Antoine Street; thence N61°50'31"E, 542.53 feet; thence S26°18'41"E, 217.86 feet to a point on said Northerly line of Atwater Street; thence S59°49'57"W, 544.38 feet along said Northerly line of Atwater Street to the Point of Beginning.

Tax Parcel ID: part of Ward 03, Item 2-7 and Ward 05, Item 4

03010885 JAN 21 2003

Li-37616 Pa-767  
203112862 1/21/2003  
Bernard J. Younsblood  
Wayne Co. Register of Deeds

20100-01  
SHORT FORM MEMORANDUM OF LEASE,  
AND LEASE SUPPLEMENT

by and between

AUTO FACILITIES REAL ESTATE TRUST 2001-1,

Lessor

and

GENERAL MOTORS CORPORATION,

Lessee

LaMont Title

January 6<sup>th</sup>, 2003

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MEM 17 pgs S CJ

**SHORT FORM MEMORANDUM OF LEASE AND LEASE SUPPLEMENT**

**THIS SHORT FORM MEMORANDUM OF LEASE AND LEASE SUPPLEMENT** together with MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (INCLUDING FIXTURE FILING) (this "Memorandum of Lease") dated as of January \_\_, 2003 is made by and between AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust with an address c/o Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware 19890-0001, as lessor and as mortgagee, beneficiary and secured party (the "Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation having its principal office at Worldwide Real Estate, 200 Renaissance Center, Tower 200, 38<sup>th</sup> Floor, Detroit, Michigan, 48265-2000, as lessee and as mortgagor and debtor (the "Lessee").

Agreement

In consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor has leased the Property (hereinafter defined) to Lessee and the parties hereto agree as follows:

SECTION 1. Definitions; Interpretation. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Lease dated as of October 31, 2001 between Lessor and Lessee (as supplemented with any Memoranda of Lease and Supplements, and as it may be further amended, supplemented or otherwise modified from time to time in accordance with the terms thereof or of any other Operative Agreement).

SECTION 2. Lease Term.

(a) Pursuant to the terms of the Lease, the Lessor has leased to the Lessee certain property (the "Property") described on the attached Exhibit A. Effective upon the execution and delivery of this Memorandum of Lease by the Lessor and the Lessee, the Property shall be subject to the terms and provisions of the Lease. The Property is leased for a Term commencing on the date hereof and terminating on October 31, 2008, unless the Term is earlier terminated in accordance with the terms of the Lease.

(b) The Lease contains certain mandatory and optional purchase rights and options during the Term pursuant to which the Lessee may acquire the Property.

(c) In addition to those terms referred to herein, the Lease contains numerous other terms, covenants and conditions which affect the Property, and notice is hereby given that reference should be had to the Lease with respect to the details of such terms, covenants and conditions. A copy of the Lease or of the other agreements referenced herein or therein may be obtained from any of the parties hereto at the addresses set forth herein.

(d) [Lessee hereby certifies that the Tranche A Percentage for the Property is  
 \_\_\_%.]

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**SECTION 3. Ownership of the Property.** It is the intent of the parties hereto that: (A) the Lease constitutes an "operating lease" pursuant to Statement of Financial Accounting Standards No. 13, as amended, and all EITF pronouncements pursuant thereto, (B) for purposes of all federal, state, and local income, sales tax and use tax laws, state and county real estate tax laws (including but not limited to all ad valorem taxes, transfer taxes, county transfer taxes, special assessments and/or charges and all related and/or similar tax, assessment and/or valuation laws), state and federal commercial and corporate tax laws, bankruptcy and insolvency laws, state and federal remedial laws, and for all other purposes, (i) the transaction contemplated by the Lease is a financing arrangement, Lessee will be treated as the owner of the Properties, having the beneficial use thereof, and will be entitled to all tax benefits ordinarily available to an owner of property like the Property for such tax purposes, (ii) the transaction contemplated by the Lease is a secured borrowing for the purposes of the exercise of remedies hereunder or any enforcement or collection actions pursuant to the term hereof following the occurrence and during the continuance of a Lease Event of Default, and (x) by the Lease, as supplemented by this Memorandum of Lease, the Lessee grants a mortgage upon and a security interest in and a lien on the Lessee's ownership interest in the Property for the benefit of the Lessor to secure the Lessee's payment of all amounts owed by the Lessee under the lease and the other Operative Agreements, and (y) the Lessor holds title to or a ground leasehold interest in the Property so as to create and grant a first lien and prior security interest in the Property subject to the Permitted liens (a) pursuant to the Lease, as supplemented by this Memorandum of Lease, for the benefit of the Administrative Agent under the Assignment of Lease, to secure to the Agent the obligations of Lessee under the Lease, as supplemented by this Memorandum of Lease and (b) pursuant to the Mortgage to secure to the Administrative Agent the obligations of Lessor under the Mortgage, the Loan Facility Agreement and the Participation Agreement. In addition, the parties acknowledge and agree that the characterization of the transaction and the Lessee's obligations as provided in this Section 3 shall not diminish the Lessee's express rights under the Lease and the other Operative Agreements, including, without limitation, the Lessee's right to purchase the Property.

**SECTION 4. Grant of Mortgage Lien and Security Interest: Assignment of Rents.** To secure to the Lessor the payment of all amounts owed to Lessor by Lessee under the Lease and the other Operative Agreements:

Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee has caused Lessor to hold title to or a ground leasehold interest in, or a combination of fee title and ground leasehold interest in, the Property, and does hereby mortgage, grant, bargain, sell, convey, assign, transfer and set over to the Lessor, to the extent permitted by applicable law: (i) all of the Lessee's right, title and interest in the Property, if any; (ii) all rights and benefits of whatever nature derived or to be derived by the Lessee under or by virtue of the Lease; and (iii) all of the Lessee's right, title and interest in and to all proceeds of the conversion, whether voluntary or involuntary, of any of the above-described property into cash or other liquid claims, including, without limitation, all awards, payments or proceeds, including interest thereon, and the right to receive the same, which may be made as a result of casualty, any exercise of the right of eminent domain or deed in lieu thereof, the alteration of the grade of any street and any injury to or decrease in the value thereof, the foregoing being referred to hereinafter as the "Security Property."

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TO HAVE AND TO HOLD the Security Property, subject however to Permitted Liens, unto the Lessor, its successors and assigns IN TRUST, forever, for the uses and purposes herein expressed, but not otherwise.

(e) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee hereby grants to the Lessor a security interest in the Lessee's interest in that portion of the Security Property (the "UCC Property") subject to the Uniform Commercial Code of the State of Michigan (the "UCC"). The Lease, as supplemented by this Memorandum of Lease, shall also be deemed to be a security agreement and shall support any financing statement showing the Lessor's interest as a secured party with respect to any portion of the UCC Property described in such financing statement. The Lessee agrees, at its sole cost and expense, to execute, deliver and file from time to time such further instruments as may be requested by the Lessor to confirm and perfect the lien of the security interest in the collateral described in this Memorandum of Lease, provided, that during the Construction Period with respect to any Construction Period Property, the costs and expenses thereof shall be Transaction Expenses.

(f) Notwithstanding that this Memorandum of Lease is an absolute assignment of the Profits and the Subleases and not merely the collateral assignment of, or the grant of a lien or security interest in the Profits and the Subleases, the Lessor grants to the Lessee a revocable license to collect and receive the Profits and to retain, use and enjoy such Profits. Such license shall be automatically revoked upon the occurrence and during the continuance of any Lease Event of Default.

#### SECTION 5. Remedies.

(a) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor may exercise any one or more of the following rights and remedies as it, in its sole discretion may deem necessary or appropriate:

- (i) collect interest on all past due sums at the Overdue Rate;
- (ii) terminate the Lease and, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of security, enter upon and take possession of the Property, or any part thereof, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or any part thereof or interest therein, to increase the income therefrom or to protect the security hereof and, with or without taking possession of the Property, to sue for or otherwise to collect the Profits thereof, including, without limitation, those past due and unpaid, and to apply the same, less costs and expenses of operation and collection, including, without limitation, reasonable attorneys' fees, upon any obligations secured hereby, all in such order as the Lessor may determine. The entering upon and taking possession of the Property, and the collection of such Profits and the application thereof as aforesaid, shall

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not cure or waive any Lease Event of Default or notice of a Lease Event of Default hereunder or invalidate any act done in response to such Lease Event of Default and, notwithstanding the continuance in possession of the Lessor or the collection, receipt and application of Profits by the Lessor, the Lessor shall be entitled to exercise every right provided for herein or by law upon the occurrence and during the continuance of any Lease Event of Default, including, without limitation, the right to exercise the power of sale;

(iii) declare all sums secured hereby immediately due and payable by delivery to Trustee and to Lessee of written declaration of the occurrence and continuance of a Lease Event of Default and demand for sale and of written notice of the occurrence and continuance of a Lease Event of Default and of election to cause to be sold said Property, which notice Trustee shall cause to be filed for record. After the lapse of such time as may then be required by law following the recordation of said notice of the occurrence and continuance of a Lease Event of Default, and notice of sale having been given as then required by law, Trustee, without demand on the Lessee, shall sell said Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said Property by public announcement of postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including the Trustee, or the Lessor, may purchase at such sale. After deducting all costs, fees and expenses of Trustee and the Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in accordance with the provisions of Section 21.2 of the Lease;

(iv) in lieu of sale pursuant to the power of sale conferred hereby, foreclose in the manner provided by law for the foreclosure of mortgages or deeds of trust on leasehold interests in real property;

(v) declare immediately due and payable without notice or demand, except as otherwise required hereunder or under applicable law, all amounts payable by the Lessee hereunder or under the other Operative Agreements which are then unpaid, with all interest and sums accrued, and accelerate payment thereof notwithstanding contrary terms of payment stated therein and exercise all rights and remedies available hereunder, at law, in equity or otherwise; and

(vi) as a matter of right, and upon notice to the Lessee or anyone claiming under the Lessee and without regard to the adequacy of its security or the then value of the Property or the interest of the Lessee therein, apply to any court having jurisdiction to appoint a receiver or receivers of the Property and the Lessee hereby irrevocably consents to such appointment and, to the extent permitted by applicable law, waives notice of any application therefor. Any such

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receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers of the Lessor provided for in Section 5(a)(ii) above, and shall continue as a receiver and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated by the Lessor in its sole discretion.

Upon the occurrence and during the continuance of a Lease Event of Default, Trustee and the Lessor, and each of them, shall be entitled to enforce payment and performance of any obligations secured hereby and to exercise all rights and powers hereunder or any laws now or hereafter in force, notwithstanding that some or all of said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, Lien, assignment or otherwise. Neither the acceptance nor the enforcement hereof, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or the Lessor's right to realize upon or enforce any other security now or hereafter held by the Lessor, and each of them shall be entitled to enforce the rights and remedies provided for herein and any other security now or hereafter held by the Lessor in such order and manner as they or either of them may in their absolute discretion determine. No remedy conferred upon or reserved to Trustee or the Lessor is intended to be exclusive of any other remedy, but each shall be cumulative and shall be in addition to every other remedy given hereby or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Trustee or the Lessor or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or the Lessor, and either or both of them may pursue inconsistent remedies.

(b) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor, in addition to and not in lieu of or in diminution of the rights and remedies provided above shall have all of the rights and remedies of a secured party under the UCC, which rights and remedies may be exercised without application to any court to the extent permitted by the UCC.

(c) It is the intent of the parties hereto that the Lease be treated as a secured borrowing to the extent provided in Section 3 (B) (iii) above, and that, upon the occurrence and during the continuance of a Lease Event of Default, the Lessor shall have the remedies provided for in this Section 5. In the event that, notwithstanding the intention of the parties, a court of competent jurisdiction determines that, for the purpose of remedies, the transaction contemplated by the Lease constitutes a leasing arrangement, the parties hereto acknowledge and agree that the Lessor shall have, as a result of such determination, in lieu of the remedies set forth in this Section 5, all of the rights and remedies of a landlord provided for in Section XVII of the Lease, provided that the parties hereto acknowledge and agree that it is their intent that the Lease be construed as provided in Section 3.

**SECTION 6. Lessor Grant.** (a) The Lessor hereby grants a Lien upon and mortgages and warrants to the Lessee the Properties to secure (i) the Lessor's obligations hereunder in respect of the due and punctual transfer by the Lessor to the Lessee of all of the Lessor's right, title and interest in and to the Properties when required by and in accordance with this Lease, and (ii) if the Lessor shall then be the subject of any bankruptcy, insolvency or similar proceeding, satisfaction of the Lessee's right to damages and other claims arising out of

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the rejection of this Lease or unilateral termination of such obligation to transfer to the Lessee all of the Lessor's right, title and interest in and to the Properties, against all of the Lessor's right, title and interest in and to the Properties.

(b) During the existence and only during the existence of a Lessor Default (as defined below), the Lessee shall have the power and authority, to the extent provided by Legal Requirements, to exercise any or all of the rights and powers and pursue any and all of the remedies provided under the Operative Agreements or by Legal Requirements in respect of the obligations secured in accordance with clause (a) above (including specific performance of any covenant or agreement contained in this Lease or any other Operative Agreement, in aid of the execution of any power granted in this Lease or any other Operative Agreement, or for the enforcement of any other appropriate legal or equitable remedy). The Lessor shall have all the rights available to a mortgagor under the laws of the jurisdiction in which the applicable Property is located. The following shall constitute a Lessor default ("Lessor Default"): the Lessee shall have exercised any of its purchase options in this Lease for any or all of the Properties in accordance with the terms hereof and shall have tendered in full all amounts to be paid by Lessee in connection therewith and complied with all other requirements hereunder in connection with such purchase and all of the Lessor's right, title and interest in and to the applicable Property shall not have been transferred to the Lessee in accordance with this Lease.

(c) The Lien created in clause (a) shall automatically terminate and be deemed released without further act or consideration upon (i) the commencement by the Lessor of the exercise of any remedy in respect of the applicable Property pursuant to Article XVI (except in the case of a sale to the Lessee thereunder) or (ii) a Lease Event of Default under Section 17.1(a) or (g) of the Lease.

SECTION 7. Ratification. Except as expressly set forth herein, this Memorandum of Lease does not alter, amend, modify or change the Lease or the exhibits thereto. It is the intent of the parties that this Memorandum of Lease be recorded and give notice of and confirm the Lease and exhibits thereto to the same extent as if all of the provisions of the Lease and exhibits thereto were fully set forth herein. The Lease and exhibits thereto are incorporated by reference in this Memorandum of Lease and, except as expressly modified hereby, the terms and provisions of the Lease are hereby ratified and confirmed and remain in full force and effect.

SECTION 8. Original Memorandum of Lease. Notwithstanding anything to the contrary set forth in the documentary conventions, the single executed original of this Memorandum of Lease marked "THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART" on the signature page thereof and containing the receipt of the Administrative Agent therefor on or following the signature page thereof shall be the Original Executed Counterpart of this Memorandum of Lease (the "Original Executed Counterpart"). To the extent that this Memorandum of Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Memorandum of Lease may be created through the transfer or possession of any counterpart other than the Original Executed Counterpart.

SECTION 9. GOVERNING LAW. THIS LEASE AND THIS MEMORANDUM OF LEASE SHALL BE GOVERNED BY, AND CONSTRUED AND

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INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), EXCEPT AS TO MATTERS RELATING TO THE CREATION OF THE LEASEHOLD ESTATE AND THE CREATION OF THE LEASEHOLD ESTATE HEREUNDER AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO, WHICH SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED. WITHOUT LIMITING THE FOREGOING, IN THE EVENT THAT THE LEASE IS DEEMED TO CONSTITUTE A FINANCING, WHICH IS THE INTENTION OF THE PARTIES, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), SHALL GOVERN THE CREATION, TERMS AND PROVISIONS OF THE INDEBTEDNESS EVIDENCED THEREBY AND HEREBY, BUT ANY LIEN CREATED HEREBY AND THE CREATION AND PERFECTION OF SAID LIEN AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED.

SECTION 10. Merger. If the fee simple title to the Property and the leasehold interest therein shall be held by the same party, the interest in the Property granted to the Lessor pursuant to the Lease and this Memorandum of Lease shall not terminate or be merged, and the Lease and this Memorandum of Lease shall remain in full force and effect.

SECTION 11. Maximum Interest Rate. No provision of this Memorandum of Lease or any transaction related thereto shall require the payment or permit the collection of interest or any other amount in excess of the maximum permitted by applicable law. If any excess of interest or any other amount in such respect is herein or any other Operative Agreement provided for, the Lessee shall not be obligated to pay such excess interest or any other amounts in excess of the amount permitted by applicable law, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any other provision of this Memorandum of Lease and the other Operative Agreements.

SECTION 12. Assignment to Administrative Agent. Pursuant to the Assignment of Lease, the Lessor has assigned to JPMorgan Chase Bank, as Administrative Agent for the Lenders, all of its right, title and interest in and to the Lease, together with all Rent, and in confirmation thereof the Lessor does hereby assign, transfer and set over unto the Administrative Agent, subject to the terms of the Assignment of Lease, all of the right, title and interest of the Lessor in and to all of the Lease, together with all Rent, all modifications, renewals and extensions thereof and any guarantees of the Lessee's obligations under the Lease.

SECTION 13. Counterparts. This Memorandum of Lease may be executed in several counterparts, each of which shall be an original except as provided in Section 7, above, and all of which together shall constitute but one and the same instrument.

SECTION 14. Security Agreement and Financing Statement. The mailing address of debtor (the Lessee herein) and of the secured party (the Lessor herein) from which

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information concerning security interests hereunder may be obtained is as set forth in Section 15 hereof. A carbon, photographic or other reproduction of this instrument or of any financing statement related to this instrument shall be sufficient as a financing statement for any of the purposes referenced herein.

SECTION 15. Financing Statement. For purposes of this instrument as a fixture filing, and for all other purposes, unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given to any Person shall be given in writing by nationally recognized courier service and any such notice shall become effective (a) five (5) Business Days after being deposited in the mails, certified or registered with appropriate postage prepaid, (b) one (1) Business Day after delivery to a nationally recognized courier service specifying overnight delivery, (c) when delivered by hand, or (d) in the case of facsimile notice, when received (when receipt is either confirmed by confirming transmission equipment or acknowledged by the addressee or its office) and shall be directed to the address of such Person as indicated:

Address of Lessee/Debtor:

General Motors Corporation  
767 Fifth Avenue  
New York, New York 10153  
Attention: Treasurer  
Telephone: (212) 418-6219  
Facsimile: (212) 418-3639

With copies to:

General Motors Corporation  
World Wide Real Estate  
Mail code 482-B38-C96  
200 Renaissance Center  
Tower 200-38<sup>th</sup> Floor  
Detroit, Michigan 48265

Attention: Executive Director

Address of Lessor/Secured Party:

Auto Facilities Real Estate Trust 2001-1  
C/o Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration  
Fax: 302-651-8882

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From time to time any party may designate a new address for purposes of notice hereunder by notice to each of the other parties hereto.

SECTION 16. Liability of Wilmington Trust Company. It is expressly understood and agreed by the parties hereto that (a) this Memorandum of Lease is executed and delivered by Wilmington Trust Company not individually or personally but solely as trustee of the Trust, in the exercise of the powers and authority conferred and vested in it, (b) each of the representations, undertakings and agreements herein made on the part of the Lessor is made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company but is made and intended for the purpose of binding only the Lessor, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under no circumstances shall Wilmington Trust Company be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Lessor under this Memorandum of Lease.

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IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

AUTO FACILITIES REAL ESTATE  
TRUST 2001-1, a Delaware business trust,  
Mortgagor

By: Wilmington Trust Company, not in  
its individual capacity but solely as Trustee

By:   
Name: **Michael G. Oiler, Jr.**  
Title: **Senior Financial Services Officer**

GENERAL MOTORS CORPORATION, a  
Delaware corporation, Lessee

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

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STATE OF )  
 )  
 ) SS:  
COUNTY OF )

On the 1<sup>st</sup> day of January in the year 2003 before me, the undersigned, a notary public in and for said state, personally appeared Michael G. Oller, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as S. Fin. S. V. Officer of Wilmington Trust Company, not in its individual capacity, but solely as trustee of AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Dianne Bruton*  
NOTARY PUBLIC

My commission expires:  
DIANNE MICHELLE BRUTON  
NOTARY PUBLIC  
My Commission Expires Nov. 27, 2008  
(Affix official seal, if applicable)

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IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, Mortgagor

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

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

EXECUTION RECOMMENDED  
WORLDWIDE REAL ESTATE  
BY                                          

GENERAL MOTORS CORPORATION, a Delaware corporation, Lessee

By:                       
Name: JOHN K. BLANCHARD  
Title: DIRECTOR  
WORLDWIDE REAL ESTATE

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STATE OF Michigan )  
 )  
COUNTY OF Wayne )

ss:

On the 2 day of January in the year 2003 before me, the undersigned, a notary public in and for said state, personally appeared John L. Blanchard, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (he)(she) executed the same in (his)(her) capacity as Director, MI of GENERAL MOTORS CORPORATION, a Delaware corporation, and that by (his)(her) signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, after first having been duly authorized by said company so to do.

*Nancy A. Devoe Treuter*  
NOTARY PUBLIC

NANCY A. DEVOE TREUTER  
Notary Public, Oakland County, MI  
My Commission Expires Aug 25, 2004  
*Acting in Wayne County*

My commission expires:

\_\_\_\_\_

(Affix official seal, if applicable)

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03010885 JAN 21 2003

Li-37616

Pa-781

Exhibit A

Legal Description

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Description: Wayne, MI Document-Book. Page 37616.767 Page: 15 of 17  
Order: 0506443-57 Comment:

JPMCB-STB-00002743


Receipt of this original counterpart of the foregoing Memorandum of Lease is hereby acknowledged on this 6<sup>th</sup> day of January, 2003.

JPMORGAN CHASE BANK, as Administrative Agent

By:

Name:

Title:

  
JULIE S. LONG  
VICE PRESIDENT

This document drafted by  
~~and when recorded, return to:~~

Simpson Thacher & Bartlett  
425 Lexington Avenue  
New York, New York 10017  
212-455-7731

Attn: Farhad Karim

When recorded return to:  
LaMont Title Corporation  
211 West Fort Street  
Suite 950  
Detroit, MI 48226

Exhibit A  
(River East Deck Parcel)

Premises situated in the City of Detroit, Wayne County, Michigan, described as:

Part of Private Claim 6 and Private Claim 181, City of Detroit, Wayne County, Michigan, also being part of Lots 5, 6, 7, 12, 13, and 14 of "Subdivision of L. Moran Farm", as recorded in Liber 8 of Deeds, Page 173, and Part of Lots 37, 38, 39, 40, 41, 42, 47, 48, 49, and 50 of "Plat of Rivard Farm" as recorded in Liber 6 of Deeds, Page 52, and part of Vacated Atwater Street (50' wide), more particularly described as:

Commencing at the intersection of the Southerly right-of-way of Jefferson Avenue and the Westerly right-of-way of St. Antoine Street (50 feet wide); thence S26°05'38"E, 709.36 feet along said Westerly line of St. Antoine to the extension of the Northerly line of new Atwater Street; thence N59°49'57"E, 821.85 along said Northerly line of Atwater Street; thence continuing along said Northerly line N55°53'00"E, 120.29 feet to the Easterly line of Proposed New Boulevard (180 feet wide) and the Point of Beginning; thence N30°10'03"W, 296.36 feet along said Easterly line of Proposed New Boulevard to the Southerly line of Franklin Street; thence N59°51'19"E, 353.59 feet along said Southerly line of Franklin Street to the Westerly line of Rivard Street; thence S26°17'33"E, 273.48 feet along said Westerly line of Rivard Street to said Northerly line of Atwater Street; thence S55°50'42"W, 335.92 feet to the Point of Beginning.

Tax Parcel I.D.: Ward 05, Item 19-25

DET\_CA526878.2

03010885 JAN 21 2003

LI-37616 Pa-864  
203112884 1/21/2003  
Bernard J. Younsblood  
Wayne Co. Register of Deeds

20100-01  
SHORT FORM MEMORANDUM OF LEASE,  
AND LEASE SUPPLEMENT

by and between

AUTO FACILITIES REAL ESTATE TRUST 2001-1,

Lessor

and

GENERAL MOTORS CORPORATION,

Lessee

January <sup>6<sup>th</sup></sup>, 2003

LaMont Title

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MEM 17pp scj

**SHORT FORM MEMORANDUM OF LEASE AND LEASE SUPPLEMENT**

**THIS SHORT FORM MEMORANDUM OF LEASE AND LEASE SUPPLEMENT** together with MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (INCLUDING FIXTURE FILING) (this "Memorandum of Lease") dated as of January ~~1~~ 2003 is made by and between AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust with an address c/o Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware 19890-0001, as lessor and as mortgagee, beneficiary and secured party (the "Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation having its principal office at Worldwide Real Estate, 200 Renaissance Center, Tower 200, 38<sup>th</sup> Floor, Detroit, Michigan, 48265-2000, as lessee and as mortgagor and debtor (the "Lessee").

Agreement

In consideration of the premises and the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor has leased the Property (hereinafter defined) to Lessee and the parties hereto agree as follows:

**SECTION 1. Definitions; Interpretation.** Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Lease dated as of October 31, 2001 between Lessor and Lessee (as supplemented with any Memoranda of Lease and Supplements, and as it may be further amended, supplemented or otherwise modified from time to time in accordance with the terms thereof or of any other Operative Agreement).

**SECTION 2. Lease Term.**

(a) Pursuant to the terms of the Lease, the Lessor has leased to the Lessee certain property (the "Property") described on the attached Exhibit A. Effective upon the execution and delivery of this Memorandum of Lease by the Lessor and the Lessee, the Property shall be subject to the terms and provisions of the Lease. The Property is leased for a Term commencing on the date hereof and terminating on October 31, 2008, unless the Term is earlier terminated in accordance with the terms of the Lease.

(b) The Lease contains certain mandatory and optional purchase rights and options during the Term pursuant to which the Lessee may acquire the Property.

(c) In addition to those terms referred to herein, the Lease contains numerous other terms, covenants and conditions which affect the Property, and notice is hereby given that reference should be had to the Lease with respect to the details of such terms, covenants and conditions. A copy of the Lease or of the other agreements referenced herein or therein may be obtained from any of the parties hereto at the addresses set forth herein.

(d) [Lessee hereby certifies that the Tranche A Percentage for the Property is

\_\_\_%.]

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**SECTION 3. Ownership of the Property.** It is the intent of the parties hereto that: (A) the Lease constitutes an "operating lease" pursuant to Statement of Financial Accounting Standards No. 13, as amended, and all EITF pronouncements pursuant thereto, (B) for purposes of all federal, state, and local income, sales tax and use tax laws, state and county real estate tax laws (including but not limited to all ad valorem taxes, transfer taxes, county transfer taxes, special assessments and/or charges and all related and/or similar tax, assessment and/or valuation laws), state and federal commercial and corporate tax laws, bankruptcy and insolvency laws, state and federal remedial laws, and for all other purposes, (i) the transaction contemplated by the Lease is a financing arrangement, Lessee will be treated as the owner of the Properties, having the beneficial use thereof, and will be entitled to all tax benefits ordinarily available to an owner of property like the Property for such tax purposes, (ii) the transaction contemplated by the Lease is a secured borrowing for the purposes of the exercise of remedies hereunder or any enforcement or collection actions pursuant to the term hereof following the occurrence and during the continuance of a Lease Event of Default, and (x) by the Lease, as supplemented by this Memorandum of Lease, the Lessee grants a mortgage upon and a security interest in and a lien on the Lessee's ownership interest in the Property for the benefit of the Lessor to secure the Lessee's payment of all amounts owed by the Lessee under the lease and the other Operative Agreements, and (y) the Lessor holds title to or a ground leasehold interest in the Property so as to create and grant a first lien and prior security interest in the Property subject to the Permitted liens (a) pursuant to the Lease, as supplemented by this Memorandum of Lease, for the benefit of the Administrative Agent under the Assignment of Lease, to secure to the Agent the obligations of Lessee under the Lease, as supplemented by this Memorandum of Lease and (b) pursuant to the Mortgage to secure to the Administrative Agent the obligations of Lessor under the Mortgage, the Loan Facility Agreement and the Participation Agreement. In addition, the parties acknowledge and agree that the characterization of the transaction and the Lessee's obligations as provided in this Section 3 shall not diminish the Lessee's express rights under the Lease and the other Operative Agreements, including, without limitation, the Lessee's right to purchase the Property.

**SECTION 4. Grant of Mortgage Lien and Security Interest; Assignment of Rents.** To secure to the Lessor the payment of all amounts owed to Lessor by Lessee under the Lease and the other Operative Agreements:

Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee has caused Lessor to hold title to or a ground leasehold interest in, or a combination of fee title and ground leasehold interest in, the Property, and does hereby mortgage, grant, bargain, sell, convey, assign, transfer and set over to the Lessor, to the extent permitted by applicable law: (i) all of the Lessee's right, title and interest in the Property, if any; (ii) all rights and benefits of whatever nature derived or to be derived by the Lessee under or by virtue of the Lease; and (iii) all of the Lessee's right, title and interest in and to all proceeds of the conversion, whether voluntary or involuntary, of any of the above-described property into cash or other liquid claims, including, without limitation, all awards, payments or proceeds, including interest thereon, and the right to receive the same, which may be made as a result of casualty, any exercise of the right of eminent domain or deed in lieu thereof, the alteration of the grade of any street and any injury to or decrease in the value thereof, the foregoing being referred to hereinafter as the "Security Property."

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TO HAVE AND TO HOLD the Security Property, subject however to Permitted Liens, unto the Lessor, its successors and assigns IN TRUST, forever, for the uses and purposes herein expressed, but not otherwise.

(e) Subject to the terms and conditions of the Lease as supplemented by this Memorandum of Lease (including, without limitation, the Lessee's rights hereunder and thereunder so long as no Lease Event of Default has occurred and is continuing), the Lessee hereby grants to the Lessor a security interest in the Lessee's interest in that portion of the Security Property (the "UCC Property") subject to the Uniform Commercial Code of the State of Michigan (the "UCC"). The Lease, as supplemented by this Memorandum of Lease, shall also be deemed to be a security agreement and shall support any financing statement showing the Lessor's interest as a secured party with respect to any portion of the UCC Property described in such financing statement. The Lessee agrees, at its sole cost and expense, to execute, deliver and file from time to time such further instruments as may be requested by the Lessor to confirm and perfect the lien of the security interest in the collateral described in this Memorandum of Lease, provided, that during the Construction Period with respect to any Construction Period Property, the costs and expenses thereof shall be Transaction Expenses.

(f) Notwithstanding that this Memorandum of Lease is an absolute assignment of the Profits and the Subleases and not merely the collateral assignment of, or the grant of a lien or security interest in the Profits and the Subleases, the Lessor grants to the Lessee a revocable license to collect and receive the Profits and to retain, use and enjoy such Profits. Such license shall be automatically revoked upon the occurrence and during the continuance of any Lease Event of Default.

#### SECTION 5. Remedies.

(a) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor may exercise any one or more of the following rights and remedies as it, in its sole discretion may deem necessary or appropriate:

- (i) collect interest on all past due sums at the Overdue Rate;
- (ii) terminate the Lease and, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of security, enter upon and take possession of the Property, or any part thereof, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or any part thereof or interest therein, to increase the income therefrom or to protect the security hereof and, with or without taking possession of the Property, to sue for or otherwise to collect the Profits thereof, including, without limitation, those past due and unpaid, and to apply the same, less costs and expenses of operation and collection, including, without limitation, reasonable attorneys' fees, upon any obligations secured hereby, all in such order as the Lessor may determine. The entering upon and taking possession of the Property, and the collection of such Profits and the application thereof as aforesaid, shall

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not cure or waive any Lease Event of Default or notice of a Lease Event of Default hereunder or invalidate any act done in response to such Lease Event of Default and, notwithstanding the continuance in possession of the Lessor or the collection, receipt and application of Profits by the Lessor, the Lessor shall be entitled to exercise every right provided for herein or by law upon the occurrence and during the continuance of any Lease Event of Default, including, without limitation, the right to exercise the power of sale;

(iii) declare all sums secured hereby immediately due and payable by delivery to Trustee and to Lessee of written declaration of the occurrence and continuance of a Lease Event of Default and demand for sale and of written notice of the occurrence and continuance of a Lease Event of Default and of election to cause to be sold said Property, which notice Trustee shall cause to be filed for record. After the lapse of such time as may then be required by law following the recordation of said notice of the occurrence and continuance of a Lease Event of Default, and notice of sale having been given as then required by law, Trustee, without demand on the Lessee, shall sell said Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said Property by public announcement of postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including the Trustee, or the Lessor, may purchase at such sale. After deducting all costs, fees and expenses of Trustee and the Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in accordance with the provisions of Section 21.2 of the Lease;

(iv) in lieu of sale pursuant to the power of sale conferred hereby, foreclose in the manner provided by law for the foreclosure of mortgages or deeds of trust on leasehold interests in real property;

(v) declare immediately due and payable without notice or demand, except as otherwise required hereunder or under applicable law, all amounts payable by the Lessee hereunder or under the other Operative Agreements which are then unpaid, with all interest and sums accrued, and accelerate payment thereof notwithstanding contrary terms of payment stated therein and exercise all rights and remedies available hereunder, at law, in equity or otherwise; and

(vi) as a matter of right, and upon notice to the Lessee or anyone claiming under the Lessee and without regard to the adequacy of its security or the then value of the Property or the interest of the Lessee therein, apply to any court having jurisdiction to appoint a receiver or receivers of the Property and the Lessee hereby irrevocably consents to such appointment and, to the extent permitted by applicable law, waives notice of any application therefor. Any such

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receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers of the Lessor provided for in Section 5(a)(ii) above, and shall continue as a receiver and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated by the Lessor in its sole discretion.

Upon the occurrence and during the continuance of a Lease Event of Default, Trustee and the Lessor, and each of them, shall be entitled to enforce payment and performance of any obligations secured hereby and to exercise all rights and powers hereunder or any laws now or hereafter in force, notwithstanding that some or all of said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, Lien, assignment or otherwise. Neither the acceptance nor the enforcement hereof, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or the Lessor's right to realize upon or enforce any other security now or hereafter held by the Lessor, and each of them shall be entitled to enforce the rights and remedies provided for herein and any other security now or hereafter held by the Lessor in such order and manner as they or either of them may in their absolute discretion determine. No remedy conferred upon or reserved to Trustee or the Lessor is intended to be exclusive of any other remedy, but each shall be cumulative and shall be in addition to every other remedy given hereby or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Trustee or the Lessor or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or the Lessor, and either or both of them may pursue inconsistent remedies.

(b) Upon the occurrence and during the continuance of a Lease Event of Default, the Lessor, in addition to and not in lieu of or in diminution of the rights and remedies provided above shall have all of the rights and remedies of a secured party under the UCC, which rights and remedies may be exercised without application to any court to the extent permitted by the UCC.

(c) It is the intent of the parties hereto that the Lease be treated as a secured borrowing to the extent provided in Section 3 (B) (iii) above, and that, upon the occurrence and during the continuance of a Lease Event of Default, the Lessor shall have the remedies provided for in this Section 5. In the event that, notwithstanding the intention of the parties, a court of competent jurisdiction determines that, for the purpose of remedies, the transaction contemplated by the Lease constitutes a leasing arrangement, the parties hereto acknowledge and agree that the Lessor shall have, as a result of such determination, in lieu of the remedies set forth in this Section 5, all of the rights and remedies of a landlord provided for in Section XVII of the Lease, provided that the parties hereto acknowledge and agree that it is their intent that the Lease be construed as provided in Section 3.

SECTION 6. Lessor Grant. (a) The Lessor hereby grants a Lien upon and mortgages and warrants to the Lessee the Properties to secure (i) the Lessor's obligations hereunder in respect of the due and punctual transfer by the Lessor to the Lessee of all of the Lessor's right, title and interest in and to the Properties when required by and in accordance with this Lease, and (ii) if the Lessor shall then be the subject of any bankruptcy, insolvency or similar proceeding, satisfaction of the Lessee's right to damages and other claims arising out of

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the rejection of this Lease or unilateral termination of such obligation to transfer to the Lessee all of the Lessor's right, title and interest in and to the Properties, against all of the Lessor's right, title and interest in and to the Properties.

(b) During the existence and only during the existence of a Lessor Default (as defined below), the Lessee shall have the power and authority, to the extent provided by Legal Requirements, to exercise any or all of the rights and powers and pursue any and all of the remedies provided under the Operative Agreements or by Legal Requirements in respect of the obligations secured in accordance with clause (a) above (including specific performance of any covenant or agreement contained in this Lease or any other Operative Agreement, in aid of the execution of any power granted in this Lease or any other Operative Agreement, or for the enforcement of any other appropriate legal or equitable remedy). The Lessor shall have all the rights available to a mortgagor under the laws of the jurisdiction in which the applicable Property is located. The following shall constitute a Lessor default ("Lessor Default"): the Lessee shall have exercised any of its purchase options in this Lease for any or all of the Properties in accordance with the terms hereof and shall have tendered in full all amounts to be paid by Lessee in connection therewith and complied with all other requirements hereunder in connection with such purchase and all of the Lessor's right, title and interest in and to the applicable Property shall not have been transferred to the Lessee in accordance with this Lease.

(c) The Lien created in clause (a) shall automatically terminate and be deemed released without further act or consideration upon (i) the commencement by the Lessor of the exercise of any remedy in respect of the applicable Property pursuant to Article XVI (except in the case of a sale to the Lessee thereunder) or (ii) a Lease Event of Default under Section 17.1(a) or (g) of the Lease.

SECTION 7. Ratification. Except as expressly set forth herein, this Memorandum of Lease does not alter, amend, modify or change the Lease or the exhibits thereto. It is the intent of the parties that this Memorandum of Lease be recorded and give notice of and confirm the Lease and exhibits thereto to the same extent as if all of the provisions of the Lease and exhibits thereto were fully set forth herein. The Lease and exhibits thereto are incorporated by reference in this Memorandum of Lease and, except as expressly modified hereby, the terms and provisions of the Lease are hereby ratified and confirmed and remain in full force and effect.

SECTION 8. Original Memorandum of Lease. Notwithstanding anything to the contrary set forth in the documentary conventions, the single executed original of this Memorandum of Lease marked "THIS COUNTERPART IS THE ORIGINAL EXECUTED COUNTERPART" on the signature page thereof and containing the receipt of the Administrative Agent therefor on or following the signature page thereof shall be the Original Executed Counterpart of this Memorandum of Lease (the "Original Executed Counterpart"). To the extent that this Memorandum of Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Memorandum of Lease may be created through the transfer or possession of any counterpart other than the Original Executed Counterpart.

SECTION 9. GOVERNING LAW. THIS LEASE AND THIS MEMORANDUM OF LEASE SHALL BE GOVERNED BY, AND CONSTRUED AND

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INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), EXCEPT AS TO MATTERS RELATING TO THE CREATION OF THE LEASEHOLD ESTATE AND THE CREATION OF THE LEASEHOLD ESTATE HEREUNDER AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO, WHICH SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED. WITHOUT LIMITING THE FOREGOING, IN THE EVENT THAT THE LEASE IS DEEMED TO CONSTITUTE A FINANCING, WHICH IS THE INTENTION OF THE PARTIES, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW), SHALL GOVERN THE CREATION, TERMS AND PROVISIONS OF THE INDEBTEDNESS EVIDENCED THEREBY AND HEREBY, BUT ANY LIEN CREATED HEREBY AND THE CREATION AND PERFECTION OF SAID LIEN AND THE EXERCISE OF RIGHTS AND REMEDIES WITH RESPECT THERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE APPLICABLE PROPERTY IS LOCATED.

SECTION 10. Merger. If the fee simple title to the Property and the leasehold interest therein shall be held by the same party, the interest in the Property granted to the Lessor pursuant to the Lease and this Memorandum of Lease shall not terminate or be merged, and the Lease and this Memorandum of Lease shall remain in full force and effect.

SECTION 11. Maximum Interest Rate. No provision of this Memorandum of Lease or any transaction related thereto shall require the payment or permit the collection of interest or any other amount in excess of the maximum permitted by applicable law. If any excess of interest or any other amount in such respect is herein or any other Operative Agreement provided for, the Lessee shall not be obligated to pay such excess interest or any other amounts in excess of the amount permitted by applicable law, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any other provision of this Memorandum of Lease and the other Operative Agreements.

SECTION 12. Assignment to Administrative Agent. Pursuant to the Assignment of Lease, the Lessor has assigned to JPMorgan Chase Bank, as Administrative Agent for the Lenders, all of its right, title and interest in and to the Lease, together with all Rent, and in confirmation thereof the Lessor does hereby assign, transfer and set over unto the Administrative Agent, subject to the terms of the Assignment of Lease, all of the right, title and interest of the Lessor in and to all of the Lease, together with all Rent, all modifications, renewals and extensions thereof and any guarantees of the Lessee's obligations under the Lease.

SECTION 13. Counterparts. This Memorandum of Lease may be executed in several counterparts, each of which shall be an original except as provided in Section 7, above, and all of which together shall constitute but one and the same instrument.

SECTION 14. Security Agreement and Financing Statement. The mailing address of debtor (the Lessee herein) and of the secured party (the Lessor herein) from which

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information concerning security interests hereunder may be obtained is as set forth in Section 15 hereof. A carbon, photographic or other reproduction of this instrument or of any financing statement related to this instrument shall be sufficient as a financing statement for any of the purposes referenced herein.

**SECTION 15. Financing Statement.** For purposes of this instrument as a fixture filing, and for all other purposes, unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given to any Person shall be given in writing by nationally recognized courier service and any such notice shall become effective (a) five (5) Business Days after being deposited in the mails, certified or registered with appropriate postage prepaid, (b) one (1) Business Day after delivery to a nationally recognized courier service specifying overnight delivery, (c) when delivered by hand, or (d) in the case of facsimile notice, when received (when receipt is either confirmed by confirming transmission equipment or acknowledged by the addressee or its office) and shall be directed to the address of such Person as indicated:

Address of Lessee/Debtor:

General Motors Corporation  
767 Fifth Avenue  
New York, New York 10153  
Attention: Treasurer  
Telephone: (212) 418-6219  
Facsimile: (212) 418-3639

With copies to:

General Motors Corporation  
World Wide Real Estate  
Mail code 482-B38-C96  
200 Renaissance Center  
Tower 200-38<sup>th</sup> Floor  
Detroit, Michigan 48265

Attention: Executive Director

Address of Lessor/Secured Party:

Auto Facilities Real Estate Trust 2001-1  
C/o Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration  
Fax: 302-651-8882

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From time to time any party may designate a new address for purposes of notice hereunder by notice to each of the other parties hereto.

**SECTION 16. Liability of Wilmington Trust Company.** It is expressly understood and agreed by the parties hereto that (a) this Memorandum of Lease is executed and delivered by Wilmington Trust Company not individually or personally but solely as trustee of the Trust, in the exercise of the powers and authority conferred and vested in it, (b) each of the representations, undertakings and agreements herein made on the part of the Lessor is made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company but is made and intended for the purpose of binding only the Lessor, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under no circumstances shall Wilmington Trust Company be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Lessor under this Memorandum of Lease.

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Pa-874

IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

AUTO FACILITIES REAL ESTATE  
TRUST 2001-1, a Delaware business trust,  
Mortgagor

By: Wilmington Trust Company, not in  
its individual capacity but solely as Trustee

By:   
Name:  
Title: **Michael G. Oller, Jr.**  
**Senior Financial Services Officer**

GENERAL MOTORS CORPORATION, a  
Delaware corporation, Lessee

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

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STATE OF )  
 )  
 ) SS:  
COUNTY OF )

On the 2<sup>nd</sup> day of January in the year 2003 before me, the undersigned, a notary public in and for said state, personally appeared Michael G. Oller, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as Sr. Am. Sec. Off. of Wilmington Trust Company, not in its individual capacity, but solely as trustee of AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Dianne Bruton*  
NOTARY PUBLIC

My commission expires:  
DIANNE MICHELLE BRUTON  
NOTARY PUBLIC

My Commission Expires Nov. 27, 2003

(Affix official seal, if applicable)

IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum of Lease to be duly executed by an officer thereunto duly authorized as of the date and year first above written.

AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, Mortgagor

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

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

EXECUTION RECOMMENDED  
WORLDWIDE REAL ESTATE  
BY John K. Blanchard

GENERAL MOTORS CORPORATION, a Delaware corporation, Lessee

By: John K. Blanchard  
Name: JOHN K. BLANCHARD  
Title: DIRECTOR  
WORLDWIDE REAL ESTATE

STATE OF Michigan )  
COUNTY OF Wayne )

SS:

On the 2 day of January in the year 2003 before me, the undersigned, a notary public in and for said state, personally appeared John K. Blackland, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (he)(she) executed the same in (his)(her) capacity as Director, WLT of GENERAL MOTORS CORPORATION, a Delaware corporation, and that by (his)(her) signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, after first having been duly authorized by said company so to do.

Nancy A. Devoe Treuter  
NOTARY PUBLIC

My commission expires:

NANCY A. DEVOE TREUTER  
Notary Public, Oakland County, MI  
My Commission Expires Aug 25, 2004  
Acting in Wayne County

\_\_\_\_\_  
(Affix official seal, if applicable)

03010885 JAN 21 2003

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Exhibit A

Legal Description

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