

COMMERCIAL CREDIT CORPORATION,	)	IN THE CIRCUIT COURT OF
Plaintiff	)	BALDWIN COUNTY, ALABAMA
vs.	)	AT LAW NO. 1953
T. E. MALONE, doing business as	)	
the A. G. MOTOR COMPANY,	)	
Defendant.	)	

Comes now the plaintiff by his attorney and files this  
his amended complaint for Counts 4 and 5 in the above styled cause:

IV.

The Plaintiff claims of the Defendant SEVEN HUNDRED AND FORTY-FIVE DOLLARS AND FORTY-SEVEN CENTS (\$745.47) damages for the breach of a written agreement, entered into by him and the Plaintiff on the 8th day of March, 1948, a copy of which is attached to the amended petition heretofore filed, and labeled "Exhibit A" and made a part of this complaint, as amended by the written agreement of the Plaintiff and the Defendant on the 19th day of April, 1950, a copy of which is attached to the amended petition heretofore filed, and labeled "Exhibit B" and made a part of this complaint, and the Plaintiff further alleges that in and by said agreement as amended: That the Commercial Credit Corporation agreed to purchase and T. E. Malone, doing business as A. G. Motor Company, agreed to sell to the Commercial Credit Corporation, the acceptable notes, conditional sales contracts, chattel mortgages, or lease agreements called "Notes" acquired by T. E. Malone, doing business as A. G. Motor Company, from retail purchasers of new or used passenger cars and/or commercial automobiles, therein called "Cars"; that the Commercial Credit Corporation and T. E. Malone, doing Business as A. G. Motor Company, further agreed;

That in consideration of the Plaintiff's purchase of such Notes endorsed "Without Recourse", if the Plaintiff should repossess or recover any cars covered by such Notes, for any reason, T. E. Malone, doing business as A. G. Motor Company, would, upon delivery to him at his place of business, within 90 days after the maturity of the earliest installment in respect thereto, unpaid at the time of such delivery, repurchase such cars, as is, from the Plaintiff for a cash amount equal to the unpaid balance owing on the Notes relating thereto and that until repurchased by him, Plaintiff should

have the right to store such repossessed cars on the defendant's premises without costs, and his possession of such cars should be merely as a bailee with the duty to safely store for the Plaintiff and redeliver such cars to the Plaintiff on demand;

That on or about the 21st day of July, 1950, T. E. Malone, doing business as A. G. Motor Company, through and by his agent, R. J.

Spader, said agent acting within the scope of his authority, sold to John White, residing on Route 1, Loxley, Alabama, a 1950 model Studebaker truck, Serial number R17A-17045, Motor number 4R-23992, for a total price of \$1987.92, being payable by the Purchaser in 24 equal monthly installments of \$82.83, commencing one month from July 21, 1950, said purchase and sale being evidenced by a written agreement providing that title to the truck was to remain in the Seller or his assigns until all the purchase price was paid;

That on the 21st day of July, 1950, pursuant to the agreement labeled "Exhibit A", as amended by "Exhibit B", T. E. Malone, doing business as A. G. Motor Company, through and by his agent, R. J. Spader, said agent acting within the scope of his employment, assigned the written agreement evidencing the sale of the Studebaker truck to John White, marked "Without Recourse", a copy of which is attached to the amended petition heretofore filed and labeled "Exhibit C" and made a part of this complaint, to the Commercial Credit Corporation; That said Commercial Credit Corporation, pursuant to the agreement labeled "Exhibit A", as amended by "Exhibit B", in consideration of said assignment of "Exhibit C" advanced and credited to the Defendant the sum of \$1987.92;

That on the 27th day of April, 1951, John White, purchaser under "Exhibit C", transferred to R. J. Lancaster, with the consent of the defendant, all right, title and interest in said Studebaker truck, and R. J. Lancaster assumed all of the obligations of the Purchaser under "Exhibit C" by a written agreement of which a copy is attached to the amended petition heretofore filed and labeled "Exhibit D" and made a part of this complaint;

That on the 20th of January, 1952, default in the payment having been made by R. J. Lancaster, on December 24, 1951, said Studebake truck

was returned to the Defendant, within 90 days of the maturity of the earliest installment with respect thereto unpaid at the time of such delivery, by said R. J. Lancaster; and that said defendant accepted delivery of the Studebaker truck by R. J. Lancaster;  
That on or about March 28, 1952, Plaintiff demanded of the Defendant the sum of \$716.50 as payment for said truck;  
That the Defendant in breach of the agreement labeled "Exhibit A", as amended by "Exhibit B", on the 28th day of March, 1952, refused to pay the Plaintiff for said truck, all to the damage of the Plaintiff.

V.

The Plaintiff claims of the Defendant SEVEN HUNDRED AND FORTY-FIVE DOLLARS AND FORTY-SEVEN CENTS (\$745.47) damages for conversion by him on to-wit: March 15, 1952, of the following chattel:


One 1950 Studebaker  
cab and chassis truck  
Serial #R17A-17045  
Motor Number 4R23992,

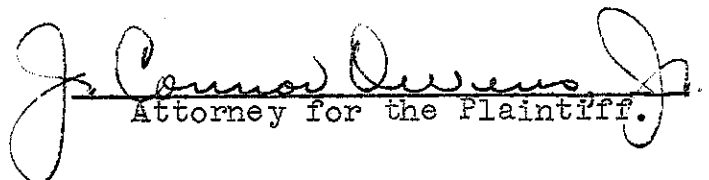
the property of the Plaintiff.

FILED

12 - 9 - 53

ALICE J. DUCK, Clerk

  
Attorney for the Plaintiff

  
Attorney for the Plaintiff.

SOUTHERN CIRCUIT COURT OF  
BIRMINGHAM COUNTY, ALABAMA  
AT LAW. CASE NO. 1953

\* \* \* \* \*

COMMERCIAL CREDIT CORPORATION,  
Plaintiff,

v.

THE NATIONAL CREDIT CORPORATION,  
Defendant.

\* \* \* \* \*

AMENDED COMPLAINT

\* \* \* \* \*

FILED  
DEC 3 1953  
HON. J. H. HARRIS

J. O. Gorman, Owner, Jr.  
Attorney at Law  
New Montgomery, Alabama

COMMERCIAL CREDIT CORPORATION,	0	
Plaintiff,	0	IN THE CIRCUIT COURT OF
vs.	0	BALDWIN COUNTY, ALABAMA
T. E. MALONE, doing business as	0	AT LAW. NO. 1953
the A. G. MOTOR COMPANY,	0	
Defendant.	0	

Comes the Defendant in the above styled cause and for plea to the Complaint filed in said cause to each and every count thereof separately and severally, says:

1. That the allegations of the Complaint are untrue.
2. The truck described in "Exhibits C and D" to the Complaint was not returned by the Plaintiff to the Defendant on January 20, 1952 as set out in count "IV" of the amended complaint nor was it returned within 90 days from default in such contract as set out in such complaint; that such truck was left by someone near the building occupied by the Defendant as his place of business some time during the month of June, 1952; that such truck was not turned over to the Defendant and no one requested payment from him on March 28, 1952 as set out in the complaint; that the Defendant did not refuse to make such payment on March 28, 1952 as set out in the complaint as no demand had been made upon him for such payment on that day and such truck had not been returned on that day; that the Plaintiff has not complied with the terms of the contract attached as "Exhibit A" of the complaint.
3. For further answer to count "V" of the complaint the Defendant denies that he took possession of or converted the truck described therein but alleges that such truck was left near his place of business by someone unknown to the Defendant and such truck was later returned to R. J. Lancaster who was purchasing such truck under contract as set out in the exhibits to such complaint.

FILED  
1-12-54  
ALICE J. DUCK, Clerk

*Chas. V. Stone*  
Attorneys for Defendant.

PLEAS

COMMERCIAL CREDIT CORPORATION,

Plaintiff,

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 1953

Filed the 2<sup>nd</sup> day of January, 1954

*Alice J. Roberts*  
Clerk

LAW OFFICES

**CHASON & STONE**

BAY MINETTE, ALABAMA



COMMERCIAL CREDIT CORPORATION,

Plaintiff,

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant

BOOK 001 PAGE 218

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. 1953

DEMURRER

Comes the Defendant in the above styled cause and demurs to Counts Four and Five of the amended Complaint filed by the Plaintiff in said cause on June 24, 1953 separately and severally and assigns the following separate and several grounds, viz:

(1) That said Complaint does not state a cause of action.

(2) That Count Four of the amended Complaint does not allege that the truck referred to therein was re-posessed or recovered by the Plaintiff and delivered by the Plaintiff to the Defendant at his place of business within Ninety (90) days after the maturity of the earliest installment in respect thereto unpaid at that time.

(3) For aught that appears from Count Four of said Complaint the Plaintiff did not inform the Defendant that the said R. J. Lancaster was in default in his contract to purchase such truck.

(4) That said Count Four of the Complaint fails to allege when such truck was returned by the Plaintiff to the Defendant.

(5) That the allegation that the Defendant accepted delivery of such truck is but a conclusion of the Pleader.

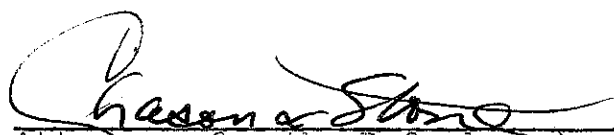
(6) For aught that appears from Count Four of the amended Complaint the Plaintiff has never informed the Defendant of the amount due by the said R. J. Lancaster to the Plaintiff and has never made demand on the Defendant of such sum of money.

(7) That Count Five of the amended Complaint fails to allege with sufficient accuracy the date of the alleged conversion of the truck referred to therein.

FILED

July 1953

ALICE I. DUCK, Clerk

  
Attorneys for the Defendant.

DEMURRER

COMMERCIAL CREDIT CORPORATION,

Plaintiff,

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW NO. 1953

Filed July, 1953.

*Lucile A. Stone*  
Clerk

LAW OFFICES  
**CHASON & STONE**  
BAY MINETTE, ALABAMA



COMMERCIAL CREDIT CORPORATION, )  
 )  
 Plaintiff )  
 )  
 vs. )  
 )  
 T. E. MALONE, doing business as )  
 the A. G. MOTOR COMPANY, )  
 )  
 Defendant )

IN THE CIRCUIT COURT OF  
 BALDWIN COUNTY, ALABAMA  
 AT LAW NO. 1953

Comes now the plaintiff by his attorneys and files this  
 his amended complaint for Counts 4 and 5 in the above-styled cause:

IV

The plaintiff claims of the defendant SEVEN HUNDRED AND FORTY-FIVE DOLLARS AND FORTY-SEVEN CENTS (\$745.47) damages for the breach of a written agreement, entered into by him and the plaintiff on the 8th day of March, 1948, a copy of which is attached hereto, and labeled "Exhibit A" and made a part of this complaint, as amended by the written agreement of the plaintiff and the defendant on the 19th day of April, 1950, a copy of which is attached hereto and labeled "Exhibit B" and made a part of this complaint, and the plaintiff further alleges that in and by said agreement as amended: That the Commercial Credit Corporation agreed to purchase and T. E. Malone, doing business as A. G. Motor Company, agreed to sell to the Commercial Credit Corporation, the acceptable notes, conditional sales contracts, chattel mortgages, or lease agreements called "Notes" acquired by T. E. Malone, doing business as A. G. Motor Company, from retail purchasers of new or used passenger cars and/or commercial automobiles, therein called "Cars"; that the Commercial Credit Corporation and T. E. Malone, doing business as A. G. Motor Company, further agreed; That in consideration of the plaintiff's purchase of such Notes endorsed "Without Recourse", if the plaintiff should repossess or recover any cars covered by such Notes, for any reason, T. E. Malone, doing business as A. G. Motor Company, would, upon delivery to him at his place of business, within 90 days after the maturity of the earliest installment in respect thereto, unpaid at the time of such delivery, repurchase such cars, as is, from the plaintiff for a cash amount equal to the unpaid balance owing on the Notes relating thereto, and that until repurchased by him, plaintiff should have the right to store such repossessed cars on the defendant's premises without costs,

and his possession of such cars should be merely as a bailee with the duty to safely store for the plaintiff and redeliver such cars to the plaintiff on demand;

That on or about 21st of July, 1950, T. E. Malone, doing business as A. G. Motor Company, through and by his agent, R. J. Spader, said agent acting within the scope of his authority, sold to John White, residing on Route 1, Loxley, Alabama, a 1950 model Studebaker truck, Serial number R17A-17045, Motor number 4R-23992, for a total price of \$1987.92, being payable by the Purchaser in 24 equal monthly installments of \$82.83, commencing one month from July 21, 1950, said purchase and sale being evidenced by a written agreement providing that title to the truck was to remain in the Seller or his assigns until all the purchase price was paid;

That on the 21st day of July, 1950, pursuant to the agreement labeled "Exhibit A", as amended by "Exhibit B", T. E. Malone, doing business as A. G. Motor Company, through and by his agent, R. J. Spader, said agent acting within the scope of his employment, assigned the written agreement evidencing the sale of the Studebaker truck to John White, marked "Without Recourse", a copy of which is attached hereto and labeled "Exhibit C" and made a part of this complaint, to the Commercial Credit Corporation;

That said Commercial Credit Corporation, pursuant to the agreement labeled "Exhibit A", as amended by "Exhibit B", in consideration of said assignment of "Exhibit C" advanced and credited to the defendant the sum of \$1987.92;

That on the 27th day of April, 1951, John White, purchaser under "Exhibit C", transferred to R. J. Lancaster, with the consent of the defendant, all right, title and interest in said Studebaker truck, and R. J. Lancaster assumed all of the obligations of the Purchaser under "Exhibit C" by a written agreement dated the 27th day of April, 1951, said written agreement of which a copy is attached hereto and labeled "Exhibit D" and made a part of this complaint;

That on the 20th of January, 1952, default in the payment having been made by R. J. Lancaster, said Studebaker truck was returned to the defendant, within 90 days of the maturity of the earliest installment with respect thereto unpaid at the time of such delivery,

by said R. J. Lancaster; and that said defendant accepted delivery of the Studebaker truck by R. J. Lancaster;  
That the defendant in breach of the agreement labeled "Exhibit A", as amended by "Exhibit B", on the 22nd day of February, 1952, refused to pay the plaintiff for said truck, all to the damage of the plaintiff.

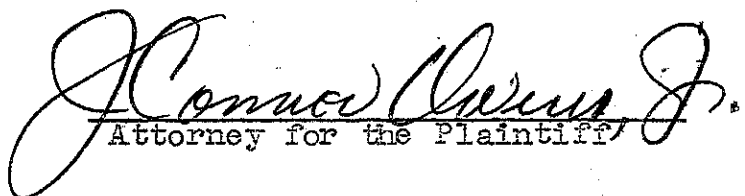
## V

The plaintiff claims of the defendant SEVEN HUNDRED AND FORTY-FIVE DOLLARS AND FORTY-SEVEN CENTS (\$745.47), damages for conversion by him about March of 1952 of the following chattel:

One 1950 Studebaker  
cab and chassis truck  
Serial #R17A-17045  
Motor Number-4R23992,

the property of the plaintiff.

  
Attorney for the Plaintiff

  
Attorney for the Plaintiff

# COMMERCIAL CREDIT CORPORATION

*Exhibit A*

## Retail Finance and Reserve Agreement

FORM 744  
001  
PAGE 213

with

*A. G. Motor Company*

Dealer

*Robertsdale*

*Alabama*

CITY

STATE

We (Commercial Credit Corporation) will purchase from you (Dealer) and you will sell to us the acceptable notes, conditional sale-contracts, chattel mortgages or lease agreements, herein called "Notes," acquired by you from retail purchasers of new or used passenger and/or commercial automobiles, herein called "Cars," and set up for you the reserves provided for herein, so long as this Agreement remains in effect. Notes will be for amounts computed in accordance with the applicable charts issued by us to you for use in territories in which you sell Cars.

At the time of purchase of Notes, we will set up the following reserves, for your account, based on the cash unpaid balance (cash selling price of Cars, less down payment):

NEW CARS	Chart	12 Months	Over 12 Months
	Table H L 6 or equivalent	1½% plus \$8.00	1% plus \$8.00
	" A 5 S "	1½% " 5.00	1% " 5.00
USED CARS	Chart	12 Months	13 to 15 Months
	Series "P"	1% plus \$10.00	1½% plus \$10.00
			Over 15 Months
			1½% plus \$10.00

In addition, we will set up retroactively, for your account, the following reserves, based upon the number of Cars covered by Notes purchased by us from you during each 12-month period, commencing *March 8*, 19*48*, and so long as this Agreement remains in effect:

Total Number of Cars Financed in 12-Month Period	Amount Per Car
50 to 99	\$1.00
100 to 199	2.00
200 to 299	3.00
300 to 399	4.00
400 and over	5.00

No reserves will be set up in respect to short-term note, demonstrator or other unusual or special plans, except as may be specifically agreed upon. Upon refund to a purchaser of the unearned portion of finance charges for prepayment of any Note, we will charge against your account the percentage of the reserves set up for your account that the amount refunded bears to the total charge, excluding the cost of insurance. As of

the 31st days of January, July and October, we will pay to you the amounts by which the reserves set up for your account exceed 3% of the total balances outstanding on all Notes purchased from you, provided that no payment need be made so long as any breach exists in the performance of the terms and conditions of any agreement between us.

This Agreement including the provisions on the reverse side hereof, which are incorporated herein and are a part hereof, shall be irrevocable in respect to all Notes purchased hereunder until payment in full thereof, but may be cancelled at any time as to future transactions by either party upon notice in writing to the other. This Agreement shall inure to the benefit of and bind your and our respective heirs, personal representatives, successors and assigns and any of our affiliated companies to which this Agreement or Notes purchased hereunder may be assigned. You also waive notice of non-payment, repossession and all other notices to which you might otherwise be entitled by law.

Kindly indicate your acceptance of this Agreement by executing the attached duplicate, returning it to us.

Accepted *March 8*, 19*48*

*A. G. Motor Co.* (SEAL)  
(Corporation, Individual or Firm Name)

By *T. E. Malone* (SEAL)  
(Officer, Owner or Partner—Title)

COMMERCIAL CREDIT CORPORATION (SEAL)

By *R. C. McCall* (SEAL)  
*Mobile, Ala.*  
CITY STATE

# Retail Finance and Reserve Agreement

## REPURCHASE, COLLISION, AND LOSS LIMITATION PROVISIONS

In consideration of our purchase of such Notes endorsed "Without Recourse," it is understood and agreed that if we repossess or recover any Cars covered by Notes, for any reason, you will, upon delivery to you at your place of business shown above, within 90 days after the maturity of the earliest instalment in respect thereto unpaid at the time of such delivery, repurchase such Cars, as is, from us for a cash amount equal to the unpaid balance owing on the Notes relating thereto. Until repurchased by you, we shall have the right to store such repossessed Cars on your premises without cost, and your possession of such Cars shall be merely as a bailee with the duty to safely store for us and redeliver such Cars to us on demand.

If any Cars repurchased by you hereunder have suffered material damage directly resulting from one collision, because of which the purchasers have failed to pay for the Cars, necessitating repossession, we agree to cause such damage to be repaired upon our written order, or we will make allowance to cover the actual cost to repair such damage, which shall include only the actual cost of parts and direct labor and shall not include any repairs or replacements which are not the direct result of and necessitated by such collision. Such allowance shall be reduced by the amount, if any, by which the retail resale value

of the Cars in repaired condition, excluding selling commission and overhead, exceeds the unpaid balances owing to us in respect to such Cars. The cost to us of such repairs or allowance therefor shall not exceed (a) the unpaid balance owing to us on the Notes relating to such cars, less the "as is" value at the time of repossession, or (b) the standard insurance appraisal value of such Cars at the time of repossession, whichever is lower.

For your further protection, we agree that your loss (if in excess of \$1,000.) arising out of cars repurchased by you hereunder, resold by you within 90 days from the date of delivery of such cars to you, shall not exceed 3% of the aggregate principal amount of all Notes purchased by us during each respective 12-month period during the time this Agreement is in effect commencing with the date of Acceptance hereof in which the Notes in respect to such Cars were purchased by us, plus an amount equal to the total reserve set up during the same period by us for you, whether or not held by us or paid over to you. Such loss shall be determined by the difference between the amount you realize from the sale of such repossessed Cars and the amount you pay us for the same. Upon our request, you will furnish all desired information and allow us to examine your records relating to such Cars to assist in determining such limit of loss.

COMMERCIAL CREDIT  
CORPORATION



Retail  
Finance and Reserve  
Agreement  
with

Dated \_\_\_\_\_

Exhibit B

AMENDMENT TO  
RESERVE AGREEMENT

BOOK 001 PAGE 214

Dated March 4, 1948  
(Date of Original Agreement)

Number \_\_\_\_\_

Robertsdale, Alabama  
(Address) (City) (State)

Date April 19, 19 50  
(Date this Amendment is Executed)

Effective immediately upon the acceptance of this Amendment, anything to the contrary contained in any Agreements heretofore executed by us notwithstanding, you will set up, for our account, the following reserves in connection with each Note purchased by you:-

New Cars 12 mos. - 1% + \$8.00  
13-18 mos. - 1 1/2% + \$8.00  
24 mos. - 2% + \$8.00

Used Cars 12 mos. - 1 1/2% + \$10.00  
OVER 12 mos. - 2% + \$10.00

Copy

Except as expressly changed by this Amendment, all of the terms and provisions of the Reserve Agreement, and any Riders or Amendments thereto heretofore executed, shall remain and continue in full force and effect.

P. G. Motor Company (Seal)  
(Corporation, Individual or Firm Name)

T. E. Malone (Seal)  
(Officer, Owner or Partner-Title)

R. C. McCall  
(Witness)

Addressed to and accepted by

COMMERCIAL CREDIT CORPORATION at Mobile, Ala., Apr. 19 1950

Witness F. M. Huggins By R. C. McCall

## CONDITIONAL SALE AGREEMENT



Exhibit C

AVOID MISTAKE—FILL OUT COMPLETELY

Fairhope, Ala., 7-21, 1950  
(City and State) (Date)

From John H. White (Print Purchaser's Name) Rte #1 Loxley Baldwin Ala (No., Street, Route or Box) (City or Town) (County) (State) Purchaser.  
To A.G. Motor Co. (Dealer's Name) Fairhope Baldwin, Ala. (Give Correct Legal Address) (City or Town) (County) (State) Seller.

Purchaser (being all of Undersigned, jointly and severally) hereby purchases for the total time purchase price and on the following terms and conditions, and acknowledges delivery, examination and acceptance of the following described Motor Vehicle (herein called "Car") in its present condition:

Make	Serial No.	Motor No.	Model	Year Model	New or Used	Will Car Be Used For Pleasure, Business, Taxicab or Hire?	Type of Body	If Truck, Truck Questionnaire Must Be Attached
Studebaker	R17A-17045	4R-23992	R17A	1950	New	B	Cab-ch	

Car will be kept at No. \_\_\_\_\_ Street Loxley (City) Ala (State)

CASH PRICE				TIME PRICE			
Factory Advertised Price—Delivery at Factory.	\$			Insurance, Recording and Finance Charges.	\$	<u>422</u>	<u>89</u>
Freight, Equipment and Tax.	\$			Total Time Purchase Price.	\$		
Delivered Price.	\$			Cash on or Before Delivery.	\$	<u>790.45</u>	
Extra Equipment.	\$			Allowance on Car Traded in.	\$		
Miscellaneous	\$			Make _____ Model _____			
	\$			Year _____			
Total Cash Price.	\$	<u>2341</u>	<u>23</u>	Total Down Payment.	\$	<u>780.45</u>	<u>780</u> <u>45</u>
				Unpaid Balance of Time Purchase Price.	\$	<u>1987</u>	<u>92</u>
Payable in <u>24</u> equal monthly instalments of \$ <u>82.83</u> each, commencing one month from <u>July 21</u> 19 <u>50</u>							

Title to the Car shall remain in Seller or assigns, until all amounts due hereunder or rearrangements thereof are fully paid in cash. This contract may be assigned or the payment hereof renewed or extended without passing title of said Car to Purchaser. The loss, injury or destruction of said Car shall not release Purchaser from the payment hereof. Purchaser agrees to obtain and keep in force fire and theft insurance on said Car and other insurance requested by Seller. Such insurance shall be in form and amounts satisfactory to Seller. Seller or Seller's assignee, as a creditor of Purchaser, is authorized to purchase any or all of said insurance at Purchaser's expense. Purchaser hereby assigns to Seller or his assignee the proceeds of all such insurance to the extent of the unpaid balance hereunder, and directs any insurer to make payment directly to the holder hereof, and appoints said holder as Attorney in Fact to endorse any draft.

Purchaser agrees: To pay promptly all taxes and assessments upon the Car and/or for its use or operation and/or on this contract; to keep the Car free from liens; that all equipment, tires, accessories and parts shall become part of the Car by accession; not to sell, transfer or encumber the Car or use it for hire or illegally. Time is of the essence hereof. Any notices to Purchaser shall be sufficiently given if mailed to the above address of Purchaser. Purchaser warrants that the Car traded in, if any, is free from any encumbrance, and breach of said warranty shall be a breach of this contract.

If Purchaser defaults on any obligation under this contract, or, if holder should deem itself or said Car insecure, the full balance shall, without notice, at the option of the holder, become due forthwith, together with attorneys' fees of Fifteen Per cent (15%) of the unpaid balance if this contract is placed with an attorney. Purchaser agrees in any such case to pay said amount or, at the election of the holder

hereof, to deliver the Car to said holder, and holder may, without notice or demand for performance or legal process, lawfully enter any premises where the Car may be found, take possession of it and retain all payments as compensation for the use of the Car while in Purchaser's possession. Any personal property in the Car at the time of repossession may be temporarily held by the Seller for the Purchaser, without liability therefor. The Car may be sold, with or without notice, at private or public sale (at which the holder hereof may be the purchaser), with or without having the Car at the sale; the proceeds, less all expenses, shall be credited on the amount payable hereunder; Purchaser shall pay any remaining balance forthwith as liquidated damages for the breach of this contract, and shall receive any surplus.

Any action to enforce payment hereunder or any indulgences or rearrangements granted the Purchaser shall not be a waiver of or affect any rights of a holder hereof. In any State where Certificates of Title are issued, Purchaser, in application therefor, shall make reference to Seller's rights under this contract and, if permitted by law, Purchaser shall deliver or cause to be delivered any such Certificate to Seller, when received. All rights and remedies hereunder are cumulative and not alternative. Any part of this contract contrary to the law of any State where used shall not invalidate other parts of this contract in that State. This contract constitutes the entire agreement between the parties and no waivers or modification shall be valid unless written upon or attached to this contract. Said Car is accepted without any express or implied warranties, agreements, representations, promises or statements unless expressly set forth in this contract at the time of purchase. Purchaser acknowledges the receipt of a true executed copy of this contract at the time of execution hereof. This contract shall apply to, inure to the benefit of, and bind the heirs, executors, administrators, successors and assigns of the Purchaser and Seller.

Accepted A.G. Motor Co. (Seal)  
Seller (Dealer)  
By H. J. Spader (mgr) (Seal)  
Owner, Officer or Firm Member

P John H. White (Seal)  
(Purchaser Sign Here)  
P \_\_\_\_\_ (Seal)  
(Purchaser Sign Here)



# Dealer's Representation and Assignment

FOR VALUE RECEIVED, Undersigned hereby sells, assigns and transfers to Commercial Credit Corporation, its successors and assigns, all of his, its or their right, title and interest in and to the contract on the reverse side hereof and Car referred to therein, with power to take legal proceedings in the name of Undersigned or itself. Undersigned warrants that contract is genuine and what it purports to be; that said extension of instalment credit complies with all Federal and State laws, regulations and orders; that Undersigned has complied with all laws in respect to the sale of said Car; that down payment paid by Purchaser, as stated in contract, was in cash and not its equivalent, unless otherwise mentioned in the contract, that no part thereof was loaned directly or indirectly by Undersigned or any one connected with Undersigned to the Purchaser; that Undersigned had title free and clear of all encumbrances at the time of the execution of contract; that Purchaser is 21 years of age or older; that unless noted herein Undersigned has no reason to believe that Purchaser ever violated any laws concerning liquor or narcotics; that Purchaser's name was never rejected by any other finance company, bank or banker; that reference to contract appears on Certificate of Title or Bill of Sale, as required by State Law. Undersigned makes said warranties for the purpose of inducing Commercial Credit Corporation to purchase said contract, and if any such warranties should be untrue, Undersigned shall buy same from Commercial Credit Corporation, upon demand, and will pay therefor not less than the amount owing thereon, plus any and all costs and expenses paid or incurred by Commercial Credit Corporation in respect thereto, and said remedy shall be cumulative and not exclusive, and shall not affect any other right or remedy that Commercial Credit Corporation might have at law or in equity.

It is understood and agreed that Undersigned's liability with respect to contract or the automobile covered thereby is in accordance with one of the five plans shown below, Undersigned having indicated his election by checking the plan selected at the time of execution hereof:

1. Without Recourse. No liability to Undersigned.
  2. With Recourse. Undersigned guarantees the payment of said contract in accordance with its terms.
  3. Full Repurchase. Undersigned will repurchase the automobile upon repossession and will pay therefor the unpaid portion of the purchase price, subject to the Dealer's Protective Agreement No. 100.
  4. Partial Repurchase. Undersigned, upon repossession of the automobile, will pay the unpaid balance of the purchase price and receive the automobile, or in lieu thereof, will pay holder on demand \$..... and relinquish all rights to the automobile, without further obligation. In the event the automobile is not repossessed and the Purchaser is in default, Undersigned will pay the holder on demand any amount due on the purchase price up to the dollar sum mentioned above in this paragraph, and will relinquish all rights to the automobile, without further obligation. Undersigned hereby waives protection under Dealer's Protective Agreement No. 100 on this transaction.
  5. Limited Repurchase. If Purchaser fails to pay..... instalments, Undersigned will repurchase automobile upon repossession and will pay therefor the unpaid portion of the purchase price, subject to the terms of Dealer's Protective Agreement No. 100.
- Commercial Credit Corporation is hereby authorized to correct patent errors in said contract and all other papers executed, endorsed or assigned in connection therewith.

Signed and sealed this ..... day of ..... 19.....  
*H. J. Spader* (Seal)  
 (Owner, Officer or Firm Member)

## Guaranty by Dealer or by Third Persons

Undersigned, jointly and severally, guarantee the payment, when due to any assignee hereof, of all amounts from time to time owing on said contract, and the payment, upon demand, of the entire amount owing on said contract in the event of default in payment by the Purchaser named therein. Undersigned waives notice of acceptance of this guaranty, notice of any extensions in time of payment, notice of sale of any collateral and all other notices to which Undersigned may be entitled by law and agree to pay all amounts owing hereunder upon demand without requiring any proceeding against Purchaser.

(Guarantor)

(Guarantor, Owner, Officer or Firm Member)

Exhibit D.

BOOK 001 PAGE 216

4 - 27

1951

DESCRIPTION OF

Hudobaker  
(herein called "Property")

MAKE	MODEL	ENGINE NUMBER	MANUFACTURER'S SERIAL NUMBER	AMT. PURCHASER INDEBTEDNESS	AMT. OF SELLING PRICE TO TRANSFeree
<del>Studebaker</del>	<u>R-17A</u>	<u>4A-23992</u>	<u>R17A-17045</u>	<u>1490.94</u>	<u>1490.94</u>

Balance of \$1490.94 is payable in 18 monthly instalments of \$82.83 each first instalment payable Monthly.

Memorandum of agreement between

John H. WhiteOF Logan herein called Purchaser, and B. J. LancasterOF Sumnerdale herein called Transferee, Witnesseth:

Purchaser has heretofore on 7/23 1951, purchaser from AG Motors  
Co. of Fairhope Ala. herein called Dealer, the above

described property and executed a Security Instrument (conditional sales contract, lease, chattel mortgage) and given a promissory note of same date to dealer, and said Security Instrument has been assigned and said Note negotiated by Dealer for value to the Company designated below, herein referred to as Assignee.

Purchaser desires to sell his interest in said property to Transferee, and according to said Security Instrument, must first obtain the consent thereto of Assignee.

Now, therefore, for valuable consideration purchaser has bargained and sold and by these presents does sell, grant and convey unto Transferee, his heirs, executors, administrators and assigns, all right, title and interest of purchaser in and to the said property, subject, however, to all the terms, conditions and agreements of purchaser in said Security Instruments; provided, however, this agreement is of no effect unless and until written consent of the Assignee has been given hereunder, and in consideration of which Purchaser and Transferee jointly and severally promise to pay said note according to its terms, the balance owing thereon being shown above.

Purchaser and Transferee irrevocable authorize any attorney at law, Clerk of Court or prothonotary to appear for them, or either or them, in any court of record in the United States except in the States of Indiana, and New Mexico, or before any Justice of the Peace, and waive issue and service of process, and confess judgement against the Undersigned in favor of Assignee, for such amount as may be unpaid thereon after maturity, plus interest, cost and attorney's fee of 15% if allowed by law, and release all error and waive all right of appeal, and benefit of all appraisal, stay and exemption laws.

Transferee hereby binds himself to the prompt payment, performance and discharge of all obligations and covenants of said note and Security Instrument, all of which Transferee has read and fully understands. Purchaser agrees that Assignee may extend the times of payment or rearrange the times of payment of the note or security instrument, or renew the note or security instrument, without affecting the liability of Purchaser hereunder.

Subject to the prompt performance and discharge of all the foregoing, Assignee hereby consents to said transfer from purchaser to Transferee as aforesaid.

COMMERCIAL CREDIT CORPORATION

(Assignee) \_\_\_\_\_ (Seal)  
(Transferror (Old Purchaser))

R. J. Lancaster (Seal)  
(Transferee (New Purchaser))

BY

R. C. McCall

Undersigned, referred to above as "Dealer", consents to the foregoing transfer and agrees that said transfer shall not release, alter, or in any manner affect undersigned's liability and obligation to Assignee on or in respect to said Note and Security Instrument referred to herein.

A. G. Motor Co. J. E. Malony (Seal)  
(Dealer)

Form 1167E

FILED

6-24-53

Alice I. Bush, Clerk



IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN LAW NO. 1953

COMMERCIAL CREDIT CORPORATION,  
PLAINTIFF

VS.

T. E. MALONE, d/b/a A. G.  
Motor Company

DEFENDANT

AMENDED COMPLAINT

FILED 6-24-53

*Alvin J. Smith*

W. C. BEEBE  
ATTORNEY AT LAW  
J. CONNOR OWENS, JR.  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

COMMERCIAL CREDIT CORPORATION,

Plaintiff

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW. NO. 1953

Comes now the plaintiff in the above styled cause and files this Motion to strike paragraphs two and three of the plea filed in said cause and assigns the following grounds:

1. That the allegation contained in paragraph two of defendants plea is repetitious of those allegations contained in paragraph one.

2. That the allegations contained in paragraph three of the defendants pleas are repetitious in that the same allegations are made in paragraph one.

FILED

Feb. 16, 54

ALICE J. DUCK, Clerk

*W. C. Decker*  
Attorney for Plaintiff

*James A. Curry, Jr.*  
Attorney for Plaintiff

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW.            NO. 1953

\*\*\*\*\*

COMMERCIAL CREDIT CORPORATION,

Plaintiff

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant

\*\*\*\*\*

MOTION STRIKE

\*\*\*\*\***FILED**\*\*\*\*\*

FILED FEB 16 1954

\*\*\*\*\***MADE A. WICK, CLERK**\*\*\*\*\*

J. CONNOR OWENS, JR.  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

COMMERCIAL CREDIT CORPORATION,  
Plaintiff,

vs.

T. E. MALONE, doing business  
as the A. G. MOTOR COMPANY,  
Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

LAW SIDE.

NO. 1953.

Comes the Defendant in the above styled cause and demurs to Counts Four and Five of the Complaint filed by the Plaintiff in said cause separately and severally, and assigns the following separate and several grounds, viz:

1. That said Count does not state a cause of action.
2. That said Count is vague and indefinite.
3. That Count Four of the Complaint fails to allege whether the agreements referred to therein were orally or in writing.
4. That Count Four of said Complaint fails to set out the entire agreements referred to therein.
5. That the allegation in Count Four that an agreement was entered into by him fails to allege that the agreement was entered into by both parties.
6. That it is not alleged in Count Four that the Defendant agreed to the amendment to such agreement.
7. That said Count fails to allege that the Plaintiff ever advanced any money to the Defendant on the note referred to therein.
8. That it is not alleged that the agent, R. J. Spader referred to in Count Four of the Complaint was acting within the line and scope of his employment as such agent.
9. That it is not alleged how the note referred to in Count Four was amended by the parties on April 26, 1951.
10. That it is not alleged in Count Four of said Complaint the amount that was due on said note at the time that the car was returned to T. E. Malone.
11. That Count Five of said Complaint fails to allege that the property referred to therein is the property of the Plaintiff.



12. That said Count fails to allege that the car referred to was returned in accordance with the agreement between the parties and within the time provided for therein.

Shannon Stone  
Attorneys for Defendant.

FILED

4-1-53

ALICE J. DUCK, Clerk

DEMURRER

COMMERCIAL CREDIT CORPORATION,

Plaintiff,

vs.

T. E. MALONE, doing business  
as the A. G. MOTOR COMPANY,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

LAW SIDE.

NO. 1953

Filed: May 1, 1953.

  
Clerk.

STATE OF ALABAMA  
BALDWIN COUNTY

)  
)  
)  
IN THE CIRCUIT COURT----IN LAW

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon T. E. Malone, doing business as the A. G. Motor Company, to appear within thirty (30) days from the service of this writ in the circuit court, to be held for said county at the place of holding the same, then and there to answer the complaint of Commercial Credit Corporation.

Witness my hand, this 24<sup>th</sup> day of May, 1953.

David H. H. H. H.  
CLERK

COMMERCIAL CREDIT CORPORATION, )  
PLAINTIFF )  
VS. )  
T. E. MALONE, doing business )  
as the A. G. MOTOR COMPANY, )  
DEFENDANT )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN LAW No. \_\_\_\_\_.

BOOK 001 PAGE 203

I

The plaintiff claims of the defendant Seven hundred and forty-five dollars and forty-seven cents(\$745.47), due from him by account on the 24th day of March, 1952, which sum of money with interest thereon is still unpaid.

II

The plaintiff claims of the defendant Seven hundred and forty-five dollars and forty-seven cents(\$745.47), due from him on account stated between the plaintiff and the defendant on the 24th day of March, 1952, which sum of money with interest thereon is still unpaid.

III

The plaintiff claims of the defendant Seven hundred and forty-five dollars and forty-seven cents(\$745.47), due from him for money on the 21st day of July, 1950, received by the defendant to the use of the plaintiff, which sum of money with interest thereon is still unpaid.

IV

The plaintiff claims of the defendant Seven hundred and forty-five dollars and forty-seven cents(\$745.47), damages for an agreement, entered into by him on the 8th day of March, 1948, as amended on the 19th day of April, 1950, in substance as follows:

The Commercial Credit Corporation agreed to purchase and T. E. Malone, doing business as the A. G. Motor Company, agreed to sell to the Commercial Credit Corporation, the acceptable notes, conditional sales contracts, chattel mortgages, or lease agreements called "Notes" acquired by T. E. Malone, doing business

as the A. G. Motor Company, from retail purchasers of new or used passenger and/or commercial automobiles, therein called "Cars". The Commercial Credit Corporation and T. E. Malone, doing business as the A. G. Motor Company, further agreed: "In consideration of our purchase of such Notes endorsed 'Without Recourse', it is understood and agreed that if we Commercial Credit Corporation repossess or recover any Cars covered by Notes, for any reason, you T. E. Malone, doing business as A. G. Motor Company will, upon delivery to you at your place of business shown above, within 90 days after the maturity of the earliest instalment in respect thereto, unpaid at the time of such delivery, repurchase such Cars, as is, from us for a cash amount equal to the unpaid balance owing on the Notes relating thereto. Until repurchased by you, we shall have the right to store such repossessed Cars on your premises without cost, and your possession of such Cars shall be merely as a bailee with the duty to safely store for us and redeliver such Cars to us on demand."

And on or about the 21st day of July, 1950, pursuant to the above-stated agreement, T. E. Malone, doing business as the A. G. Motor Company, through his agent, R. J. Spader, assigned a "Note" marked "Without Recourse" to the Commercial Credit Corporation, such "Note" being amended by the parties thereto on the 26th day of April, 1951. Further that the Purchaser of the Car under the "Note" executed the 21st day of July, 1950, as amended the 26th day of April, 1951, returned the Car to T. E. Malone, doing business as the A. G. Motor Company, who on the 20th of January, 1952, accepted said Car. And the plaintiff says that although it has complied with all the terms and provisions of the agreement, the defendant has failed to refund to the plaintiff the money due under the agreement.

V

The plaintiff claims of the defendant Seven hundred and forty-five dollars and forty-seven cents (\$745.47), damages

for conversion by him about March of 1952 of the following  
chattel:

One 1950 Studebaker  
Cab and chassis truck  
Serial #R17A-17045  
Motor Number-4R23992

W. C. Beebe  
ATTORNEY FOR THE PLAINTIFF

J. Connor Owens, Jr.  
ATTORNEY FOR THE PLAINTIFF

Plaintiff demands a trial by jury  
pursuant Code 1940, Title 7, Sec. 260.

W. C. Beebe

J. Connor Owens, Jr.

FILED

3-24-53

ALICE J. GUCK, Clerk



IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN LAW NO. 1953

COMMERCIAL CREDIT CORPORATION,

PLAINTIFF

VS.

T. E. MALONE, d/b/a A. G.  
Motor Company,

DEFENDANT

SUMMONS AND COMPLAINT

FILED 3-24-53

Amel. Smith  
CLERK

W. C. BEEBE,  
ATTORNEY AT LAW  
J. CONNOR OWENS, JR.,  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

Received in Sheriff's Office  
This 20 day of April 1953  
TAYLOR WILKINS, Sheriff

Executed ~~March~~  
April, 1953  
By Serving Copy on  
J. E. Malone

Shuff  
Taylor Wilkins  
By  
Edw. Steadham



REGISTERED

**COMMERCIAL CREDIT CORPORATION**

P. O. BOX 397

301 ST. ANTHONY STREET

**MOBILE 3, ALABAMA**

October 6, 1954

AFFILIATED WITH  
COMMERCIAL CREDIT COMPANY  
BALTIMORE

TELEPHONE  
8-4781

Mr. W. C. Beebe  
Attorney-at-Law  
Bay Minette, Ala.

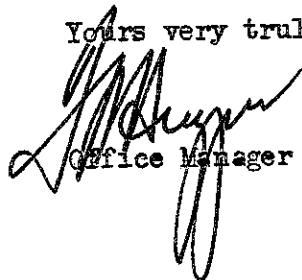
Re: A-G Motor Co.

Dear Mr. Beebe:

We have finally been successful in locating our reserve agreement with the above dealer and I now am attaching it herewith.

I hope that with the use of this agreement, we will be able to dispose of these cases in the very near future.

Yours very truly,

  
Office Manager

FM.H/gh

# COMMERCIAL CREDIT CORPORATION

## Retail Finance and Reserve Agreement

with

A.G. MOTORCO

Dealer

ROBERTSDALE

ALABAMA

CITY

STATE

We (Commercial Credit Corporation) will purchase from you (Dealer) and you will sell to us the acceptable notes, conditional sale contracts, chattel mortgages or lease agreements, herein called "Notes," acquired by you from retail purchasers of new or used passenger and/or commercial automobiles, herein called "Cars," and set up for you the reserves provided for herein, so long as this Agreement remains in effect. Notes will be for amounts computed in accordance with the applicable charts issued by us to you for use in territories in which you sell Cars.

At the time of purchase of Notes, we will set up the following reserves, for your account, based on the cash unpaid balance (cash selling price of Cars, less down payment):

NEW CARS	<i>Chart</i>	<i>12 Months</i>	<i>Over 12 Months</i>	
	Table H L 6 or equivalent	$\frac{1}{2}\%$ plus \$8.00	$1\%$ plus \$8.00	
	" A 5 S " "	$\frac{1}{2}\%$ " 5.00	$1\%$ " 5.00	
USED CARS	<i>Chart</i>	<i>12 Months</i>	<i>13 to 15 Months</i>	<i>Over 15 Months</i>
	Series "P"	$1\%$ plus \$10.00	$1\frac{1}{4}\%$ plus \$10.00	$1\frac{1}{2}\%$ plus \$10.00

In addition, we will set up retroactively, for your account, the following reserves, based upon the number of Cars covered by Notes purchased by us from you during each 12-month period, commencing

3/8/48, 1948,  
and so long as this Agreement remains in effect:

Total Number of Cars Financed in 12-Month Period	Amount Per Car
50 to 99	\$1.00
100 to 199	2.00
200 to 299	3.00
300 to 399	4.00
400 and over	5.00

No reserves will be set up in respect to short-term note, demonstrator or other unusual or special plans, except as may be specifically agreed upon. Upon refund to a purchaser of the unearned portion of finance charges for prepayment of any Note, we will charge against your account the percentage of the reserves set up for your account that the amount refunded bears to the total charge, excluding the cost of insurance. As of

the 31st days of January, July and October, we will pay to you the amounts by which the reserves set up for your account exceed 3% of the total balances outstanding on all Notes purchased from you, provided that no payment need be made so long as any breach exists in the performance of the terms and conditions of any agreement between us.

This Agreement including the provisions on the reverse side hereof, which are incorporated herein and are a part hereof, shall be irrevocable in respect to all Notes purchased hereunder until payment in full thereof, but may be cancelled at any time as to future transactions by either party upon notice in writing to the other. This Agreement shall inure to the benefit of and bind your and our respective heirs, personal representatives, successors and assigns and any of our affiliated companies to which this Agreement or Notes purchased hereunder may be assigned. You also waive notice of non-payment, repossession and all other notices to which you might otherwise be entitled by law.

Kindly indicate your acceptance of this Agreement by executing the attached duplicate, returning it to us.

Accepted March 8, 1948

A.G. MOTOR CO

BY

(Seal) (Corporation, Individual or Firm Name)

By F.E. Malone (Seal)  
(Officer, Owner or Partner—Title)

COMMERCIAL CREDIT CORPORATION (SEAL)

By

J. J. Amistead (Seal)  
Vice-President

CITY

STATE

# Retail Finance and Reserve Agreement

## REPURCHASE, COLLISION, AND LOSS LIMITATION PROVISIONS

In consideration of our purchase of such Notes endorsed "Without Recourse," it is understood and agreed that if we repossess or recover any Cars covered by Notes, for any reason, you will, upon delivery to you at your place of business shown above, within 90 days after the maturity of the earliest instalment in respect thereto unpaid at the time of such delivery, repurchase such Cars, as is, from us for a cash amount equal to the unpaid balance owing on the Notes relating thereto. Until repurchased by you, we shall have the right to store such repossessed Cars ~~without cost~~, and your possession of such Cars shall be merely as a bailee with the duty to safely store for us and redeliver such Cars to us on demand.

If any Cars repurchased by you hereunder have suffered material damage directly resulting from one collision, because of which the purchasers have failed to pay for the Cars, necessitating repossession, we agree to cause such damage to be repaired upon our written order, or we will make allowance to cover the actual cost to repair such damage, which shall include only the actual cost of parts and direct labor and shall not include any repairs or replacements which are not the direct result of and necessitated by such collision. Such allowance shall be reduced by the amount, if any, by which the retail resale value

of the Cars in repaired condition, excluding selling commission and overhead, exceeds the unpaid balances owing to us in respect to such Cars. The cost to us of such repairs or allowance therefor shall not exceed (a) the unpaid balance owing to us on the Notes relating to such cars, less the "as is" value at the time of repossession, or (b) the standard insurance appraisal value of such Cars at the time of repossession, whichever is lower.

For your further protection, we agree that your loss ~~(if in excess of \$1,000.00) arising out of cars repurchased~~ by you hereunder, resold by you within 90 days from the date of delivery of such cars to you, shall not exceed 3% of the aggregate principal amount of all Notes purchased by us during each respective 12-month period during the time this Agreement is in effect commencing with the date of Acceptance hereof in which the Notes in respect to such Cars were purchased by us, plus an amount equal to the total reserve set up during the same period by us for you, whether or not held by us or paid over to you. Such loss shall be determined by the difference between the amount you realize from the sale of such repossessed Cars and the amount you pay us for the same. Upon our request, you will furnish all desired information and allow us to examine your records relating to such Cars to assist in determining such limit of loss.

Retail

Finance and Reserve  
Agreement

with

AC Motor Co  
Robertale etc

Dated

2/6/48



COMMERCIAL CREDIT  
CORPORATION

STATE OF ALABAMA  
BALDWIN COUNTY

)  
) IN THE CIRCUIT COURT ---IN LAW  
)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon T. E. Malone, doing business as the A. G. Motor Company, to appear within thirty (30) days from the service of this writ in the circuit court, to be held for said county at the place of holding same, then and there to answer the complaint of Commercial Credit Corporation.

Witness my hand, this 26<sup>th</sup> day of March, 1953.

David L. Leach  
CLERK

COMMERCIAL CREDIT CORPORATION, )  
 )  
 PLAINTIFF )  
 )  
 VS. )  
 )  
 T. E. MALONE, doing business )  
 as A. G. MOTOR COMPANY, )  
 )  
 DEFENDANT )

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN LAW NO. \_\_\_\_\_

BOOK 001 PAGE 181

I

The plaintiff claims of the defendant Seven hundred and fifty-five dollars(\$755.00), due from him by account on the 6th day of June, 1952, which sum of money, with interest thereon is still unpaid.

II

The plaintiff claims of the defendant Seven hundred and fifty-five dollars(\$755.00), due from him on account stated between the plaintiff and the defendant on the 6th day of June, 1952, which sum of money with interest thereon is still unpaid.

III

The plaintiff claims of the defendant Seven hundred and fifty-five dollars(\$755.00), due from him for money on the 23rd day of July, 1951, received by the defendant to the use of the plaintiff, which sum of money with interest thereon is still unpaid.

IV

The plaintiff claims of the defendant Seven hundred and fifty-five dollars(\$755.00), damages for an agreement, entered into by him on the 8th day of March, 1948, as amended on the 19th day of April, 1950, in substance as follows:

The Commercial Credit Corporation agreed to purchase and T. E. Malone, doing business as A. G. Motor Company, agreed to sell to the Commercial Credit Corporation, the acceptable notes, conditional sales contracts, chattel mortgages, or lease agreements called "Notes" acquired by T. E. Malone, doing business as A. G. Motor Company, from retail purchasers of new or used passenger and/or commercial automobiles, therein called "Cars". The Commercial Credit Corporation and T. E. Malone, doing business

BOOK 001 PAGE 182

as the A. G. Motor Company, further agreed:

"In consideration of our purchase of such Notes endorsed 'Without Recourse', it is understood and agreed that if we Commercial Credit Corporation repossess or recover any Cars covered by Notes, for any reason, you T. E. Malone, doing Business as A. G. Motor Company will, upon delivery to you at your place of business shown above, within 90 days after the maturity of the earliest instalment in respect thereto, unpaid at the time of such delivery, repurchase such Cars, as is, from us for a cash amount equal to the unpaid balance owing on the Notes relating thereto. Until repurchased by you, we shall have the right to store such repossessed Cars on your premises without cost, and your possession of such Cars shall be merely as a bailee with the duty to safely store for us and redeliver such Cars to us on demand."

And on or about the 23rd day of July, 1951, pursuant to the above-stated agreement, T. E. Malone, doing business as the A. G. Motor Company, through his agent, R. J. Spader, assigned a "Note" marked "Without Recourse" to the Commercial Credit Corporation; further that on or about the 6th day of June, 1952, the plaintiff, through and by its duly authorized agents, repossessed the Car from the Purchaser under the Note executed the 23rd day of July, 1951, for default in payment, and returned said Car to T. E. Malone, doing business as the A. G. Motor Company, who maliciously refused to accept such Car, and refused to repurchase said Car from the plaintiff; further that the plaintiff was forced by the refusal of the defendant to accept said Car, to store said Car at the expense of the plaintiff. And the plaintiff says that although it has complied with all the terms and provisions of the agreement, the defendant has failed to refund to the plaintiff the money due under the agreement.

V

The plaintiff claims of the defendant Seven hundred and fifty-five dollars(\$755.00), damages for an agreement entered into by him on the 23rd day of July, 1951, in substance as



follows:

T. E. Malone, doing business as the A. G. Motor Company, through and by his agent, R. J. Spader, agreed, in consideration of the assignment by him of a conditional sales agreement dated the 23rd day of July, 1951, to the Commercial Credit Corporation, to guarantee payments due the Commercial Credit Corporation by the Purchaser of the truck referred to in said conditional sales agreement; further that T. E. Malone, doing business as the A. G. Motor Company, agreed to immediately upon demand by the Commercial Credit Corporation pay any amounts due for which the Purchaser was in default under said conditional sales agreement without requiring any proceedings to be taken by the Commercial Credit Corporation against said Purchaser of the truck; further that T. E. Malone, doing business as the A. G. Motor Company shall be liable for the full amount guaranteed notwithstanding the fact that said truck might be damaged by collision, confiscated or converted, it being intended that T. E. Malone, doing business as the A. G. Motor Company, should become absolutely liable upon default of the Purchaser.

Said contract entitled "Dealer Guaranty of Purchaser Account" executed between Commercial Credit Corporation and T. E. Malone, doing business as A. G. Motor Company, through and by his agent, R. J. Spader, and marked as "Exhibit A", is attached hereto and made a part of this complaint.

And the Purchaser of the truck under the conditional sales agreement dated the 23rd day of July, 1951, referred to above, defaulted in his payments to the Commercial Credit Corporation, which demanded payment in full under the guaranty executed by T. E. Malone, doing business as the A. G. Motor Company, who refused to fulfill his obligations under said contract. And the plaintiff says that although it has complied with all the terms and provisions of the agreement, the defendant has failed to refund to the plaintiff the money due under the agreement.

The plaintiff demands a trial by jury pursuant to Code 1940, Title 7, Sec. 260.

*W C Beebe*  
ATTORNEY FOR THE PLAINTIFF

*W C Beebe*  
*J. Cannon Owens, Jr.*

FILED

*J. Cannon Owens, Jr.*  
ATTORNEY FOR THE PLAINTIFF

3-26-53

BOOK 001 PAGE 183

## DEALER GUARANTY OF PURCHASER ACCOUNT

Street Address.....  
 City Fairhope, State Ala  
 Date 2/23 19 57  
 Re: Name of Purchaser Charles Jumper & Eugenia Pollard  
 Address of Purchaser RD 1, Robertsdale, Ala  
 Automobile—Make Studebaker Model Cal & Chapin Serial No. R11A-24044  
 Amount of Note \$ 1170.<sup>00</sup> Transaction Number 366-9669X

Undersigned sent you for purchase security instrument (conditional sale contract, chattel mortgage, lease) and/or promissory note received by Undersigned from the above named purchaser in connection with the sale of the above mentioned automobile, and Undersigned assigned the security instrument without guaranty of payment and/or endorsed the said note without recourse.

You require Undersigned's unconditional guaranty that the purchaser shall pay his obligations under said security instrument and/or note, otherwise you will refuse to purchase the same, or if purchased will redraw upon Undersigned for the amount thereof, as agreed. Undersigned requests you to purchase or continue to hold such security instrument and/or promissory note, and in consideration thereof Undersigned hereby guarantees the prompt payment of the same and each and every instalment thereof as the same shall become due and payable. Undersigned will immediately upon demand pay any amounts due, for the payment of which the purchaser is in default, under said security instrument and/or promissory note, without requiring any proceedings to be taken by you, as against the purchaser. The liability of Undersigned hereunder shall not be modified in any manner whatsoever by any extension that may be granted to purchaser by any court in any proceeding under the Bankruptcy Act or any Amendment thereof and Undersigned expressly waives the benefit of any such extension. If purchaser shall at any time be in default in payment of three (3) instalments of said note Undersigned will thereupon forthwith pay the entire unpaid balance owing on said note.

Undersigned hereby waives notice of the acceptance of this guaranty, and Undersigned waives presentment, protest and demand, and notice of protest and demand of such security instrument and/or note. You may extend the time or times of payment of said security instrument or note, or renew, rewrite or revise the same, or grant any other indulgences whatsoever to the said purchaser without notice to Undersigned. Undersigned's obligations hereunder shall be unconditional and unqualified, and shall continue until the said security instrument and/or note is fully paid, performed and discharged.

Undersigned shall be liable for the full amount guaranteed hereunder, notwithstanding that such automobile might be damaged by collision, confiscated or converted, and you shall not be required to repossess said automobile or tender the delivery of the same to Undersigned, it being intended that Undersigned become absolutely liable upon the default of the purchaser, without respect to any other agreements that may now or hereafter exist between you and Undersigned relative to any other automobiles, the sale of which by Undersigned you have financed or may finance, unless specifically agreed otherwise in writing.

Dealer A.G. MOTOR CO (Seal)  
 (Corporation, Individual or Firm Name)  
Somecase (Witness)  
 By R. B. [Signature] (Seal)  
 (Officer, Owner or Partner—Title)

Addressed to and accepted by

Commercial/Credit Corporation.....at.....MOBILE ALABAMA

By [Signature]



By Serving Copy on  
J. E. Malone

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN LAW NO. 1953. A

COMMERCIAL CREDIT CORPORATION,  
PLAINTIFF

VS.

T. E. MALONE, a/b/a A. G.  
Motor Company,  
DEFENDANT

SUMMONS AND COMPLAINT

FILED 3-26-53

W. C. Beebe  
CLERK

W. C. BEEBE  
ATTORNEY AT LAW  
J. CONNOR OWENS, JR.  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

Sheriff  
Taylor Welkins  
By  
Edleigh Strickland

COMMERCIAL CREDIT CORPORATION,  
Plaintiff,

vs.

T. E. MALONE, doing business  
as the A. G. MOTOR COMPANY,  
Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

LAW SIDE.

NO. 1953-A.

Comes the Defendant in the above styled cause and demurs to Counts Four and Five of the Complaint filed by the Plaintiff in said cause separately and severally and assigns the following separate and several grounds, viz:

1. That said Count does not state a cause of action.
2. That said Count is vague and indefinite.
3. That Count Four of the Complaint fails to allege whether the agreements referred to therein were orally or in writing.
4. That Count Four of said Complaint fails to set out the entire agreements referred to therein.
5. That the allegation in Count Four that an agreement was entered into by him fails to allege that the agreement was entered into by both parties.
6. That it is not alleged in Count Four that the Defendant agreed to the amendment to such agreement.
7. That said Count fails to allege that the Plaintiff ever advanced any money to the Defendant on the note referred to therein.
8. That it is not alleged that the agent, R. J. Spader referred to in Count Four of the Complaint was acting within the line and scope of his employment as such agent.
9. That said Count fails to allege that the car referred to was returned in accordance with the agreement between the parties and within the time provided for therein.
10. That it is not alleged in Count Four of said Complaint that the Plaintiff advanced any money to the Defendant on the note referred to as being transferred and assigned July 23, 1951.

11. For aught that appears from said Count the Plaintiff did not use due diligence in repossessing the car after the note became in default.

12. That the allegation that the Defendant maliciously refused to accept such car is but a conclusion of the pleader and does not allege any facts to show malice.

13. That Count Five of said Complaint does not sufficiently set forth the agreement referred to therein.

14. That Count Five of said Complaint alleges that a copy of a contract between the parties is being attached as Exhibit A but the complaint served upon the Defendant contained no such copy.

15. That Count Five of said Complaint fails to allege that the agent referred to therein was acting within the line and scope of his employment as such agent.

16. That Count Five of said Complaint does not allege that R. J. Spader was duly authorized to transfer and assign the note referred to therein.

17. That Count Five fails to allege any breach of a duty owing by the Defendant to the Plaintiff.

18. That Count Five of said Complaint fails to allege the amount due by the purchaser of the car at the time he is alleged to have defaulted in his payments.

19. That the allegation that T. E. Malone refused to fulfill his obligation is but a conclusion of the pleader and does not state sufficient facts.

20. That Count Five of the Complaint fails to allege that there is any money due under the agreement referred to therein.

Roscoe Stone  
Attorneys for Defendant.

FILED  
4-1-53  
ALICE J. DUCK, Clerk



D E M U R R E R

COMMERCIAL CREDIT CORPORATION,

Plaintiff,

vs.

T. E. MALONE, doing business  
as the A. G. MOTOR COMPANY,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

LAW SIDE.

NO. 1953-A.

Filed: May 1, 1953.

Alice J. Lusk  
Clerk.

COMMERCIAL CREDIT CORPORATION,                   I  
                                                          I Plaintiff,                   I IN THE CIRCUIT COURT OF  
vs.                                                        I BALDWIN COUNTY, ALABAMA  
T. E. MALONE, doing business as                   I AT LAW.                   NO. 1953-A  
the A. G. MOTOR COMPANY,                         I  
                                                          I Defendant.                   I

Comes the Defendant in the above styled cause and demurs to replication No. 2 filed by the Plaintiff in said cause and assigns the following separate and several grounds, viz:

1. That said replication does not state a defense to the pleas filed by the Defendant in said cause.
2. That said replication fails to allege that the Plaintiff did extend the time of payment of the note referred to in said suit.
3. For aught that appears from said replication the time of payment of said note sued on was not extended by the Plaintiff in said cause.
4. That said replication is but a restatement of an exhibit filed by the Plaintiff in his original complaint and does not bring up any new matter in connection with said cause.

FILED

2-18-54

ALICE I. DUCK, Clerk

Wason Stone  
Attorneys for Defendant.



DEMURRER TO REPLICATION

COMMERCIAL CREDIT CORPORATION,

Plaintiff,

vs.

T. E. MALONE, doing business as  
the A. C. MOTOR COMPANY,

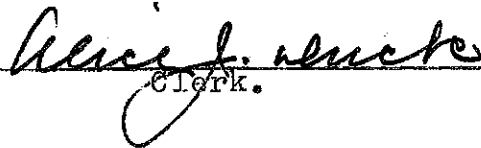
Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW. NO. 1953-A

Filed this the 18th day of  
February, 1954.

  
Clerk.

COMMERCIAL CREDIT CORPORATION,

Plaintiff

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW. NO. 1953-A

Now comes the plaintiff, by his attorneys, and files this replication to the plea of the defendant in the above styled cause, and says:


1. The plaintiff joins issue on said plea.

2. That in further replication says that the defendant in and by the contract labeled "Exhibit D" agreed that the plaintiff might extend the time or times of payments of said security instrument or note, or grant any other indulgences whatsoever to the said purchaser without notice to the defendant, and that the defendant's obligation thereunder is unconditional and unqualified and shall continue until the security instrument or note was paid, performed and discharged.

FILED

2-11-54

ALICE J. DUCK, Clerk

  
Attorney for Plaintiff

  
Attorney for Plaintiff

\*\*\*\*\*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW. NO. 1953-A

\*\*\*\*\*

COMMERCIAL CREDIT CORPORATION,

Plaintiff,

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant,

\*\*\*\*\*

REPLICATION

FILED

\*\*\*\*\*

FEB 16 1954

FILED

ALICE J. DUCK, Clerk

\*\*\*\*\*

J. CONNOR OWENS, JR.  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

COMMERCIAL CREDIT CORPORATION,	Ø	
Plaintiff,	Ø	IN THE CIRCUIT COURT OF
vs.	Ø	BALDWIN COUNTY, ALABAMA
T. E. MALONE, doing business as	Ø	AT LAW. NO. 1953-A
the A. G. MOTOR COMPANY,	Ø	
Defendant.	Ø	

Comes the Defendant in the above styled cause and for plea to the Complaint filed in said cause to each and every count thereof separately and severally, says:

1. That the allegations of the Complaint are untrue.
2. That according to the contract set out as "Exhibit C" the first payment of Sixty-five Dollars (\$65.00) to apply upon the total purchase price of One Thousand One Hundred Seventy Dollars (\$1,170.00) would be due and payable September 1, 1951; that the Plaintiff sues for the sum of Seven Hundred Fifty-five Dollars (\$755.00) which admits a credit upon such contract of Four Hundred Fifteen Dollars (\$415.00); that if such contract was not in default the sum of \$415.00 would be made up of six (6) payments of \$65.00 each and in addition thereto the sum of \$25.00 would be applied upon such contract. Since such payments began on September 1, 1951, the six payments for which the Defendant is given credit should have been paid, according to the contract between the parties, on September 1st, October 1st, November 1st, December 1, 1951, January 1st, and February 1, 1952, the payment due March 1, 1952, of \$65.00 was not paid in full as only \$25.00 was applied upon such payment; that such contract became in default on March 1, 1952 and not on May 14, 1952, as set out in such Complaint. Defendant denies that such truck was returned to him on or about June 6, 1952, but a return made on that day would still be more than 90 days after default of payment on such contract, and the Defendant according to such contract would

not be required to accept the truck unless the truck was returned to him within 90 days from date of default.

FILED

1-12-54

ALICE I. DUCK, Clerk

*Sham & Stone*  
Attorneys for Defendant.

BOOK

001 PAGE 199

PLEAS

COMMERCIAL CREDIT CORPORATION,

Plaintiff,

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW. NO. 1953-A

Filed the 12<sup>th</sup> day of January,  
1954.

  
Clerk

LAW OFFICES  
**CHASON & STONE**  
BAY MINETTE, ALABAMA

COMMERCIAL CREDIT CORPORATION,

Plaintiff,

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant

BOOK 001 PAGE 197

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW NO. 1953-A

DEMURRER

Comes the Defendant in the above styled cause and demurs to Counts Four and Five of the amended Complaint filed by the Plaintiff in said cause on June 22, 1953 separately and severally and assigns the following separate and several grounds, viz:

(1) That said Complaint does not state a cause of action.

(2) That the allegation in said Counts that the purchasers referred to therein were in default in the payments of the monthly installments on or about May 14, 1952 is vague and indefinite as the Defendant is entitled to know the actual date of default.

(3) That the allegation in said Counts that such truck was returned to the Defendant on or about June 6, 1952 is too vague and indefinite as the Defendant is entitled to know the actual date that the Plaintiff alleges the return of the truck to the Defendant.

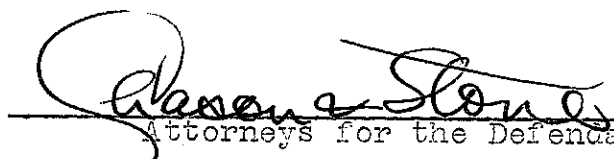
(4) That said Counts fail to allege that the Plaintiff informed the Defendant on June 6, 1952 of the amount owed by the Purchasers on such truck.

(5) That said Counts fail to allege the date of the last payment on such purchase contract and fails to allege the due date of the first installment which the purchasers failed to pay.

FILED

July - 1953

ALICE J. DUCK, Clerk

  
Attorneys for the Defendant.



DEMURRER

COMMERCIAL CREDIT CORPORATION,

Plaintiff,

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. 1953-A

Filed July, 1953.

*Aring-venck*  
Clerk

LAW OFFICES

**CHASON & STONE**

BAY MINETTE, ALABAMA

COMMERCIAL CREDIT CORPORATION,

Plaintiff

vs.

T. E. MALONE, doing business as  
the A. G. MOTOR COMPANY,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. 1953-A

BOOK 001 PAGE 187

Comes now the plaintiff, by his attorneys, and files this his amended complaint for Counts 4 and 5 in the above-styled cause:

IV

The plaintiff claims of the defendant SEVEN HUNDRED AND FIFTY-FIVE DOLLARS(\$755.00) damages for the breach of a written agreement, entered into by him and the plaintiff on the 8th day of March, 1948, a copy of which is attached hereto and labeled "Exhibit A", and made a part of this complaint, as amended by the written agreement of the plaintiff and the defendant on the 19th day of April, 1950, a copy of which is attached hereto, and labeled "Exhibit B", and made a part of this complaint, and the plaintiff further alleges that in and said agreement as amended; That the Commercial Credit Corporation agreed to purchase and T. E. Malone, doing business as A. G. Motor Company, agreed to sell to the Commercial Credit Corporation, the acceptable notes, conditional sales contracts, chattel mortgages, or lease agreements called "Notes" acquired by T. E. Malone, doing business as A. G. Motor Company, from retail purchasers of new or used passenger and/or commercial automobiles, therein called "Cars"; That the Commercial Credit Corporation and T. E. Malone, doing business as the A. G. Motor Company, further agreed; That in consideration of the plaintiff's purchase of such Notes endorsed "Without Recourse", if the plaintiff should repossess or recover any cars covered by such Notes, for any reason, T. E. Malone, doing business as the A. G. Motor Company, would, upon delivery to him at his place of business, within 90 days after the maturity of the earliest installment in respect thereto, unpaid at the time of such delivery, repurchase such cars, as is, from the plaintiff for a cash amount equal to the unpaid balance owing

on the Notes relating thereto, and that until repurchased by him, plaintiff should have the right to store such repossessed cars on the defendant's premises without cost, and his possession of such cars should be merely as a bailee with the duty to safely store for the plaintiff and redeliver such cars to plaintiff on demand;

That on or about the 23rd day of July, 1951, T. E. Malone, doing business as the A. G. Motor Company, through and by his agent, R. J. Spader, said agent acting within the scope of his employment, sold to Eugenia Pollard and Clarence Jarman, residing on Route #1, Robertsdale, Alabama, a 1949 model Studebaker truck, Serial Number R16A-24044, Motor Number 4R-16349, for a cash price of \$857.17, and for a total price of \$1170.00, which said total price included insurance, recording and finance charges of \$312.83, and said \$1170.00 being payable by the Purchasers in 18 equal monthly installments of \$65.00, commencing one month from August 1, 1951, said purchase and sale being evidenced by a written agreement providing that title to the truck was to remain in the Seller or his assigns until all amounts were fully paid;

That on or about the 23rd day of July, 1951, pursuant to the agreement labeled "Exhibit A", as amended by "Exhibit B", T. E. Malone, doing business as A. G. Motor Company, through and by his agent, R. J. Spader, said agent acting within the scope of his authority, assigned the written contract evidencing the sale of said Studebaker truck to Eugenia Pollard and Clarence Jarman, marked "Without Recourse", a copy of which is attached hereto and labeled "Exhibit C" and made a part of this complaint, to the Commercial Credit Corporation;

That said Commercial Credit Corporation, pursuant to the agreement labeled "Exhibit A", as amended by "Exhibit B", in consideration of said assignment of "Exhibit C" advanced and credited to the defendant the sum of \$1170.00;

That on or about May 14, 1952, said Purchasers under the written agreement labeled "Exhibit C" defaulted in the payment of monthly installments of \$65.00 upon said truck;

That on or about the 6th day of June, 1952, the plaintiff through and by its duly authorized agents, acting within the scope of their

authority, repossessed said truck from said Purchasers and returned said truck to the defendant at his place of business in Fairhope, Alabama, within 90 days after the maturity of the earliest installment with respect thereto unpaid at the time of such delivery:

to-wit: June 6, 1952;

That the defendant on June 6, 1952, in breach of the agreement labeled "Exhibit A", as amended by "Exhibit B", refused to accept said truck and refused to repay the plaintiff for the same, <sup>after plaintiff had made demand for balance due of \$755.00</sup> all to the damage of the plaintiff.

V

The plaintiff claims of the defendant SEVEN HUNDRED AND FIFTY-FIVE DOLLARS (\$755.00) damages for the breach of a written agreement, entered into by him, through R. J. Spader, his agent, said agent acting within the scope of his authority, on the 23rd day of July, 1951, a copy of which is attached hereto and labeled "Exhibit D" and made a part of this complaint; and plaintiff further alleges that on or about the 23rd day of July, 1951, T. E. Malone, doing business as A. G. Motor Company, through and by his agent, R. J. Spader, said agent acting within the scope of his authority, sold to Eugenia Pollard and Clarence Jarman, residing on Route #1, Roberts-dale, Alabama, a 1949 model Studebaker truck, Serial Number R16A-24044, Motor Number 4R-16349, for a cash price of \$857.17, and for a total price of \$1170.00, which said total price included insurance, recording, and finance charges of \$312.83, and said \$1170.00 being payable by the Purchasers in 18 equal monthly installments of \$65.00, commencing one month from August 1, 1951, said purchase and sale being evidenced by a written agreement providing that title to the truck was to remain in the Seller or his assigns until all amounts were fully paid;

That on the 23rd day of July, 1951, T. E. Malone, doing business as A. G. Motor Company, through and by his agent, R. J. Spader, said agent acting within the scope of his authority, assigned the written contract evidencing the sale of said Studebaker truck to Eugenia Pollard and Clarence Jarman, marked "Without Recourse", a copy of which is attached hereto and labeled "Exhibit C" and made a part of this complaint, to the Commercial Credit Corporation;

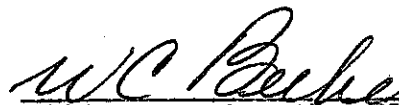
That in and by said written agreement labeled "Exhibit D", the defendant unconditionally guaranteed that the Purchasers under the agreement labeled "Exhibit C" would pay their obligations to the plaintiff; that the defendant would, upon demand by the plaintiff, pay to the plaintiff any amounts for which the Purchasers were in default in the agreement labeled "Exhibit C"; that the plaintiff purchased from the defendant for good and valuable consideration, to-wit: \$1170.00, the agreement labeled "Exhibit C";

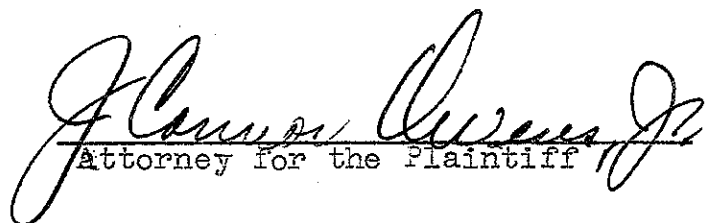
That on or about May 14, 1952, said Purchasers under the agreement labeled "Exhibit C" defaulted in the payment of monthly installments of \$65.00 upon said truck;

That on August 14, 1952, the Purchasers were in default of the payment of three monthly installments;

That demand for payment was made by the Commercial Credit Corporation to T. E. Malone, doing business as A. G. Motor Company;

That the defendant in breach of the agreement labeled "Exhibit D" refused to pay to the plaintiff the sum due under the agreement labeled "Exhibit C", all to the damage of the plaintiff.

  
Attorney for the Plaintiff

  
Attorney for the Plaintiff

# COMMERCIAL CREDIT CORPORATION

## ~~Exhibit A~~

### Retail Finance and Reserve Agreement

with

A.G. Motor Company

Dealer

Robertsdale

Alabama

CITY

STATE

We (Commercial Credit Corporation) will purchase from you (Dealer) and you will sell to us the acceptable notes, conditional sale contracts, chattel mortgages or lease agreements, herein called "Notes," acquired by you from retail purchasers of new or used passenger and/or commercial automobiles, herein called "Cars," and set up for you the reserves provided for herein, so long as this Agreement remains in effect. Notes will be for amounts computed in accordance with the applicable charts issued by us to you for use in territories in which you sell Cars.

At the time of purchase of Notes, we will set up the following reserves, for your account, based on the cash unpaid balance (cash selling price of Cars, less down payment):

NEW CARS	<i>Chart</i>	<i>12 Months</i>	<i>Over 12 Months</i>	
	Table H L 6 or equivalent	1½% plus \$8.00	1% plus \$8.00	
	“ A 5 S “ “	1½% “ 5.00	1% “ 5.00	
USED CARS	<i>Chart</i>	<i>12 Months</i>	<i>13 to 15 Months</i>	<i>Over 15 Months</i>
	Series “P”	1% plus \$10.00	1¼% plus \$10.00	1½% plus \$10.00

In addition, we will set up retroactively, for your account, the following reserves, based upon the number of Cars covered by Notes purchased by us from you during each 12-month period, commencing

March 8

and so long as this Agreement remains in effect:

Total Number of Cars Financed in 12-Month Period	Amount Per Car
50 to 99	\$1.00
100 to 199	2.00
200 to 299	3.00
300 to 399	4.00
400 and over	5.00

No reserves will be set up in respect to short-term note, demonstrator or other unusual or special plans, except as may be specifically agreed upon. Upon refund to a purchaser of the unearned portion of finance charges for prepayment of any Note, we will charge against your account the percentage of the reserves set up for your account that the amount refunded bears to the total charge, excluding the cost of insurance. As of

the 31st days of January, July and October, we will pay to you the amounts by which the reserves set up for your account exceed 3% of the total balances outstanding on all Notes purchased from you, provided that no payment need be made so long as any breach exists in the performance of the terms and conditions of any agreement between us.

This Agreement including the provisions on the reverse side hereof, which are incorporated herein and are a part hereof, shall be irrevocable in respect to all Notes purchased hereunder until payment in full thereof, but may be cancelled at any time as to future transactions by either party upon notice in writing to the other. This Agreement shall inure to the benefit of and bind your and our respective heirs, personal representatives, successors and assigns and any of our affiliated companies to which this Agreement or Notes purchased hereunder may be assigned. You also waive notice of non-payment, repossession and all other notices to which you might otherwise be entitled by law.

Kindly indicate your acceptance of this Agreement by executing the attached duplicate, returning it to us.

Accepted March 8, 19 48

A.G. Motor Co. (SEAL)  
(Corporation, Individual or Firm Name)

By T. E. Malone (SEAL)  
(Officer, Owner or Partner—Title)

COMMERCIAL CREDIT CORPORATION (SEAL)

By R. C. McCall (SEAL)  
President  
Mobile, Ala.  
CITY STATE

# Retail Finance and Reserve Agreement

## REPURCHASE, COLLISION, AND LOSS LIMITATION PROVISIONS

In consideration of our purchase of such Notes endorsed "Without Recourse," it is understood and agreed that if we repossess or recover any Cars covered by Notes, for any reason, you will, upon delivery to you at your place of business shown above, within 90 days after the maturity of the earliest instalment in respect thereto unpaid at the time of such delivery, repurchase such Cars, as is, from us for a cash amount equal to the unpaid balance owing on the Notes relating thereto. Until repurchased by you, we shall have the right to store such repossessed Cars on your premises without cost, and your possession of such Cars shall be merely as a bailee with the duty to safely store for us and redeliver such Cars to us on demand.

If any Cars repurchased by you hereunder have suffered material damage directly resulting from one collision, because of which the purchasers have failed to pay for the Cars, necessitating repossession, we agree to cause such damage to be repaired upon our written order, or we will make allowance to cover the actual cost to repair such damage, which shall include only the actual cost of parts and direct labor and shall not include any repairs or replacements which are not the direct result of and necessitated by such collision. Such allowance shall be reduced by the amount, if any, by which the retail resale value

of the Cars in repaired condition, excluding selling commission and overhead, exceeds the unpaid balances owing to us in respect to such Cars. The cost to us of such repairs or allowance therefor shall not exceed (a) the unpaid balance owing to us on the Notes relating to such cars, less the "as is" value at the time of repossession, or (b) the standard insurance appraisal value of such Cars at the time of repossession, whichever is lower.

For your further protection, we agree that your loss (if in excess of \$1,000.) arising out of cars repurchased by you hereunder, resold by you within 90 days from the date of delivery of such cars to you, shall not exceed 3% of the aggregate principal amount of all Notes purchased by us during each respective 12-month period during the time this Agreement is in effect commencing with the date of Acceptance hereof in which the Notes in respect to such Cars were purchased by us, plus an amount equal to the total reserve set up during the same period by us for you, whether or not held by us or paid over to you. Such loss shall be determined by the difference between the amount you realize from the sale of such repossessed Cars and the amount you pay us for the same. Upon our request, you will furnish all desired information and allow us to examine your records relating to such Cars to assist in determining such limit of loss.

Retail  
Finance and Reserve  
Agreement

with

Dated \_\_\_\_\_



COMMERCIAL CREDIT  
CORPORATION



Exhibit B  
AMENDMENT TO  
RESERVE AGREEMENT

Copy

Number \_\_\_\_\_

Dated March 8, 1948  
(Date of Original Agreement)

Robertsdale, Alabama  
(Address) (City) (State)

Date April 19, 1950  
(Date this Amendment is Executed)

Effective immediately upon the acceptance of this Amendment, anything to the contrary contained in any Agreements heretofore executed by us notwithstanding, you will set up, for our account, the following reserves in connection with each Note purchased by you:-

New Cars 12 mos. - 1% + \$8.00  
13-18 mos. - 1 1/2% + \$8.00  
24 mos. - 2% + \$8.00

Used Cars 12 mos. - 1 1/2% + \$10.00  
over 12 mos. - 2% + \$10.00

Except as expressly changed by this Amendment, all of the terms and provisions of the Reserve Agreement, and any Riders or Amendments thereto heretofore executed, shall remain and continue in full force and effect.

A. G. Motor Company (Seal)  
(Corporation, Individual or Firm Name)

T. E. Malone (Seal)  
(Officer, Owner or Partner-Title)

R. C. McCall  
(Witness)

Addressed to and accepted by

COMMERCIAL CREDIT CORPORATION at Mobile, Ala., Apr. 19 1950

Witness F. M. Huggins By R. C. McCall



# Dealer's Representation and Assignment

FOR VALUE RECEIVED, Undersigned hereby sells, assigns and transfers to Commercial Credit Corporation, its successors and assigns, all of his, its or their right, title and interest in and to the contract on the reverse side hereof and Car referred to therein, with power to take legal proceedings in the name of Undersigned or itself. Undersigned warrants that contract is genuine and what it purports to be; that said extension of instalment credit complies with all Federal and State laws, regulations and orders; that Undersigned has complied with all laws in respect to the sale of said Car; that down payment paid by Purchaser, as stated in contract, was in cash and not its equivalent, unless otherwise mentioned in the contract, that no part thereof was loaned directly or indirectly by Undersigned or any one connected with Undersigned to the Purchaser; that Undersigned had title free and clear of all encumbrances at the time of the execution of contract; that Purchaser is 21 years of age or older; that unless noted herein Undersigned has no reason to believe that Purchaser ever violated any laws concerning liquor or narcotics; that Purchaser's name was never rejected by any other finance company, bank or banker; that reference to contract appears on Certificate of Title or Bill of Sale, as required by State Law. Undersigned makes said warranties for the purpose of inducing Commercial Credit Corporation to purchase said contract, and if any such warranties should be untrue, Undersigned shall buy same from Commercial Credit Corporation, upon demand, and will pay therefor not less than the amount owing thereon, plus any and all costs and expenses paid or incurred by Commercial Credit Corporation in respect thereto, and said remedy shall be cumulative and not exclusive, and shall not affect any other right or remedy that Commercial Credit Corporation might have at law or in equity.

It is understood and agreed that Undersigned's liability with respect to contract or the automobile covered thereby is in accordance with one of the five plans shown below, Undersigned having indicated his election by checking the plan selected at the time of execution hereof:

1. Without Recourse. No liability to Undersigned.
  2. With Recourse. Undersigned guarantees the payment of said contract in accordance with its terms.
  3. Full Repurchase. Undersigned will repurchase the automobile upon repossession and will pay therefor the unpaid portion of the purchase price, subject to the Dealer's Protective Agreement No. 100.
  4. Partial Repurchase. Undersigned, upon repossession of the automobile, will pay the unpaid balance of the purchase price and receive the automobile, or in lieu thereof, will pay holder on demand \$....., and relinquish all rights to the automobile, without further obligation. In the event the automobile is not repossessed and the Purchaser is in default, Undersigned will pay the holder on demand any amount due on the purchase price up to the dollar sum mentioned above in this paragraph, and will relinquish all rights to the automobile, without further obligation. Undersigned hereby waives protection under Dealer's Protective Agreement No. 100 on this transaction.
  5. Limited Repurchase. If Purchaser fails to pay..... instalments. Undersigned will repurchase automobile upon repossession and will pay therefor the unpaid portion of the purchase price, subject to the terms of Dealer's Protective Agreement No. 100.
- Commercial Credit Corporation is hereby authorized to correct patent errors in said contract and all other papers executed, endorsed or assigned in connection therewith.

Signed and sealed this..... day of....., 19.....  
*A. G. Motor Co.* (Seal)  
 (Dealer Sign Here)  
*R. J. Spader (mgr.)* (Seal)  
 (Owner, Officer or Firm Member)

## Guaranty by Dealer or by Third Persons

Undersigned, jointly and severally, guarantee the payment, when due to any assignee hereof, of all amounts from time to time owing on said contract, and the payment, upon demand, of the entire amount owing on said contract in the event of default in payment by the Purchaser named therein. Undersigned waives notice of acceptance of this guaranty, notice of any extensions in time of payment, notice of sale of any collateral and all other notices to which Undersigned may be entitled by law and agree to pay all amounts owing hereunder upon demand without requiring any proceeding against Purchaser.

(Guarantor)

(Guarantor, Owner, Officer or Firm Member)

## EXHIBIT D

DEALER GUARANTY OF PURCHASER ACCOUNT BOOK 001 PAGE 195

Copy

Street Address.....

City. *Fairhope*.....State. *Ala*.....Date.....*7/23*.....19*51*.....Re: Name of Purchaser. *Clarence L. Lannan, Virginia Pollock*.....Address of Purchaser. *Rd. 1, Robertsdale, Ala*.....Automobile-Make. *Studebaker*.....Model. *Cab. Vch*.....Serial No. *R16A-24044*.....Amount of Note \$...*1170.00*.....Transaction Number *366-9669X*.....

Undersigned sent you for purchase security instrument (conditional sale contract, chattel mortgage, lease) and/or promissory note received by Undersigned from the above named purchaser in connection with the sale of the above mentioned automobile, and Undersigned assigned the security instrument without guarantee of payment and/or endorsed the said note without recourse.

You require Undersigned's unconditional guaranty that the purchaser shall pay his obligations under said security instrument and/or note, otherwise you will refuse to purchase the same, or if purchased will redraw upon Undersigned for the amount thereof, as agreed. Undersigned requests you to purchase or continue to hold such security instrument and/or promissory note, and in consideration thereof Undersigned hereby guarantees the prompt payment of the same and each and every installment thereof as the same shall become due and payable. Undersigned will immediately upon demand pay any amounts due, for the payment of which the purchaser is in default, under said security instrument and/or promissory note, without requiring proceedings to be taken by you, as against the purchaser. The liability of the Undersigned hereunder shall not be modified in any manner whatsoever by any extension that may be granted to the purchaser by any court in any proceeding under the Bankruptcy Act or any Amendment thereof and Undersigned expressly waives the benefit of any such extension. If the purchaser shall at any time be in default in payment of three (3) instalments of said note Undersigned will thereupon forthwith pay the entire unpaid balance owing on said note.

Undersigned hereby waives notice of the acceptance of this guaranty, and the Undersigned waives presentment, protest and demand, and notice of protest, and demand of such security instrument and/or note. You may extend the time or times of payment of said security instrument or note, or renew, rewrite or revise the same, or grant any other indulgences whatsoever to the said purchaser without notice to the Undersigned. Undersigned's obligations hereunder shall be unconditional and unqualified, and shall continue until the said security instrument and/or note is fully paid, performed and discharged.

Undersigned shall be liable for the full amount guaranteed hereunder, notwithstanding that such automobile might be damaged by collision, confiscated or converted, and you shall not be required to repossess said automobile or tender the delivery of the same to the Undersigned, it being intended that Undersigned become absolutely liable upon the default of the purchaser, without respect to any other agreements that may now or hereafter exist between you and Undersigned relative to any other automobiles, the sale of which by the Undersigned you have financed or may finance, unless specifically agreed otherwise in writing.

DEALER A. G. Meyer Co. (Seal)  
(Corporation, Individual or Firm Name)

By R. J. Zander (Seal)  
(Officer, Owner or Partner-Title)

R. C. McCall  
Witness

Addressed to and accepted by

Commercial Credit Corporation.....at Mobile, Alabama

By F. M. Higgins

FILED

6-22-53

ALICE J. DUCK, Clerk



IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN LAW NO. 1953 A

COMMERCIAL CREDIT CORPORATION

PLAINTIFF

VS.

T. E. MALONE, doing business  
as A. G. Motor Company,

DEFENDANT

AMENDED COMPLAINT

FILED 6-22-53

*Richard J. Beebe*  
CLERK

W. C. BEEBE  
ATTORNEY AT LAW

J. CONNOR OWENS, JR.  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA