

## MASTER DEALER AGREEMENT- Franchise Dealer

THIS DEALER AGREEMENT is made effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (dealership name), a \_\_\_\_\_ (state) \_\_\_\_\_ (type of entity, such as Corporation or Limited Liability Company) ("Dealer") having its principal place of business at the address specified below, and Flagship Financial Group LLC, a Delaware Limited Liability Company ("Flagship").

NOW, THEREFORE, intending to be legally bound hereby, the parties hereto agree as follows:

- 1) **Definitions.** As used herein, the following words shall have the following meanings:
  - a) "Agreement" means this Dealer Agreement, including any amendments hereto which may be made from time to time.
  - b) "Applicant" means a person that completes an Application submitted to Flagship for its consideration.
  - c) "Application" means a written, completed form of credit application acceptable to Flagship which, among other things, notifies the Applicant that the credit information the Applicant provides will be submitted to Flagship.
  - d) "Assignment" has the meaning ascribed to the term in Section 2.
  - e) "APR" means, with respect to a Contract, the annual percentage rate agreed upon by the Buyer and the Dealer and labeled as such in the Federal Box.
  - f) "Back-end Product" means, with respect to each Contract and Program, each product and service sold in connection with the sale of the Vehicle, including, theft deterrent products, surface protection products, Maintenance and Mechanical Repair Contracts, GAP, property insurance, credit insurance, debt protection or any other insurance products.
  - g) "Buyer" means, collectively, each person, including each co-buyer, who purchases a Vehicle on credit from the Dealer and enters into a Contract with Dealer in connection therewith.
  - h) "Buy Rate" means the interest rate at which Flagship agrees to purchase the Contract from the Dealer.
  - i) "Contract" means a retail installment contract, conditional sales contract, or other document evidencing the sale of a Vehicle and any Permitted Back-End Product included in the sale by the Dealer to a Buyer on installment credit.
  - j) "Default" means, with respect to a Contract, a breach of the Contract by the Buyer.
  - k) "Federal Box" means the segregated portion of the Contract labeled as the Federal Truth-in-Lending Disclosures.
  - l) "Holdback" means, with respect to a Contract, the amount calculated by Flagship and identified as such in any Purchase Notification, to be the portion of the Purchase Price that will be funded by Flagship pursuant to this Agreement but is subject to refund by the Dealer to Flagship upon contingencies identified in the Purchase Notification.
  - m) "Including" means including without limitation.
  - n) "Maintenance and Mechanical Repair Contract" means any optional mechanical breakdown protection, extended service contract or plan; extended warranty; warranty protection; mechanical repair agreement or other agreement that provides for the servicing or repair of the Vehicle, for which separate consideration is generally charged.
  - o) "Participation" means with respect to a Contract, an amount of money, calculated by Flagship, based upon the difference in finance charge calculated using the APR and the Buy Rate.
  - p) "Permitted Back-end Product" means with respect to any Program, each Back-end Product permitted under the applicable Program Announcement and applicable law.
  - q) "Person" means an individual, partnership, Limited Liability Company, association, corporation, or other entity.
  - r) "Program" means each set of terms and conditions upon which Flagship will purchase Contracts from the Dealer, as may be established, withdrawn, amended and modified by Flagship from time to time.
  - s) "Program Announcement" means with respect to any Program, the writing delivered by Flagship to the Dealer setting forth some, but not necessarily all, terms and conditions (including purchase conditions) applicable to such Program.
  - t) "Purchase Price" means, with respect to a Contract, the amount (not to exceed the Amount Financed.) Flagship agrees to pay the Dealer for such Contract and an assignment of the Dealer's rights therein, including its security interest in the Vehicle. The Purchase Price includes any amount identified as Holdback in the Purchase Notification.
  - u) "Purchase Notification" means, with respect to a Contract, Flagship's written notice (including electronic and facsimile transmission) to the Dealer advising the Dealer of the terms and conditions upon which Flagship will purchase the Contract.
  - v) "Repurchase Price" has the meaning ascribed to such term in Section 8.
  - w) "Required Documents" has the meaning ascribed to such term in Section 2.
  - x) "Vehicle" means the new or used motor vehicle serving as security for a Contract.
- 2) **Application; Sale and Purchase of Contracts.**
  - a) Flagship shall review Applications submitted to it by Dealer and make a credit decision. If Flagship, in its sole discretion, decides to make an offer to purchase the Contract, as executed by the Buyer and the Dealer, associated with the Application, Flagship shall send the Dealer a Purchase Notification. The terms and conditions set forth in the applicable Program Announcement, as modified by Flagship, shall be incorporated by reference into, and be a part of, the Purchase Notification. Dealer shall communicate Flagship's credit decision to the Applicant. Each party to this Agreement will cause to be delivered its own adverse action notices and any other notices required as a result of its credit review of an Application, as may be required by applicable law.
  - b) For each Contract purchased by Flagship, the Dealer shall execute and deliver to Flagship an assignment of the Contract in a form required by Flagship (the "Assignment"), and shall execute and deliver all other instruments and documents required for the purchase of a Contract by Flagship including an Application signed by the Applicant (collectively the "Required Documents"). Dealer agrees that it shall be bound by each signature on its behalf on a Contract, Assignment or related documents submitted to Flagship in the ordinary course of business, and Dealer further agrees that Flagship shall have no duty to inquire as to the signatory's employment status or authority to execute the Contract or other documents.
  - c) The Purchase Price for each Contract shall be set by Flagship pursuant to the applicable Program Announcement, and may be modified by Flagship provided such modification is in writing and delivered to the Dealer.

## MASTER DEALER AGREEMENT- Franchise Dealer

- d) The Purchase Price shall be paid to Dealer under the following conditions: (i) Dealer's compliance with and satisfaction of the terms, conditions, covenants, warranties and representations of this Agreement and the Assignment; (ii) Dealer's satisfaction, as determined in Flagship's sole discretion, of any requirements or conditions set forth in the Purchase Notification, or otherwise communicated to Dealer; (iii) Flagship's receipt of the Required Documents in form and substance reasonably satisfactory to Flagship. Flagship may refuse to purchase any Contract if all of the requirements for purchase as set forth in this Agreement are not satisfied within 30 days after the date of the Purchase Notification. Moreover, Flagship expressly reserves the right to choose not to fund the purchase of any Contract if, in Flagship's good faith judgment, there has been a material adverse change in the physical condition of the Vehicle securing the Contract or in the financial condition of the Dealer or any Buyer, or if Flagship becomes aware of any facts or circumstances that would constitute a basis for demanding repurchase of a Contract under Section 8 of this Agreement. Flagship will not fund the purchase of any Contract otherwise acceptable to Flagship under any Program after Flagship becomes aware that Dealer has become insolvent or that Dealer has become the subject of a voluntary or involuntary Chapter 7 Bankruptcy petition filing.
  - e) The Dealer is not required to sell and Flagship is not required to buy any Contract. Flagship may purchase Contracts offered by Dealer if acceptable to Flagship, in Flagship's sole discretion.
  - f) Any purchase of a Contract hereunder shall be without recourse to the Dealer, except to the extent provided in Section 2.d. with respect to a failure to satisfy a condition to the purchase of such Contract and Section 8 with respect to a breach with respect to such Contract of any covenant, representation or warranty set forth in Sections 4 and 5.
- 3) **Dealer's General Representations and Warranties.** Each of the representation and warranties set forth in this Section 3: (i) is material to Flagship's purchase of any Contract, (ii) shall be deemed remade and shall apply in its entirety each time Flagship acquires a Contract from Dealer, and (iii) is in addition to any other warranties, representations, agreements and covenants in this Agreement and any separate Assignment of the Contract to Flagship. No representation or warranty shall be deemed waived if Flagship buys any Contract with knowledge that any warranty or representation is breached. Dealer represents and warrants to Flagship that:
- a) Dealer is duly organized, validly existing, and qualified and authorized to transact business in, and is in good standing under the laws of the jurisdiction of its organization and each jurisdiction in which it performs or will perform its obligations under this Agreement or is otherwise exempt under applicable law from such qualification or authorization.
  - b) Dealer has the power, authority and legal right to execute, deliver, and perform this Agreement and its obligations hereunder. The execution, delivery and performance of this Agreement by Dealer have been duly authorized by all necessary action, and this Agreement is enforceable against Dealer in accordance with its terms, except only to the extent such enforceability may be limited by bankruptcy, insolvency, reorganization, and other laws relating to or affecting creditors' rights generally and by general equity principles.
  - c) No consent or approval of any other party or any governmental authority, bureau or agency is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement, except such as have been obtained prior to the event or circumstances for which it is required. There is no pending claim, cause of action, governmental action or litigation that, if determined adversely to Dealer, would affect Dealer's ability to perform its obligations under this Agreement. This Agreement will not result in Dealer's or any affiliate of Dealer's breach of any other agreement, instrument or relationship by which Dealer or any affiliate of Dealer is bound.
  - d) Dealer is, and throughout the term of this Agreement will remain, duly authorized and properly licensed under all applicable laws to transact business as presently conducted, and to perform the transactions contemplated under this Agreement, and Dealer has full power and authority to perform its obligations contemplated by this Agreement, including but not limited to, holding the required licenses to purchase and hold Contracts in the states in which it conducts business, except such licenses and authorizations as will be obtained prior to the event or circumstances for which it is required.
  - e) Dealer shall perform all of its duties and obligations under this Agreement, and with respect to each Application and each Contract, in compliance with all applicable laws. Without limiting the scope of the foregoing provision, Dealer hereby represents that it has and will comply with any and all requirements contained in the FCRA with respect to disclosing information contained within a credit bureau report to Flagship. To the extent Dealer utilizes a non-Flagship form of Contracts and/or Application, Dealer hereby represents and warrants that such form(s) comply with all applicable Laws.
- 4) **Dealer's Covenants.** Each of covenants and agreements set forth in this Section 4: (i) is material to Flagship's purchase of any Contract, (ii) shall be deemed remade and shall apply in its entirety each time Flagship acquires a Contract from Dealer, and (iii) is in addition to any other warranties, representations, agreements and covenants in this Agreement or any separate Assignment of the Contract to Flagship. No covenant or agreement shall be deemed waived if Flagship buys any Contract with knowledge that any covenant or agreement is breached. Dealer covenants and agrees that (and if the context so requires with respect to any Contract as of the date of the Assignment) it shall:
- a) promptly forward to the proper authorities all federal, state and local fees and taxes due in connection with the sale, finance and/or registration of each Vehicle, goods and services;
  - b) deliver to Flagship copies of all forms, documentation, and filing receipts evidencing Flagship's first priority perfected security interest;
  - c) complete the necessary forms and documents and deliver them, together with the appropriate fees, to those public officials responsible for issuing the certificate of title or registration and deliver to Flagship such evidence that Flagship's first priority perfected security interest is noted on the certificate of title or registration in jurisdictions where security interests are noted on certificates of title or registration;
  - d) upon request, sign any financing statement or other document to be filed by Flagship under the Uniform Commercial Code or other applicable law in order to more fully evidence the sale of Contracts to Flagship and to secure the Dealer's obligations hereunder to Flagship;
  - e) provide Flagship with written evidence satisfactory to Flagship, in its sole discretion, that insurance acceptable to Flagship has been secured by the Buyer, naming Flagship as loss payee and covering the Vehicle against fire, theft, collision, and comprehensive liability coverage;
  - f) notify Buyer, in writing, that neither Flagship nor the Dealer require insurance coverage to obtain credit, other than fire, theft, collision, and comprehensive insurance, and that any insurance may be obtained from anyone of Buyer's choice reasonably acceptable to Flagship;
  - g) not accept any payments on the Contract;
  - h) submit to Flagship credit information only on Applicants whose consent was first obtained in connection with an Application prior to sending such Application and credit information to Flagship;
  - i) advise each applicant in writing that his or her Application has been submitted to Flagship and provide such applicant with Flagship's address;
  - j) comply with all requirements of all applicable federal, state and local laws, rules and regulations, including but not limited to (i) the Truth in Lending Act, Regulation Z, the Equal Credit Opportunity Act, Regulation B, the Fair Credit Reporting Act, Gramm-Leach Bliley (Privacy Rule and Safeguards Rule) and all Federal Trade Commission Rules, including but not limited to the Red Flags Rule, applicable to the transaction contemplated by the Contract, and (ii) any

## MASTER DEALER AGREEMENT- Franchise Dealer

and all applicable laws of the state wherein the Contract was executed;

- k) not request or obtain a credit bureau report in Flagship's name;
- l) properly service the Vehicle in accordance with any Maintenance and Mechanical Repair Contracts sold by Dealer to Buyer and financed by Flagship;
- m) ensure that the goods do not have a "salvage or branded" title;
- n) notify Flagship if it becomes aware that any information provided to Flagship with regard to an Application, Applicant, Buyer or Contract, has or will become untrue, or was inaccurate or untrue at the time provided; and
- o) ensure that any signature on any Contract, Required Document, or other document purporting to be an authorized signature of the Dealer is the authentic signature of a person employed by Dealer and duly authorized to make such signature.

Each of the foregoing covenants and agreements made hereinabove is a material covenant and agreement which has induced Flagship to enter into this Agreement, and such covenants and agreements shall survive the execution, delivery, expiration or termination of this Agreement, shall survive the sale of each Contract to Flagship, and shall continue in full force and effect with respect to each Contract. For purposes of the foregoing covenants and agreements, the term "Dealer" includes any and all employees at Dealer's place of business involved with the taking and processing of an Application and the production and origination of any Contract.

- 5) **Representations and Warranties.** Each of the representations and warranties set forth in this Section 5 and in the Assignment (i) is material to Flagship's purchase of any Contract, (ii) shall be deemed remade and shall apply in its entirety each time Flagship acquires a Contract from Dealer, and (iii) is in addition to any other warranties, representations, agreements and covenants in this Agreement and any separate Assignment of the Contract to Flagship. No representation, warranty or covenant shall be deemed waived if Flagship buys any Contract with knowledge that any representation, warranty or covenant is breached. With respect to each Contract sold to Flagship hereunder, Dealer represents and warrants to Flagship that:

- a) Dealer furnished Flagship all credit information received by Dealer relative to the Buyer, Applicant and Contract and such information is to the best of Dealer's knowledge true, complete, accurate and free from any fraud. Notwithstanding the foregoing, in the event Flagship reviews a Credit Application containing a fraud or active duty alert [as such terms are defined in the Fair Credit Reporting Act, ("FCRA"), as amended by the Fair and Accurate Credit Transactions Act ("FACTA") and its implementing regulations], the Dealer will comply with all requirements of the FCRA relating to such alert(s). In addition, Dealer agrees to conduct any further due diligence requested by Flagship to resolve any "Red Flag" [as such term is used in the FTC's Red Flag Rule implementing FCRA, as amended by FACTA] Flagship determines in its sole discretion has arisen in connection with the transaction;
- b) no statements or information made or furnished to Flagship by Buyer, Dealer or any other person are untrue or incomplete;
- c) the Contract and any guaranty thereof is valid and genuine, correctly and fully states the terms of the transaction between Dealer and Buyer, and is free from any fraud;
- d) the Contract is legitimate, valid and binding in accordance with its terms;
- e) Dealer has the right to sell and assign the Contract to Flagship free and clear of all liens and encumbrances, and there exists no fact that would impair the Contract's validity or enforceability;
- f) the amount stated in the Contract to be due will in fact be due and payable at the time or times provided therein free of any claims, defenses, setoffs or counterclaims;
- g) Dealer has not made any representation, warranty, covenant or agreement not contained in the Contract;
- h) to the best of Dealer's knowledge, no suit or legal action or proceeding has been or will be brought or threatened to be brought by or against it or Flagship in connection with such Contract;
- i) the signatures of each Buyer on the Contract, as well as all Required Documents or other documents related to the transaction, are genuine, each Buyer's name as shown on the Contract is not fictitious or assumed, and Dealer has used reasonable means to verify each Buyer's identification and signatures, consistent with generally accepted methods used in the industry;
- j) each Buyer has, at the time of entering into the Contract, full legal capacity to enter into the Contract and is not a minor or incompetent;
- k) Buyer will be the owner and operator of the Vehicle that secures the Contract and is not buying the Vehicle for someone else who is not also a Buyer;
- l) the Vehicle described in the Contract and all Permitted Back-end Products, including a Maintenance and Mechanical Repair Contract, to be purchased with the Vehicle have been delivered to Buyer;
- m) the title to such Vehicle is not branded, including that it does not indicate that it is a salvaged vehicle, that the odometer has been rolled back, that such Vehicle has had significant flood or other damage, that it is a manufacturer buy-back under a lemon law or for some other reason, or any other fact that would have a significant adverse effect upon the value of such Vehicle;
- n) prior to Buyer signing the Contract, Dealer has informed Buyer of the costs of any Permitted Back-end Products it is including in the amount financed under the Contract, and Buyer has specifically consented to the purchase of these Back-end Products, including a Maintenance and Mechanical Repair Contract, GAP or insurance products;
- o) the down payment was paid in full, in cash (except for any manufacturer's rebate) or in trade equity, and no part was loaned or otherwise provided directly or indirectly by Dealer, and to the extent such down payment was paid by check such check has been deposited for collection with Dealer's bank before the Contract was sold to Flagship;
- p) Dealer had good and marketable title to the Vehicle and the right to sell it to Buyer and the Vehicle is free of all liens, claims and encumbrances, except those which will be in favor of Flagship;
- q) the Cash Price of the Vehicle as shown on the Contract is the "Cash Price" as defined by applicable law, and was not increased because the Vehicle is being sold in a credit transaction or to pay for any negative equity on a vehicle being traded-in or sold to the Dealer, nor was it increased because the Vehicle is being sold to a member of a protected class as defined under applicable state or federal law;
- r) the purchase price of the Vehicle stated on any Contract represents the fair retail market value of such Vehicle and has not been overstated or inflated in any way;
- s) any Back-end Product (except for credit-related or insurance products), including any Maintenance and Mechanical Repair Contract, sold under the Contract is offered for sale in comparable cash transactions at a price equal to that disclosed in the Contract and the cost of all Back-End Products (including credit related or insurance products) has not been overstated or inflated in any way, and each Back-end Product is legitimate and legally allowable in the applicable transaction;
- t) the sale and documentation of all types of Back-end Products, including insurance or Maintenance and Mechanical Repair Contracts, provided or arranged by Dealer comply with all applicable laws and regulations; all credit insurance sold by Dealer to Buyer is for the full Contract term (except Mechanical Repair and Maintenance Service Contracts); all disclosures required by law to be made concerning the Back-end Products were complete and accurate and

## MASTER DEALER AGREEMENT- Franchise Dealer

properly and timely made; and all documents required to be delivered at the time of signing the Contract for the Back-end Products (such as a copy of the certificate of insurance or proposed notice of insurance or other required documents) have been delivered;

- u) the Vehicle is covered by comprehensive liability and casualty insurance coverage naming Flagship as loss payee as required herein and in any Purchase Notification, and all other terms, covenants and conditions established herein and in the Purchase Notification have been satisfied, observed and completed;
- v) all disclosures required by law to be made prior to Buyer signing the Contract were complete, accurate and properly and timely made;
- w) on the date of the Contract, Dealer executed and delivered to each Buyer a completed copy of the Contract and any other document required by applicable law;
- x) Dealer has complied with all requirements of all applicable federal, state and local laws, rules and regulations, including but not limited to (i) the Truth in Lending Act, Regulation Z, the Equal Credit Opportunity Act, Regulation B, the Fair Credit Reporting Act, Gramm-Leach Bliley Act (Privacy Rule and Safeguards Rule), and all Federal Trade Commission Rules applicable to the transaction contemplated by the Contract, and (ii) any and all applicable laws of the state wherein the Contract was executed;
- y) the sale was made and the Contract executed by all parties at Dealer's place of business and was not a door-to-door sale within the definition of the Federal Trade Commission Trade Regulation Rule or any state consumer fraud or door-to-door sale acts, and the Contract was generated from a direct sale by Dealer and not from a third party;
- z) at the time of Contract signing and within the time periods necessary to prevent the avoidance of Flagship's lien in a bankruptcy proceeding, the Dealer completed all forms and documents necessary to perfect Flagship's valid and enforceable first priority security interest in the Vehicle as required by applicable law and forwarded them, together with all appropriate fees, to the public officials responsible for noting the lien on the title or in their records, and issuing the certificate of title or registration;
- aa) Dealer does not charge Buyer for filing fees or other costs paid by Dealer to public officials to perfect Flagship's security interest in the Vehicle, except where allowed by law, nor does Dealer make any type of charge, including documentary or processing charges, which Dealer does not make in any other cash transaction and unless it is allowed under applicable law;
- bb) Dealer has made no representations, warranties, statements, claims or comments to Buyer or anyone else regarding the finance charge, including a representation that Dealer has obtained the lowest interest/finance charge rate available; and
- cc) Dealer has written authorization from the Buyer to obtain and provide to Flagship all information regarding the Buyer or Applicant, including, but not limited to, credit bureau reports and any other non-public information; if Flagship provides Dealer with any information about Buyer or Applicant, Dealer shall not disclose such information or use it for any purpose other than to finance the purchase of Vehicle or goods and services from Dealer, or otherwise to carry out the purposes of this Agreement.

Each of the foregoing representations and warranties made hereinabove is a material representation and warranty which has induced Flagship to enter into this Agreement, and such representations and warranties shall survive the execution, delivery, expiration or termination of this Agreement, shall survive the sale of each Contract to Flagship, and shall continue in full force and effect with respect to each Contract. For purposes of the foregoing representations and warranties, the term "Dealer" includes any and all employees at Dealer's place of business involved with the taking and processing of an Application and the production and origination of any Contract.

### 6) Additional Dealer Agreements.

- a) Dealer also irrevocably appoints Flagship and each of its officers as Dealer's attorney-in-fact and with full power of substitution, to sign Dealer's name on any document necessary to properly assign to Flagship a Contract forwarded to Flagship for purchase, and to perfect the first-priority security interest granted to Flagship under this Agreement. Dealer will be bound by acts of Flagship in assigning said Contract and perfecting its security interest, and Flagship will not be liable because of any act or omission pertaining thereto. The Dealer further appoints Flagship and each of Flagship's officers as Dealer's attorney-in-fact, without any right of revocation and with full power of substitution, to endorse without recourse Dealer's name upon any and all notes, checks, drafts or other instruments which are made payable to Dealer with respect to a Contract purchased by Flagship. These grants are coupled with an interest.
- b) Upon acceleration of the balance due under a Contract due to Default, the Dealer agrees to pay Flagship upon demand a rebate on all Back-end Products sold under said Contract.
- c) If the respective Program Announcement incorporates Participation to the Dealer, Flagship shall pay any such Participation to Dealer by the 20th day of the following calendar month net of any outstanding monies owed Flagship. In no event shall the amount of Participation paid on any Contract exceed the maximum (if any) permitted by applicable law. Unless provided otherwise in the respective Program Announcement, Dealer shall reimburse Flagship for the Participation paid on any Contract (a) if the Contract is paid in full within 90 days following the date on which the respective Contract was funded or (b) if there is any Default under the Contract, any Vehicle securing the contract is repossessed or subject to any legal action, the purchaser files a proceeding in bankruptcy, or the debt evidenced by the Contract is charged off by Flagship prior to the due date of the third regularly scheduled monthly payment. In the event the Dealer does not have sufficient current month Participation to pay outstanding amounts owed Flagship, the Dealer shall reimburse or pay Flagship within ten days from the date of demand by Flagship. If Dealer does not pay the amount owed within ten days following demand, Flagship may offset the amount due from future payments due to Dealer hereunder.
- d) If the Dealer receives any sums representing the return or rebate of unearned premiums or charges in connection with any Back-end Product, including insurance policy, service contract, Maintenance and Mechanical Repair Contract or other contract for goods or services financed in connection with a Contract, Dealer shall immediately pay over any such sums: (a) to Flagship, in the event that there is any obligation under the Contract remaining unpaid and it is allowed under applicable law, or (b) to the Buyer, in the event that the Contract has been paid in full by the Buyer or is required under applicable law.
- e) The Dealer authorizes Flagship to initiate credit entries for the payment of amounts due hereunder from Flagship to the Dealer and debit entries for the payment of amounts due the Dealer to Flagship hereunder. Flagship may initiate such entries electronically, by paper means or by any other commercially accepted method to the checking account and the financial institution designated in Schedule A, attached hereto and by this reference made a part hereof. Schedule A may be amended from time to time upon the mutual consent of the parties, which mutual consent shall be evidenced by each party's signature on the Schedule A.
- f) The Dealer further understands and agrees that Flagship shall not give any notices to Applicants or Buyers on behalf of the Dealer under the Fair Credit Reporting Act, the Equal Credit Opportunity Act, or any other applicable law.

## MASTER DEALER AGREEMENT- Franchise Dealer

- 7) **Material Adverse Change Prior to Purchase of Contract.** Flagship may choose not to fund (i.e., purchase) an approved Contract if, in Flagship's good faith judgment, there has been material adverse change in the physical condition of the Vehicle, service or goods securing the Contract or in the financial condition of Dealer or the Buyer, or if Flagship becomes aware of facts that would constitute a basis for repurchase of the Contract under Section 8 of this Agreement.
- 8) **Dealer's Repurchase, Liability & Indemnity Obligations.**
- a) If (i) any representation, warranty, agreement or covenant contained herein or in the Assignment is breached or is untrue or inaccurate, (ii) any dispute, claim or defense concerning any act or omission by the Dealer, the underlying sale transaction, the nature, quality, or performance of the Vehicle, or the goods or services financed under any Contract, or any Back-end Product, including insurance, Maintenance and Mechanical Repair Contract, or the like sold by Dealer in connection with any Contract arises or is asserted; (iii) within 90 days from the purchase of a Contract Flagship does not receive proof (satisfactory to Flagship) that its first-priority security interest is perfected as required hereunder; or (iv) Dealer fails to comply with any covenant or agreement set forth herein or in any Purchase Notification, then, Dealer unconditionally agrees to repurchase from Flagship each Contract affected thereby and pay Flagship, upon demand, the full amount unpaid under the Contract, including but not limited to accrued but unpaid finance charges, and all other indebtedness then due from Buyer thereon, plus any Participation remitted to Dealer for the Contract, together with any reasonable costs, expenses and attorney fees incurred by Flagship or expended in attempts to enforce the terms of the Contract or this Agreement (the "Repurchase Price"). Flagship has no duty to repossess the Vehicle or return the Vehicle to Dealer as a condition to requiring Dealer to repurchase a Contract under this Section 8.
  - b) Upon receipt of payment of the Repurchase Price, Flagship's interest in the Contract and related Vehicle shall be sold and transferred to Dealer "AS- IS", "WHERE-IS and "with all faults" as of the date of the repurchase without any representation or warranty whatsoever as to condition, fitness for any particular purpose, merchantability, or any other warranty, express or implied, concerning the Contract, the Vehicle or other good or service and shall be without recourse of any kind against Flagship as applies to the Vehicle and the Contract. Until the Repurchase Price has been received by Flagship, Dealer shall not have any right, title or interest in either the Contract or the Vehicle.
  - c) All Contracts repurchased by Dealer hereunder shall be sold without recourse and without any warranties or representations, expressed or implied. Any liability of Dealer to Flagship hereunder or under the Assignment shall not be reduced even if a waiver, compromise, settlement, extension or variation of the terms of the Contract releases any Buyer. Flagship shall not be bound to exhaust its remedies against any security or any Buyer before being entitled to payment by Dealer.
  - d) Dealer agrees to defend, indemnify, protect, save, keep, and hold Flagship and its affiliates, and their respective shareholders, directors, officers, employees, representatives, agents, successors and assigns, harmless from and against any and all, claims, losses, liabilities, damages, injuries, costs, expenses, and other amounts (including reasonable attorney fees and other costs) arising out of or resulting from (i) Dealer's breach of this Agreement or an Assignment, ii) the failure by Dealer, whether known or unknown to Dealer, to comply with any representation or warranty of Dealer contained in this Agreement, or (iii) the actions of Dealer, or its directors, officers, employees, representatives, agents, servants, successors and assigns in connection with an Application, Contract, Applicant, Buyer, or transaction related to an Application submitted to or Contract purchased by Flagship under this Agreement.
- 9) **Holdback.** The Holdback amount, if any, will be determined by Flagship pursuant to the buying criteria in effect at the time of Flagship's purchase of a Contract and communicated to Dealer by Flagship through a Purchase Notification prior to such purchase.
- 10) **Records and Reports.** Dealer agrees to maintain complete and accurate records concerning the sale of each Vehicle given as security for each Contract purchased by Flagship, including, but not limited to, records of all other transactions affecting the Vehicle. The Dealer will, upon Flagship's request, promptly deliver to Flagship any such records or furnish to Flagship a copy thereof or abstracts there from within five (5) business days of such request, or sooner if there is a requirement to remit them to a regulator. Flagship's representatives may from time to time inspect Dealer's books and records. Dealer will furnish all information or documentation concerning the Dealer's financial and business affairs as Flagship may reasonably request within five (5) business days of such request, or sooner if there is a requirement to remit them to a regulator. If the Dealer fails to promptly provide the records requested by Flagship, Flagship may hold back any payments due Dealer hereunder in addition to all other remedies available to Flagship.
- 11) **Dealer's Business.** Dealer authorizes Flagship to investigate Dealer's credit worthiness and credit capacity from time to time, as Flagship may, in its sole discretion, deem necessary. Dealer shall promptly notify Flagship of any transaction negotiated for the bulk sale of Dealer's assets or of any other potential sale of part or all of Dealer's stock or assets, or of any reasonable likelihood that Dealer will cease doing business altogether, or of any reasonable likelihood of a change to Dealer's business or legal structure. If any such event occurs, whether or not Flagship receives the required notice from Dealer, Flagship may, in its sole discretion, hold back any payments due Dealer under Section 2 or pursuant to any applicable Program Announcement, and Dealer shall promptly pay all of Dealer's obligations to Flagship on demand. Dealer grants Flagship a security interest in all Contracts sold to Flagship hereunder together with the Dealer's security interest in any Vehicle and any Holdback as collateral security for Dealer's obligations to Flagship hereunder or otherwise. Notwithstanding the sale of any of Dealer's assets, Dealer shall ensure the continued perfection and priority of Flagship's security interest in the Vehicles and remain primarily liable for any obligations of Dealer to Flagship whether or not arising here from. Upon Flagship's request, Dealer shall deliver to Flagship copies of any agreements executed in connection with any of the foregoing within five (5) business days of such request.
- 12) **Responsibility for the Sale.** Dealer shall have the sole responsibility for the underlying sale transaction and for the nature, quality, and performance of all Vehicles, goods and services purchased from Dealer and financed under any Contract. Such responsibility includes any liability for any actions or omissions in connection with the sale of goods and services, for failure to deliver goods or perform services, for failure to properly handle, sell, or dispose of as agreed any down payment or trade-in or the proceeds thereof, and for any and all representations and warranties, express or implied, made in connection with such goods and services, whether by Dealer, the manufacturer or provider of the goods and services, or any third party. Dealer will make a good faith effort to resolve any disputes it may have with its customers concerning such goods and services and any representations and warranties with respect thereto.
- 13) **Advertising.** Dealer agrees not to identify Flagship in any advertising placed in any medium (including signs on Dealer's premises) without Flagship's prior written approval. Regardless of Flagship's consent to the use of its name in advertising, as set forth in Section 7, Dealer agrees to indemnify Flagship for any losses or expenses, including attorney's fees and costs of litigation, suffered by Flagship because of any claim, defense or otherwise asserted against Flagship as a result of any advertising placed by Dealer.

## MASTER DEALER AGREEMENT- Franchise Dealer

- 14) **Offset.** Flagship may deduct from any deposit, security, funds, or obligation due Flagship any amount the Dealer owes Flagship.
- 15) **Sales Tax Credit for "Bad Debt".** Dealer acknowledges that the laws of certain states permit a credit or refund for sales tax financed by installment sale contracts that go into default. Dealer agrees that all of its right, title and interest in any funds related to Contracts purchased by Flagship hereunder are hereby assigned, transferred and relinquished to Flagship. Specifically, unless prohibited by law, Dealer agrees that it has not and will not claim a credit or refund with respect to any such Contracts, and it relinquishes to Flagship all right to claim such credit or refund. Dealer agrees that any such credit or refund mistakenly received by Dealer shall be remitted to Flagship to be applied to the Buyer's obligations under applicable Contract. Dealer agrees to furnish any and all documentation or information that Flagship may reasonably request to support any claim for such refund or credit.
- 16) **Refinancing.** Neither Dealer nor any of its affiliates will directly or indirectly encourage or solicit any Buyer to refinance a Contract sold by Dealer to Flagship without Flagship's prior written consent; provided, however, that Dealer and any of its affiliates are not precluded from soliciting any such Buyer to trade in the Vehicle for the purpose of purchasing another vehicle. Nothing herein shall be deemed to in any way interfere with the Buyer's right to prepay his or her obligation under any Contract.
- 17) **Independent Contractor Relationship; Dealer Not Flagship's Agent or Representative.** The relationship between Dealer and Flagship is that of an arm's length seller and purchaser of consumer installment sale contracts, or independent contractor, and shall not be construed as a joint venture, partnership or principal-agent relationship or contractual servicer of consumer installment sale contracts, and there is no intention to create any partnership, joint venture, principal-agent or servicer relationship. This Agreement shall not be construed as authority for either party to act for the other in any agency or any other capacity or to make commitments of any kind for the account of or on behalf of the other, except as expressly set forth in this Agreement. Under no circumstances shall any of the employees of one party be deemed to be employees of the other party for any purpose. Dealer is not granted any express or implied right to bind Flagship in any manner whatsoever.
- 18) **Confidentiality.** The parties agree to comply with all information privacy and data protection laws, rules and regulations, as applicable now or in the future.
- a) Without limiting the generality of the preceding sentence, in the course of performing under this Agreement, Flagship and Dealer may disclose to each other or may receive information that meets the definition of "nonpublic personal information" ("Nonpublic Personal Information") in the regulations promulgated under Title V of the Gramm-Leach-Bliley Act of 1999, 15 U.S.C. 6801 to 6809, at 16 C.F.R. Part 313, as each may be amended from time to time (collectively, the "GLB Act Privacy Regulations"). The parties agree that they will not use or disclose such Nonpublic Personal Information to any nonaffiliated third party except:
- i) in the ordinary course of business to carry out the purpose or purposes for which the Nonpublic Personal Information is disclosed to such party under an exception to the GLB Act Privacy Regulations;
- ii) to the extent necessary to carry out the purpose or purposes for which such information is disclosed; or
- iii) as permitted by applicable law and this Agreement. The parties further agree that any affiliate of either party shall use and disclose Nonpublic Personal Information to any nonaffiliated third party only to the extent that the recipient of such information may use and disclose such information. If Nonpublic Personal Information is disclosed to Flagship or Dealer in connection with marketing, joint marketing or other promotional activities, whether by written or oral agreement, Flagship and Dealer shall use and disclose such Nonpublic Personal Information only (i) to the extent necessary to carry out the activity or activities for which such Nonpublic Personal Information is disclosed to the party, (ii) in the ordinary course of business to carry out the purpose or purposes for which the Nonpublic Personal Information was disclosed to the party under an exception to the GLB Act Privacy Regulations or other applicable law, or (iii) as permitted by law and this Agreement
- b) Each party shall maintain physical, electronic and procedural safeguards in compliance with applicable laws to protect the Nonpublic Personal Information received from the disclosing party to:
- i) ensure the security and confidentiality of such information;
- ii) protect against anticipated threats or hazards to the security or integrity of such information; and
- iii) protect against unauthorized access or use of such information that could result in material harm or inconvenience to the consumer, including, without limitation, maintaining appropriate safeguards to restrict access to Nonpublic Personal Information to those employees, agents or service providers of the receiving party who need such information to carry out the purpose or purposes for which such information was disclosed.
- Each party shall comply in all respects with all applicable requirements of the GLB Act Privacy Regulations, including the Safeguards Rule, 16 C.F.R. Part 314, as amended from time to time. Dealer agrees to immediately notify Flagship in the event that it reasonably suspects that Nonpublic Personal Information, or any other sensitive Applicant, Buyer or other consumer's information disclosed to it by Flagship has been or may have been subject to unauthorized internal or external access, use or disclosure and could result in material harm or inconvenience to affected consumers.
- 19) **Termination.** Flagship or Dealer may terminate this Agreement at any time upon written notice to the other party, effective immediately. Such termination shall in no way affect, and this Agreement shall remain fully operative as to, any transactions entered into, or rights granted or obligations incurred, before termination. No termination shall relieve Dealer or Flagship from any responsibility or obligation hereunder with respect to any Contract sold or proposed to be sold by Dealer to Flagship hereunder before such termination. Upon termination hereof, Dealer shall immediately return to Flagship all forms, documents, software, training materials, equipment, and any other materials provided by Flagship to Dealer.
- 20) **Survival.** It is understood and agreed that the covenants, agreements, terms, indemnifications, remedies, representations and warranties set forth in Sections 3, 4, 5, 8, 10 and 18 shall survive the execution, delivery, expiration or termination of this Agreement for any reason, the delivery of each Contract and the purchase or repurchase of any Contract and shall continue in full force and effect with respect to each Contract.
- 21) **Amendment.** This Agreement may be amended only in the manner described in this Section 21. Flagship may propose in writing to Dealer to amend this Agreement. If after receipt of such written proposal, the Dealer offers to sell a Contract to Flagship, such offer shall constitute Dealer's assent to such amendment. Such amendment shall be deemed effective with respect to the Contract first offered thereafter until subsequently amended hereunder. The effectiveness of an amendment made in this manner shall not be affected by any subsequent repurchase, revocation or appointment (or like event) with respect to such Contract. The Dealer may not amend this Agreement except pursuant to a writing signed by an authorized officer of Dealer and Flagship.

## MASTER DEALER AGREEMENT- Franchise Dealer

- 22) **Notices.** Notices under this Agreement must be in writing, and shall be personally delivered, sent by facsimile (so long as there is confirmation of transmission and receipt), sent by nationally recognized overnight courier, or sent first class, postage prepaid mail to the appropriate party at the address shown above for Flagship and below for Dealer, or such other address as is communicated by one party to the other as provided hereunder. Notices shall be effective when so personally delivered or sent by facsimile (with confirmation of delivery and receipt), the next business day when sent by nationally recognized overnight courier, or 5 days after placing in the U.S. Mail.
- 23) **Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania without regard to its laws relating to conflict of law.
- 24) **Miscellaneous.** Except as otherwise provided in this Agreement, nothing in this Agreement, express or implied, is intended or shall be construed to create any rights in, or confer any benefits upon, any person or entity other than the Parties to this Agreement. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party. No failure or delay by a party to insist upon the strict performance of any term or condition under this Agreement or to exercise any right or remedy available under this Agreement at law or in equity, and no course of dealing between the parties, shall imply or otherwise constitute a waiver of such right or remedy, and no single or partial exercise of any right or remedy by any party will preclude any other or further exercise thereof. The remedies herein provided are cumulative and not exclusive of any remedies provided by law or equity. If any provision of this Agreement shall be or become wholly or partially invalid, illegal or unenforceable, such provision shall be enforced to the extent that it is legal and valid and the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby, except where such enforcement is in manifest violation of the present intention of the parties reflected in this Agreement. This Agreement shall be binding upon the parties, their representatives, heirs, beneficiaries, and successors. Dealer shall not assign any interest in this Agreement and any purported assignment shall be void. Flagship may assign all or part of this Agreement to any of its affiliates or any third party or grant a security interest therein without notice to the Dealer. This Agreement shall be effective only upon acceptance and execution by an authorized representative of Flagship. Section headings are included in this Agreement for reference purposes only and do not affect the interpretation of this Agreement. This Agreement, including the Assignment, any addenda, schedules, or exhibits referenced herein or attached hereto, constitutes the entire agreement between the parties relating to the subject matter hereof. In the event of a conflict or inconsistency between this Agreement and an Assignment, this Agreement shall control. This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together will constitute one and the same instrument. This Agreement may be executed via facsimile, and such facsimile signatures shall have the same force and effect as original signatures.
- 25) **WAIVER OF JURY TRIAL. THE PARTIES HERETO RECOGNIZE AND AGREE THAT ANY CLAIM, DISPUTE OR OTHER CONTROVERSY BETWEEN THE PARTIES UNDER THIS AGREEMENT, ANY SCHEDULE OR ADDENDA HERETO, OR ARISING OUT OF THE RELATIONSHIP CREATED BY THIS AGREEMENT OR ANY SCHEDULE OR ADDENDA HERETO, WOULD INVOLVE DIFFICULT AND COMPLEX ISSUES THAT WOULD BE MORE APPROPRIATE TO TRY BEFORE A JUDGE WITHOUT A JURY. THE PARTIES DESIRE TO MINIMIZE THE DELAYS, TIME AND EXPENSES THAT ARE INHERENT IN JURY TRIALS AND TO EXPEDITE THE RESOLUTION OF ANY SUCH CLAIMS, DISPUTES AND CONTROVERSIES. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED ON THIS AGREEMENT, OR ANY TRANSACTIONS CONTEMPLATED HEREIN, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, ANY SCHEDULE OR ADDENDA OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO OR TO ANY RELATED DOCUMENT. This provision is a material inducement for the parties entering into the subject transaction.**

By DEALER:			
Name	Signature	Title	Date
Legal Name	DBA		
Physical Address	City	State	Zip

By FLAGSHIP FINANCIAL GROUP LLC:			
Name	Signature	Title	Date