



## Participating Dealer Financing Agreement with Collins Community Credit Union

THIS AGREEMENT (“Agreement”) is entered into between \_\_\_\_\_, hereinafter referred to as “Dealer”, and Collins Community Credit Union, hereinafter referred to as “Credit Union” and sets forth the agreement of the parties as follows:

### 1. Purchase of Contracts.

Dealer shall from time to time offer to sell to Credit Union certain Contracts entered into by Dealer with its customers (“Buyers”). Credit Union in its sole discretion may refuse to purchase any Contract in accordance with Credit Union’s normal standards of creditworthiness, or if any required documents are incomplete or deficient in any way. All applications and documents, including the Contract, shall be in such form as prescribed by Credit Union, and as may be changed from time to time. Credit Union shall buy Contracts from Dealer by paying the Purchase Price to the Dealer. Credit Union is authorized to accept applications and assignments of Contracts from any person holding him or herself out to be a representative of Dealer. Credit Union shall pay the Purchase Price to Dealer on the Purchase Date.

“Contract” means a retail sales contract security agreement and disclosure statement between Dealer and a Buyer for the purchase of an automobile or light duty truck that is acceptable to Credit Union both as to form and content. All Contracts shall indicate that the finance charge was calculated using the simple interest method.

“Purchase Date” means the date that a Contract is purchased.

“Purchase Price” means the outstanding principal balance of a Contract as of the Purchase Date.

For each Contract purchased, Credit Union also agrees to pay Dealer an Dealer Reserve Fee in accordance with a fee schedule established by Credit Union, which fee schedule may be changed by Credit Union from time to time. The Dealer Reserve Fee will be deposited to Dealer’s account at Credit Union or sent to Dealer on a monthly basis or more frequently at the option of Credit Union.

### 2. Compliance with Government Laws and Regulations.

- a. Application for Credit. Dealer warrants and represents that it is familiar with the requirements of the Equal Credit Opportunity Act (15 U.S.C. §1691, et seq.), and with Regulation B (12 C.F.R. 202) promulgated thereunder, and that it will act in regard to every aspect of any credit transaction in which it participates under this Agreement, in strict conformity with the requirements of such act and regulation. Dealer agrees that it will not discourage applications on account of any prohibited basis stated in Regulation B at Section 202.2(z).

- b. Dealer warrants and represents that it is familiar with the requirements of the Truth in Lending Act (15 U.S.C. §1601, et seq.), and with Regulation Z (12 C.F.R. 226) promulgated thereunder, and Dealer agrees that it shall have exclusive responsibility for making disclosures which are required by said act and regulation because of Dealer's participation in any transaction in which it participates under this Agreement.
  - c. Dealer further agrees to comply with all laws and regulations, including but not limited to, those laws and regulations with respect to the application for and extension of credit to consumers, whether such laws and regulations are presently existing or hereafter adopted.
3. Dealer's Warranties, Representation and Covenants.

Dealer agrees and does hereby warrant, represent and covenant that:

- a. Each Contract offered to Credit Union shall have been acquired by Dealer in the ordinary course of its business and shall be a valid, enforceable deferred payment obligation for the amounts set forth therein;
- b. At the time offered to Credit Union, each Contract will be secured by a purchase money security interest in the vehicles covered thereby, free and clear of all other liens, charges, encumbrances and security interest.
- c. Each purchaser named in each Contract will be bona fide, and of good credit standing and will have legal capacity to make such Contract;
- d. Each Contract will not be subject to cancellation or to any dispute, defense, offset or counterclaim;
- e. Each Contract sold and assigned to Credit Union under this Agreement, and the underlying sales transaction giving rise thereto, will be lawful, will not have been made in violation of any federal or state law, directive, rule of regulation then in effect;
- f. At the time of sale by Dealer, each vehicle, including all optional equipment installed therein, sold pursuant to each Contract shall comply fully with all legal codes and standards;
- g. Dealer will have sold and delivered the vehicle described in each such Contract and will have installed all optional equipment agreed in writing to be installed therein;
- h. Dealer will have fully and completely perform all of its obligations under each Contract assigned to Credit Union;
- i. Dealer will fully and completely perform all obligations set forth in any written warranty given to the purchaser, or otherwise required by law;
- j. The down payment shown in each Contract will have been made in cash or its equivalent trade-in value and no part of such down payment will have been loaned directly or indirectly by Dealer to the Buyer; the value of any goods taken in trade shall not exceed the fair market value for such goods at the time and place of receipt;
- k. At the time of assignment of each Contract to Credit Union, Dealer shall have the right to make such assignment;
- l. All statements, representations, descriptions, figures and information contained in each contract, the Buyer's application, or otherwise supplied to Credit Union by Dealer in connection with the assignment of any Contract, shall be materially true, correct and complete in all respects;

- m. All representations, warranties or promises made to the Buyer shall be expressly set forth in each Contract or documents attached thereto; or shall be furnished to Credit Union promptly upon request;
  - n. Each Contract offered to Credit Union for purchase and assignment shall be delivered to Credit Union no later than 10 days after delivery of the vehicle to the purchasers; and
  - o. To the best of Dealer's actual knowledge each vehicle sold pursuant to a Contract assigned to Credit Union shall have been purchased for the principal use of the person(s) named in the credit application and whose signature(s) appear on the Contract and shall not have been purchased for on behalf of others.
4. Violation of Dealer's Warranties, Representation and Covenants.  
Any intentional or unintentional misrepresentation or misstatement of any material fact contained in or relating to any Contract or any other misrepresentation or breach of any warranty in this Agreement shall be grounds for Credit Union to reassign such Contract to Dealer, regardless of whether any such Contract is assigned with or without recourse. Dealer's failure to fully disclose on any Contract the use of any cash rebate as part of the Buyer's down payment shall be considered a misstatement of a material fact. In the event any Contract is reassigned by Credit Union under terms of this paragraph, Credit Union shall be entitled to payment in full by Dealer of the unpaid principal balance plus interest accrued under the terms of the Contract, plus all reasonable attorney's fees, and cost of repossession. Such payment by Dealer shall be due and payable upon demand by Credit Union, at the time of reassignment to Dealer. Dealer unconditionally guarantees the authenticity of all signatures appearing on all motor vehicle retail installment contracts and all supporting or related documents submitted to Credit Union. If for any reason said Contract be judicially rescinded or be judicially unenforceable by reason of any claim or defense which Buyer could assert against the Seller, Dealer shall forthwith refund and pay to Credit Union the full amount paid by the Credit Union to purchase such Contract, together with any other amounts which Credit Union has been required to refund to Buyer, and Dealer agrees to indemnify Credit Union for any loss, including expenses, costs and reasonable attorney fees sustained by Credit Union in connection with or as a result of any such judicial proceedings.
5. Security.  
Dealer shall cause the lien Credit Union to appear on the title for the vehicle sold under the Contract and deliver said title to the Credit Union. If this condition is not met to the satisfaction of Credit Union within 2 weeks after the Purchase Date, Dealer shall indemnify and hold Credit Union harmless from any loss or claims arising from the Contract and shall repurchase the Contract from the Credit Union for the amount of the Purchase Price, plus accrued interest on the Purchase Price. In addition, Dealer shall pay Credit Union's costs, including attorney fees.
6. Insurance Coverage.  
Prior to assignment to Credit Union of each Contract and prior to delivery of each vehicle sold under any Contract assigned hereunder by Dealer to Credit Union, Dealer will verify the dollar amount of such collision and comprehensive insurance coverage on each vehicle. Collision coverage shall be at least for the Contract amount. Dealer agrees to provide a completed insurance verification form to Credit Union at the time of assignment of each Contract, which shall specify the Buyer's insurance agent's name, address, and phone number, the underwriting

insurance company policy, if possible, and types of coverage and limits of coverage, including the deductible amount. Deductible shall not exceed \$500. Credit Union shall be named as lien holder and loss payee in each policy. Credit Union shall have the sole right and authority to make and adjust any claim under any Contract assigned to Credit Union. Credit Union reserves the right to take any and all actions with respect to insurance coverage and claims on any such motor vehicle which Credit Union deems necessary to protect its own rights and remedies, without affecting Dealer's obligations hereunder.

7. Purchase Agreement.

Dealer will assign to Credit Union without recourse, unless otherwise specified on an individual basis, all contracts purchased by Credit Union and Dealer will make suitable and proper entries on their books showing the absolute sale of contracts to Credit Union. Credit Union's title to contracts and the merchandise covered thereby. Credit Union shall make and receive all collections from Buyers on contracts and Dealer will not accept payments thereon unless specifically requested to do so by Credit Union as their agent. Credit Union may endorse or cause to be endorsed Dealer's name upon checks and other forms of payment received in respect to Contracts and otherwise sign and endorse Dealer's name on any contracts or documents to carry out the intent of this agreement. Credit Union may renew and extend the time of repayment on Contracts and compromise or adjust claims or Contracts or merchandise covered thereby without affecting Dealer's liability hereunder.

8. Payment of Rebates.

In the event of any Buyer's cancellation of extended warranty, credit life or disability insurance premiums or any other items cancelled by Buyer during the term of contract, Dealer agrees to pay Credit Union, upon request, 100% of any sums rebated. If the Buyer prepays a Contract, any refund of premium(s) shall be paid directly to the Buyer.

9. Repayment of Dealer Reserve Fee.

Dealer shall refund to the Credit Union the Dealer Reserve Fee if, within 90 days of the execution of a Contract: (1) the Contract is paid in full, or 2) the vehicle is repossessed due to nonpayment of the Contract. On a monthly basis, Credit Union shall provide Dealer with a report identifying the amount of Dealer Reserve Fee owed to the Credit Union. On or before the tenth business day of the month following said report, the Credit Union shall deduct said Dealer Reserve Fee from Dealer's account at the Credit Union or by withdraw from Dealer's account at another financial institution.

10. Indemnity Agreement.

Dealer shall indemnify and hold Credit Union harmless from and against any claims, losses, expenses or costs of any nature, including attorney's fees, which result, or which arise in any manner: (1) from Dealer's performance of, or failure to perform, any of the duties described in this Agreement; (2) or from the Dealer's violation or alleged violation of governing law, without restriction to the acts and regulation specified in this Agreement; (3) or from any other cause of any nature which arises on account of Dealer's participation in transactions under the terms of this Agreement. It is understood that Credit Union would not enter into this Agreement in the absence of Dealer's agreement to indemnify and hold harmless, as herein described, and it is the intent of the parties that such agreement to indemnify and hold harmless be given the broadest possible construction. It is recognized and agreed that such agreement to indemnify

and hold harmless includes, without limiting the generality of such provision, all expenses and costs, including attorneys' fees, which result from any administrative inquiry by any governmental agency, including the Federal Trade Commission.

11. Termination.

This Agreement may be terminated upon written notice by either party; however, as to every Contract entered into between Credit Union and Dealer's customers prior to Credit Union's receipt of such written notice, Dealer's agreements contained herein shall continue to be effective until the expiration of five (5) years following repayment of all sums owed to Credit Union by pursuant to a Contract.

12. Total Agreement.

This Agreement, which Dealer represents to have been duly authorized by appropriate corporate authorization, contains the entire agreement of the parties, and no agreements exist which are not expressly stated herein. This Agreement shall be governed by the laws of the State of Iowa. This Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and/or assigns of the parties hereto.

THIS AGREEMENT is accepted through execution by the parties on \_\_\_\_\_.  
(Month, Day, Year)

COLLINS COMMUNITY CREDIT UNION

\_\_\_\_\_  
By: Bruce Taylor, VP Consumer Lending

DEALER: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

Dealer Account Information for ACH Withdrawal:

Financial Institution: \_\_\_\_\_

Account Number: \_\_\_\_\_

Routing Number: \_\_\_\_\_

## Dealership Responsibility in Accordance with the Military Lending Act (MLA)

It is the responsibility of the dealership to complete the required steps to ensure that all required steps have been completed in accordance with all laws and regulations as they relate to the Military Lending Act (MLA).

In order to ensure that your dealership is in compliance with federal law, please make sure to adhere to the following:

You must provide to each covered borrower the following:

- A statement of the MAPR applicable to the extension of credit; (oral and written)
- Any disclosure Regulation Z requires made in accordance with the applicable Regulation Z provisions; and
- A clear description of the payment obligation, which can be either a payment schedule for closed-end credit, or account opening disclosures consistent with Regulation Z for open-end credit, as applicable. (oral and written)

You must provide the Regulation Z disclosures to the covered borrower before consummation of a closed-end transaction and before the first open-end transaction. *See* 12 CFR § 1026.17(b) and 12 CFR § 1026.5(b)(1)(i).

### **What information must the statement of the MAPR contain?**

The statement of the MAPR need not contain the MAPR for the transaction as a numerical value or dollar amount of charges in the MAPR. Instead, it must describe the charges you may impose, consistent with the Final Rule and terms of the agreement, to calculate the MAPR. The Final Rule provides a model statement. You may use the model statement or a substantially similar statement. You may include the statement of the MAPR in the transaction agreement. You need not include it in advertisements.

### **What form must the disclosures take and how must you deliver them?**

The disclosures must be written and provided in a form the covered borrower can keep. *In addition to the written disclosures*, you must orally provide the information in the statement of MAPR and in the

description of the payment obligation. You may do so in person or via a toll-free telephone number. If applicable, the toll-free telephone number must be on the application or on the written disclosures. You must provide the disclosures for a refinance or renewal of a covered transaction if it is considered a new transaction for which Regulation Z requires disclosures.

**Regulatory Tip:** The Final Rule contains the following model statement of the MAPR—

“Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36 percent. This rate must include, as applicable to the credit transaction or account: The costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit card account).”

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Authorized Signature – Automotive Dealer/Title/Date