



## Dealer Agreement Checklist

- 1. Signed Dealer Agreement
- 2. Signed Dealer Application
- 3. EFT (ACH) Form
- 4. Copy of Voided Check
- 5. Copy of DMV or Dealer License
- 6. Copy of Finance License or Business License
- 7. Copy of Sales Tax License or Sellers Permit
- 8. Certificate of Incorporation (if applicable)
- 9. Copy of Surety Bond (Insurance)
- 10. Three (3) months of the most recent dealership's bank statements
- 11. Agreement of Entitlement (CA Only)

**\*\*\*ALL FORMS MUST BE SIGNED BY THE PRINCIPAL OWNER\*\*\***

We look forward to doing business with you here at Apex Auto Lending.  
If you have any questions, please contact your Territory Manager, or email us at [support@apex.loans](mailto:support@apex.loans)



## Dealer Application

### Franchise and Independent Dealers

Corporation Name/Legal Entity \_\_\_\_\_

DBA/Dealership Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

Physical Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Primary Fax Number \_\_\_\_\_

Principal Owner \_\_\_\_\_ Email \_\_\_\_\_

General Manager \_\_\_\_\_ Email \_\_\_\_\_

Title Clerk \_\_\_\_\_ Email \_\_\_\_\_

Finance Manager/Director \_\_\_\_\_ Email \_\_\_\_\_

Email for Funding Notices \_\_\_\_\_

Retail Units Sold (per month) New \_\_\_\_\_ Used \_\_\_\_\_

Top three Lenders 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_

Flooring Company \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Contact \_\_\_\_\_

Dealer Track ID \_\_\_\_\_ Route One ID \_\_\_\_\_ OttoMoto ID \_\_\_\_\_

### Independent Dealers Only

Principal Owner's SSN \_\_\_\_\_ Home Phone Number \_\_\_\_\_

Home Address \_\_\_\_\_

Time in Business (Current Location) \_\_\_\_\_ Time in Business (prior location) \_\_\_\_\_

Type of Dealership Location: Standard Lot \_\_\_\_\_ Warehouse \_\_\_\_\_ Other (explain) \_\_\_\_\_

Website \_\_\_\_\_

You make the above representations, which are certified correct, and authorize us and affiliated entities, to obtain your consumer credit reports and verify flooring information as necessary and appropriate. You agree that we and any assignee may monitor and record telephone calls to assure the quality of our service or for other reasons. You agree that we and our assignees may try to contact you in writing, by e-mail, or using prerecorded/artificial voice messages, text messages, and automatic telephone dialing systems, as the law allows. You also agree that we and our assignees may try to contact you in these and other ways at any address, email or telephone number you provide us, even if the telephone number is a cell phone number or the contact results in a charge to you.

Authorization/Signature of Principal Owner

Name and Title (print)

Date

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



## Dealer Agreement

This Dealer Agreement, dated as of the date set forth on the signature page, hereof, is entered into by and between Apex Auto Lending, and the undersigned automobile dealer (“Dealer”). The Dealer proposes to submit to Apex Auto Lending for purchase, contracts and/or security agreements evidencing installment sales of goods and/or services to Buyers, including their successors in interest, in connection with the retail credit sales of motor vehicles (together with all related accessories and equipment, the “Vehicle”), and security interests in the goods and services thereof (hereinafter collectively the “Contracts”). The terms conditions, representations and warranties (collectively, the “Provisions”) in this Dealer Agreement, in any separate contract assignment form and in any other related written agreement (e.g. marketing materials, etc.) between Dealer and Apex Auto Lending (collectively, the “Agreement”) apply to all Contracts submitted to Apex Auto Lending. For the purpose of the Agreement, the term “Buyer” refers to any person or other legal entity that purchased a motor vehicle from Dealer, and any co-buyer, co-signer, or guarantor, the singular includes the plural

### 1. Sale and Purchase of Contracts

- a. Apex Auto Lending may from time to time purchase Contracts from Dealer written or completed on forms, including electronic forms, satisfactory to Apex Auto Lending and otherwise acceptable to Apex Auto Lending. All Contracts will be purchased at purchase prices determined in accordance with Apex Auto Lending practices and this Agreement. Dealer grants Apex Auto Lending a security interest in the Dealer Participation Account (as hereinafter defined), any and all monies therein, accounts, receivables, and rights to payment of money owed by Apex Auto Lending, or any of its affiliates, to Dealer. Any amounts owed by Apex Auto Lending may be applied at Apex Auto Lending discretion to any indebtedness of Dealer to Apex Auto Lending arising under this Agreement or otherwise and shall secure the performance of Dealer’s obligations to Apex Auto Lending arising under this Agreement or otherwise.
- b. To the extent permitted by applicable law, Dealer shall communicate to Apex Auto Lending or its designees all such credit information concerning a Buyer (and any other person named as an obligor in the credit application) as Dealer may have available. Apex Auto Lending will decide as to whether Apex Auto Lending would purchase each contract offered to it by Dealer if the documentation received (including credit information) is satisfactory to Apex Auto Lending. If Apex Auto Lending decides that it will purchase a Contract after receipt of such documentation, Dealer shall (i) execute an assignment of the Contract to Apex Auto Lending; (ii) deliver the original executed Contract (as well as any supporting documentation as Apex Auto Lending may require) to Apex Auto Lending; (iii) file and record within thirty (30) days of the date of the sale of the motor vehicle all such documents and take all such action as may be necessary under the Uniform Commercial Code and other applicable law to convey the Contract to Apex Auto Lending (and to record such conveyance of), to perfect a valid and enforceable first priority security interest in favor of Apex Auto Lending on the Vehicle, and to comply with all related provisions of applicable motor vehicle laws; and (iv) if required by applicable law, send to the Buyer a notice that Dealer has assigned the Contract to Apex Auto Lending.
- c. Apex Auto Lending may purchase Contracts, if acceptable, at the purchase price. The purchase price of each Contract purchased by Apex Auto Lending shall be the determined by Apex Auto Lending in accordance with its practices and this Agreement. Such price will be paid to the Dealer upon Apex Auto Lending receipt of satisfactory documentation. Payment of the purchase price by Apex Auto Lending, as described herein, shall be conclusive proof that the Dealer employee executing the assignment section of the Contract or separate assignment agreement on behalf of Dealer was authorized to do so.



## 2. Dealer Compensation

- a. Apex Auto Lending will establish a reserve account for Dealer (the “Dealer Participation Account”). Pursuant to the Participation Plan, agreed to by Dealer and defined below, Apex Auto Lending will credit the Dealer Participation Account with the amount of agreed upon dealer finance income participation (“Dealer Participation”), as set out in each Contract approval notification sent from Apex Auto Lending to Dealer, for each Contract it purchases from Dealer. All amounts credited will be paid by Apex Auto Lending concurrently with the purchase of each Contract, less charge-back, if any, in accordance with the Participation Plan.

### **Participation Plan:**

50% / 50% Split. Under the Participation Plan, as to each Contract purchased by Apex Auto Lending, Dealer receives 50% of the agreed upon participation amount and is forgiven from any obligation to reimburse such participation amount upon payoff or termination (including repossession) of the Contract occurring more than 180 days after the date of the Contract. Dealer shall reimburse Apex Auto Lending for any unearned portion of the paid Dealer Participation should pay off or termination (including repossession) of a Contract occur prior to expiration of such 180-day period.

For certain Contracts sold to Apex Auto Lending, Dealer may be paid a flat fee amount, as determined between the parties and set out in the relevant Contract approval notification sent from Apex Auto Lending to Dealer, rather than Dealer Participation. Flat fee amount will be paid by Apex Auto Lending concurrently with the purchase of each Contract. With respect to any Contract for which a flat fee equal to or greater than \$500 is paid to Dealer, if payoff or termination (including repossession) of such Contract occurs during the first 180 days following the date of the Contract, Dealer shall reimburse Apex Auto Lending for any unearned portion of the paid flat fee amount.

- b. Dealer will also be responsible for Dealer’s proportionate share of any insurance premiums, and on a pro-rata basis charges for GAP insurance or debt cancellation extended warranty, mechanical breakdown of comparable programs whether or not the Agreement has been terminated upon payoff of termination (including repossession) of a Contract prior to its original scheduled termination date.
- c. If at any time the Dealer has not in a timely manner paid its share of the items listed and described in Paragraphs a. or b. of Section 2 above, Apex Auto Lending may, without prior notice of demand, reduce any payment to Dealer required up to an amount equal to such deficiency, or further collect the amounts due by any means, or allowed by this Agreement. Dealer agrees to pay Apex Auto Lending on demand for any such deficiency.

## 3. Payment from Buyer

After purchase of a Contract, Dealer will forward to Apex Auto Lending any payments on a Contract received from the Buyer. In the event such payment is made by check or other instrument payable to Dealer, Dealer will endorse such check or other instrument to Apex Auto Lending. Dealer will not make any payment due on a Contract on behalf of a Buyer, unless authorized and approved in writing by Apex Auto Lending.

## 4. Insurance

Dealer warrants and represents that as of the date the Contract is funded by Apex Auto Lending, the vehicle sold under the Contract is covered by fire, theft, and collision insurance in such amounts as required by Apex Auto Lending and consistent with applicable law. Dealer shall confirm coverage is appropriate and sufficient at the time of Contract submission to Apex Auto Lending. Dealer shall further submit with each Contract written evidence of acceptable insurance (with respect to coverage and insurer) covering each Vehicle sold under Contract to Apex Auto Lending or its agents. If such procedures are not followed or coverage cannot be confirmed, Dealer will be responsible for any loss suffered by Apex Auto Lending that would have been covered by the required insurance. If such procedure is followed and written evidence of



insurance is provided to Apex Auto Lending or its agent, Apex Auto Lending will assume responsibility for Buyer's compliance with all property insurance requirements after the relevant Contract is funded.

#### 5. Lease Return Vehicles

When a vehicle is Returned to Dealer the Dealer has Three Days to buy the vehicle for \$500 below NADA clean trade or consign the Vehicle for the lender. Once Dealer signs to consign the vehicle one of the following outcomes are completed.

- a. Dealer markets the vehicle and has 30 days to re-lease the vehicle and retain the Down payment money as compensation. After 30 days the dealer will pay \$8 per day until the vehicle is released and funded.
- b. Market and Sell the vehicle and Pay NADA clean trade minus \$500, plus \$8 per day till the vehicle is sold.
- c. Apex Auto Lending has the right to retrieve the vehicle at any time and collect the \$8 per day.

#### **Contract covenants, representations, and warranties**

As to each Contract sold by Dealer to Apex Auto Lending and related application, Dealer represents, warrants, and covenants that, as of the time of such sale and as of the date the Contract is purchased by Apex Auto Lending:

- d. Dealer has fully complied with the requirements of all applicable federal, state, and local laws, rules, and regulations governing consumer or installment credit transactions, such as those covering fair and responsible lending, fair credit reporting, fair trade, unfair, deceptive, and abusive acts and practices, servicemembers' relief, privacy and data security, and the sale of insurance, including but not limited to the Federal Truth in Lending Act/Regulations A, the Federal Equal Credit Opportunity Act/Regulation B, N.Y. Exec. Law § 296-a, the Federal Fair Credit Reporting Act/Regulation V, Section 5 of the Federal Trade Commission Act, Americans with Disabilities Act and the Gramm-Leach-Bliley Act.
- e. The Vehicles sold under the Contract and all other property, goods, and services sold to the Buyer are fully and correctly described in the Contract and any Vehicle sold has no damage or impairment other than those specifically identified in the Contract.
- f. The Vehicle sold under the Contract and all other property, goods, and services described in the Contract and related documents were actually delivered to and accepted by the Buyer and Buyer is in possession thereof.
- g. Dealer is the sole owner of the Contract and has the power and authority to assign the Contract to Apex Auto Lending.
- h. Dealer or its authorized representative has executed the Contract, assignment, and all related documentation and each such document contained no forged or unauthorized signatures.
- i. Dealer has received the down payment from the Buyer specified in the Contract and has not made a loan or cash rebate to the Buyer, or assisted the Buyer in obtaining a loan from any third party, to be used as a part or all of such down payment or any other payment on the Contract, except as may be specifically indicated on the face of the Contract.
- j. Dealer shall disclose all agreed upon payments, including any form of deferred down payment on the Contract and collect any such agreed upon form of deferred payment.
- k. Dealer has good and marketable title to the Vehicle free from all claims, liens, and encumbrances except for those in favor of Apex Auto Lending.
- l. All registered owners of the Vehicle have signed the Contract either as Buyers or as parties agreeing to the security interest in favor of Dealer or its assignees.
- m. Dealer does not know of any fact or circumstance which indicates the uncollectability of the Contracts.
- n. Dealer has confirmed (1) the identity of the Buyer(s) as being the person(s) named in the Contract, (2) that all information provided in the application of the Buyer(s) is accurate; (3) the Buyer(s) has/have been issued a valid and unexpired driver's license by the appropriate United States state



agency of the residence of the Buyer(s), unless otherwise agreed in writing by Apex Auto Lending; and (4) the Buyer(s) was/were of legal age and competent to execute the Contract on the date of execution.

- o. The Contract arose from a bona fide sale in the ordinary course of business to the Buyer(s) on the terms set forth in the Contract of Vehicle and other property, goods and services described in the Contract and related documents.
- p. Dealer has provided to the Buyer(s) a legible, completely filled in copy of the Contract and any purchase order, customer credit statement or other document which Buyer(s) was/were asked to sign in connection with the Contract or any notice or other documents which are required to be provided to Buyer(s) by applicable law or regulation;
- q. Dealer holds all approvals, consents, registrations, and licenses required in connection with the origination of Contracts and in the offering, procuring, or furnishing of any insurance, GAP, warranties, or other products related to the Contract.
- r. Dealer has complied with all applicable federal and state statutes, rules, and regulations regarding the sale, offering, procuring, or furnishing of any ancillary products including, but not limited to credit, life, accident, or health insurance, GAP insurance, warranties, or debt cancellation products, and will ensure that the price of such products (1) will be the fair market retail value of such goods and services, (2) will not be overstated or inflated in any way, and (3) (except for GAP insurance or credit insurance) represents the price for such goods and services by Dealer in cash sales of such goods and services;
- s. All documentation covering other agreements related to the Contract including, but not limited to credit, life, accident or health, GAP insurance, warranties, or debt cancellation documentation has been disclosed and delivered to the borrower consistent with applicable law.
- t. Dealer has taken all action necessary to effectuate transactions related to and contemplated by the Contract, including, but not limited to, submission of documentation and payments to any third-party service provider necessary to effectuate credit, life, accident or health insurance, GAP insurance, warranties, debt cancellation products and other coverage included in the Contract;
- u. Dealer shall advertise products and services, without regard to race, ethnicity, color, marital status, national origin, religion, sex, age (other than confirming that the applicant is of legal age to have capacity to contract), family status, disability, sexual orientation, gender identification, military or veteran status, the applicant's receipt of income derived from any public assistance program, or the applicant's exercise in good faith of any right under the consumer protection laws (each of "prohibited basis") in a manner that promotes the availability of credit to all customers;
- v. Dealer shall (1) make products available to qualified applicant, (2) offer consistent and fair quality of assistance in the sales and application process, (3) accept, process, and evaluate application with regard to any prohibited basis, and (4) shall not discourage consumers or potential applicant from applying for vehicle financing;
- w. The Contract and any guarantee thereof are genuine, legally valid, and enforceable and all terms were (1) reached without regard to any prohibited basis, and (2) documented in a manner and form acceptable to Apex Auto Lending.
- x. None of the Vehicles described in the Contract (1) will be subject to a certificate of title reflecting a status of salvage, reconditioned, prior rental or fleet, lemon-law buyback, manufacturer's buyback, warning-not actual mileage, flood damage, not manufactured for origination distribution in the United states, or similar condition noted on the certificate of title, or (2) will have sustained significant damage which materially impairs the value of such Vehicle unless such damage has been disclosed to Apex Auto Lending at time of submission of the application and acknowledged by the Buyer(s) in writing with a copy of such noticed to be provided to Apex Auto Lending;
- y. The transaction evidenced by the Contract is not a "straw purchase", i.e. the Vehicle is being purchased for the use and benefit of the Buyer(s) identified on the applicable Contract, and payment will be remitted primarily by the Buyer(s) for the benefit of the Buyer(s);



- z. Dealer shall be liable for any First Payment Default. "First Payment Default" means a Buyer's or Buyers' failure to pay to Apex Auto Lending the first payment due, pursuant to the Contract after its purchase by Apex Auto Lending, within forty-five (45) days of its due date. Dealer shall not remit any payment on behalf of the Buyer(s) to cure a First Payment Default unless approved in writing by Apex Auto Lending. In case of a First Payment Default, Dealer shall be required to repurchase such Contract from Apex Auto Lending. The repurchase price shall be the amount Apex Auto Lending originally paid to purchase such contract plus any actual costs incurred by Apex Auto Lending. If Dealer fails to pay such amount within ten (10) days of demand by Apex Auto Lending, then in addition to all other remedies available to Apex Auto Lending, such repurchase price shall accrue interest at the applicable Contract rate from the date of the Contract, and Apex Auto Lending shall have the right, without having thus elected its remedy, to set off against other amount(s) then or later due to Dealer such repurchase price and accrued interest;
- aa. Dealer shall secure a perfected first priority lien interest and title on the Vehicle in favor of Apex Auto Lending within one hundred twenty (120) days of the date of the sale of the Vehicle to Buyer.

Dealer represents, warrants, and covenants, as applicable, that:

- a. Dealer is in good standing in its state of incorporation or formation, is appropriately licensed and franchised as required by applicable law and, if it uses an alternate business name, is in compliance with all applicable laws pertaining to such use;
- b. Dealer represents and warrants that this Agreement constitutes its legal, valid, and binding obligation enforceable against it in accordance with its terms.
  - (1) Dealer's entry into the Agreement, delivery of the Agreement, and performance under the Agreement, do not violate any provisions of Dealer's organizational documents or other agreements or legal requirements by which Dealer is bound; (2) Dealer has taken all necessary legal, corporate, or other action to authorize the execution, delivery, and performance of the Agreement; (3) the individual executing the Agreement on behalf of the Dealer has legal power, right, and authority to bind the Dealer to the terms of the Agreement; and (4) Dealer is not in violation of any statute, ordinance, law, rule, or regulation of any federal, state, county, or municipality applicable to it or the organization of this business;
- bb. Dealer has received from Apex Auto Lending a copy of Apex Auto Lending Fair and Responsible Lending Policy Statement for Automobile Dealers which addresses Apex Auto Lending commitment to fair, non-predatory, and non-discriminatory lending, and to compliance with all applicable federal, state, and local laws prohibiting discriminatory, unfair, deceptive, and abusive lending practices. Dealer agrees to comply with the provisions of such policy statement during the term of this Agreement, and to procure the compliance of its employees and agents. Dealer agrees and understands that while Apex Auto Lending or any of its parent, subsidiary, or affiliate entities have the right to monitor and verify Dealer's compliance with applicable fair lending laws and regulations, Dealer shall be held responsible for Dealer's compliance. If Apex Auto Lending identifies any significant fair lending concerns associated with Dealer, including those arising from any Contract or related application, Apex Auto Lending may take any actions it deems appropriate to address such concerns, including, without limitation, any action permitted under this Agreement.
- cc. Dealer will (i) forward to Apex Auto Lending any complaint it receives from a Apex Auto Lending customer concerning or alleging discrimination or unfair, deceptive or abusive acts or practices within twenty (20) calendar days of receipt; and (ii) notify Apex Auto Lending of the existence of any regulatory agency action, litigation, or material complaint concerning or alleging discrimination or unfair, deceptive, or abusive acts or practices by Dealer;
- dd. Dealer and Apex Auto Lending agree that, to the extent permitted by applicable law, all of the rights and interest of Dealer in any and all Accounts, including the right to claim sales tax refunds, reductions or credits are irrevocably assigned, transferred and relinquished to Apex Auto Lending.



Dealer and Apex Auto Lending agree that, to the extent permitted by applicable law, Apex Auto Lending is the party entitled to claim any potential sales tax refunds or deductions as a result of bad debt losses charged off by Apex Auto Lending on any and all Accounts which have been assigned from Dealer to Apex Auto Lending. Dealer represents, warrants, and agrees that it has not and will not claim a deduction or refund with respect to any Accounts and, to the extent permitted by applicable law, hereby relinquishes to Apex Auto Lending all right to the Accounts and all right to claim such deduction or refunds. Dealer and Apex Auto Lending hereby make an irrevocable election pursuant to the applicable state tax code that designates and entitles Apex Auto Lending (not Dealer) to claim the deduction or refund with respect to any Accounts found worthless and charged off for income tax purposes. Dealer and Apex Auto Lending agreed to furnish any and all documentation required by the applicable state, necessary to support the claim for refund filed by Apex Auto Lending, if any. For purposes of this subsection, "Accounts" means any and all accounts and contracts, whether currently existing or created in the future, created between Dealer and its retail customer with respect to the purchase of tangible personal property which is subject to state sales tax, which accounts are, have been, or will be assigned directly from Dealer to Apex Auto Lending.

6. Dealer Liability

- a. If any Dealer representation, covenant, or warranty made in the Agreement or in connection with a Contract is breached, misleading, incomplete, or untrue, if Dealer has failed to perform any obligation it has under the Agreement or the Contract, or if Dealer breaches any provision of the Agreement, or if the Buyer(s) asserts a claim for rescission with respect to a Contract, Dealer will promptly pay Apex Auto Lending
  - (1) The unpaid balance, including earned and unpaid finance charges, as determined by Apex Auto Lending, of the Contract affected by such a breach, misrepresentation, failure to perform or claim for rescission.
  - (2) Dealer's portion of any finance charges previously paid to Dealer as finance income participation, flat fees, insurance premiums, and/or charges for extended warranty, mechanical breakdown, or comparable programs.
  - (3) All damages, losses, and expenses incurred by Apex Auto Lending as a result of such breach, misrepresentation, failure to perform or claim for rescission; and
  - (4) All out of pocket expenses paid or incurred by Apex Auto Lending in connection with the collection of any amount due under the Contract, including reasonable attorney's fees and court costs incurred.

Apex Auto Lending has no duty or obligation to repossess, recover, or otherwise secure the Vehicle and return to Dealer as a condition for Dealer to repurchase any Contract due to a breach of this Agreement or any other agreement by Dealer.

- b. Dealer shall indemnify, defend, and hold Apex Auto Lending, its parent, affiliates, and subsidiaries, and their respective officers, directors, members, agents, attorneys, and employees, harmless from any complaint, claim, defense to payment, suit, loss, damage, liability or expense, including without limitation, court costs, and reasonable attorney's fees, directly or indirectly incurred by Apex Auto Lending, arising out of or in connection with Dealer's failure to perform or observe any covenants, representations, warranties, or other provisions contained in this Agreement. Dealer agrees that Apex Auto Lending may proceed against Dealer for any and all amounts due to Apex Auto Lending from Dealer under the Agreement, or any Contract or otherwise without taking any action whatsoever against Buyer(s) or any other party and without proceeding against or applying any security which Apex Auto Lending may have or hold.

7. Exercise of Remedies

The exercise of any right or remedy available to Apex Auto Lending under this Agreement and/or any Contract shall not operate as a waiver of any other right or remedy. The failure of Apex Auto Lending to exercise any right or remedy or a delay by Apex Auto Lending in exercising any right or remedy shall not





operate as a waiver of such right or remedy or any other right or remedy. All of Apex Auto Lending rights and remedies shall be cumulative and may be exercised singularly or concurrently.

8. Successors and Assigns

This Agreement shall be binding upon and will inure to the benefit of the parties to this Agreement and their respective successors and assignees provided, however that this Agreement and all rights and obligations under this Agreement may not be assigned or transferred by the Dealer without Apex Auto Lending prior written consent, and any purported assignment without such consent will be void and without effect. Any obligation of Apex Auto Lending or any obligation to be performed by Apex Auto Lending under this Agreement may, at the sole option of Apex Auto Lending, be delegated to and performed by an agent of Apex Auto Lending, which agent will have such power and authority as Apex Auto Lending delegates to it.

9. Agency

Neither this Agreement nor any action pursuant hereto shall make the Dealer the agent, representative, or employee of Apex Auto Lending for any purpose. Dealer is not granted any express or implied right to bind Apex Auto Lending in any manner whatsoever. Wherever in this Agreement reference is made to an agent of Apex Auto Lending, such reference is intended to mean any third party that Apex Auto Lending may from time to time appoint to fulfill any of its obligations under this Agreement.

10. Waivers

Dealer waives all demands and notices of default, non-payment, or non-performance, and any release or impairment of collateral securing the obligations of the Buyer(s) under any Contract assigned hereunder. Apex Auto Lending may, without notice to Dealer, discharge, release, extend, vary, modify, by operation of law or otherwise, any obligation of the Buyer(s) or any other obligor or any rights against the Buyer(s) or any other obligor without affecting or altering the obligations or duties of Dealer under this Agreement. No waiver by Apex Auto Lending of any default, breach, or misrepresentation under this Agreement shall be effective unless in writing nor shall it operate as a waive for any other different or subsequent default, breach, or misrepresentation.

11. Cooperation

Dealer will cooperate and assist Apex Auto Lending in enforcing its rights in, to, and under the terms of this Agreement and the Contracts assigned hereunder.

12. Severability

Any portion or provision of this Agreement which is deemed invalid, illegal, or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such validity, illegality, or unenforceability without affecting in any way the remaining portions or provisions hereof in such jurisdiction, or, to the extent permitted by law, rendering that or any other provision of this Agreement invalid, illegal, or unenforceable in any other jurisdiction.

13. Attorney's Fees and Costs

In any litigation or other proceeding related to or arising from the Agreement, the prevailing party shall be entitled to its reasonable attorney's fees and costs incurred.

14. Notice

Except as otherwise provided in the Agreement, all notices and other communications hereunder will be in writing and will be deemed duly given if and when personally delivered or, in any event, forty-eight (48) hours after mailing by registered or certified mail, return receipt requested, postage prepaid, to the address shown below. Either party may change the address to which such notices communications will be sent by giving written notice of such new address to the other party in the manner provided in this paragraph. If either party provides its fax number or email address, it consents to receiving notices and other communications via such manner.

15. Inspection of Books and Records

Dealer shall maintain complete and accurate records concerning the following:

- a. Credit applications forwarded to Apex Auto Lending for consideration.



- b. Any Contract sold to Apex Auto Lending, as well as the interest in the Vehicles sold thereby; and
- c. All other transactions affecting the sale and finance of the Vehicle.

Apex Auto Lending shall have the right to review and inspect Dealer's records relating to the credit applications, Contracts, associated Vehicles, and all matters and transactions relating to the sale and finance of the associated Vehicles, upon reasonable notice to Dealer during normal business hours. Upon request by Apex Auto Lending, Dealer shall promptly furnish to Apex Auto Lending, copies or extracts of any of Dealer's books, records, or accounts concerning such credit applications, Contracts, related documents, and vehicles sold thereby at Dealer's expense.

16. Fair Credit Reporting Act

Dealer shall inform each applicant that his/her credit application will be sent to Apex Auto Lending for review and will make Apex Auto Lending information available upon request. Dealer shall also advise each applicant whose credit application is to be sent to Apex Auto Lending that the applicant may be considered withdrawn if the applicant does not inquire with Apex Auto Lending about its status within thirty (30) days of the date of the application.

17. Safeguarding Rule

Apex Auto Lending may from time to time provide Dealer with Non-public Personal Information ("NPI") about Consumers and Customers, as those terms are defined in the Federal Trade Commission Rule governing Privacy of Consumer Financial Information (16 C.F.R. Section 313.3, which is incorporated herein by reference) related to performing services or function in connection with this Agreement. Dealer shall regard and preserve as confidential all NPI belonging to Apex Auto Lending and pertaining to Apex Auto Lending Consumers and/or Customers, which Dealer obtains access to in the course of performing under this Agreement. Dealer further agrees that it will not use such information for its own benefit or purpose, nor disclose such information to third parties, without the prior written consent of Apex Auto Lending.

Dealer's violation of this section will be considered a material breach of this Agreement and entitles Apex Auto Lending to terminate this Agreement without penalty. Upon termination of this Agreement, Dealer shall immediately deliver possession of all such NPI and all copies thereof to Apex Auto Lending. Dealer's obligation under this section shall survive termination of this Agreement.

Dealer agrees to maintain a commercially acceptable written information security plan to protect NPI about Consumers and/or Customers in compliance with the Standard for Safeguarding Customer Information issued pursuant to Section 501(b) of the Gramm-Leach-Bliley Act (the "Safeguarding Rule"). Dealer will protect NPI from Apex Auto Lending no less rigorously than it protects its own NPI.

The objectives of the standards are to (i) ensure the security and confidentiality of customer information.

(ii) protect against any anticipated threats or hazards to the security or integrity of such information; and

(iii) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any Consumer and or Customer.

Dealer must comply with the Safeguarding Rule by maintaining appropriate information security safeguards for consumer information. By submitting credit applications to Apex Auto Lending, Dealer represents that Dealer presently maintains and will continue to maintain and periodically test the efficacy of appropriate administrative, technical, and physical information security safeguards for customer information.

18. Governing Law and Venue

This Agreement shall be governed and enforced in accordance with the laws of the state of California without regard to any otherwise applicable conflict of laws and principles thereof. Any action relating to this Agreement, or arising out of this Agreement, shall be initiated in the state of federal courts in Orange County, California. Dealer agrees to submit to the exclusive jurisdiction of the Superior Courts in Orange County, California or in the United States District Court of the Central District of California Southern Division in Orange County, California in connection with any such action and the parties hereto agree venue will be proper in such courts. The parties hereto agree not to assert the doctrine of *forum non conveniens* in any action in such state or federal court.



19. Amendment

This Agreement constitutes the complete understanding between the parties hereto with respect to the subject matters of this Agreement and no alteration, amendment, or modification of any of the terms and provisions hereof will be valid unless made in writing signed by all parties hereto.

20. Construction

Dealer and Apex Auto Lending acknowledge and agree that no rule of construction to the effect that any ambiguities are to be resolved against the drawing party shall be employed in the interpretation of this Agreement, including any Exhibits, Addenda, or Schedules attached hereto. Whenever required by the context of the Agreement, the singular shall include the plural, the masculine shall include the feminine, and vice versa.

21. Termination

Apex Auto Lending or Dealer may terminate this Agreement upon written notice to the other party, such termination to be effective on the date set out in such notice. The termination of this Agreement shall not release Apex Auto Lending or Dealer from any obligations incurred with regard to any Contracts purchased prior to the effective date of such notice, and all such obligations will remain in full force and effect until satisfied in accordance with the terms and conditions of this Agreement.

22. Counterparts

For the convenience of Dealer and Apex Auto Lending, copies of this Agreement may be executed in counterparts and may be exchanged by facsimile or electronic mail. Dealer and Apex Auto Lending intend that counterpart copies signed and exchanged as provided in the preceding sentence shall be fully binding as an original handwritten executed copy hereof and all such copies together shall constitute one instrument.

23. Paragraph Headings

The paragraph headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of any provision of this Agreement.

24. Supersede

This Agreement shall supersede all prior oral or written agreements between Dealer and Apex Auto Lending related to the subject matter of this Agreement.

Dealer: \_\_\_\_\_

Apex Auto Lending

dba: \_\_\_\_\_

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

Signature

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

Signature

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

Telephone Number: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Dealership's State Seller's Permit Number (if applicable) \_\_\_\_\_ Date: \_\_\_\_\_

# Apex Auto Lending

## FUNDS TRANSFER AGREEMENT AND AUTHORIZATION

\_\_\_\_\_  
Name and Brand of Bank

\_\_\_\_\_  
Bank ABA Number

\_\_\_\_\_  
Bank Checking Account Number

\_\_\_\_\_  
Bank Branch Phone Number

\_\_\_\_\_  
Bank Address

1. Dealership agrees to indemnify and hold Apex Auto Lending harmless from any loss, cost, or expense (including reasonable attorney's fees) caused by Dealerships' mistakes, omissions, or failure to exercise reasonable care or comply with this agreement.
2. In the event that any entry or file of entries is delivered to Apex Auto Lending by an agent of Dealership, Apex Auto Lending may act without further inquiry and shall be fully protected in acting in reliance upon such entry or file of entries of Dealership as to whether the same is authorized.
3. This agreement may be modified only by an agreement in writing, signed by both the Dealership and Apex Auto Lending. Either party, however, may terminate the agreement upon written notice to the other. Termination shall not, however, relieve either party of any obligations of liabilities incurred prior to the effective date of such termination.
4. Either party may change its information by providing 10 day's written notice of such change to the other party hereto in the manner prescribed above. This document, and any notices, sent by facsimile or photocopy shall be as binding as the original for all purposes.
5. Dealership hereby grants to Apex Auto Lending the authority to initiate credit and debit entries for retail installment contract proceeds, dealer participation payments and other agreed fees and proceeds to and from Dealership 's Consumer Loan Account at its financial institution. The Dealership Bank and account information is provided above:

IN WITNESS HEREOF, each of the parties hereto has caused this agreement to be duly executed on its behalf as of the day and year written below.

DEALERSHIP: \_\_\_\_\_

Apex Auto Lending

\_\_\_\_\_  
Authorization/Signature

\_\_\_\_\_  
Authorization/Signature

\_\_\_\_\_  
Name and Title (print)

Corporation President or Vice President  
LLC Member or Managing Member  
Partnership General Partner  
Sole Proprietorship Owner

\_\_\_\_\_  
Name and Title (print)

\_\_\_\_\_  
Facsimile Number

\_\_\_\_\_  
Date

***Please attach a copy of a Voided Check ONLY for verification of banking information.***

**AGREEMENT FOR ENTITLEMENT TO REFUND, DEDUCTION OR CREDIT**  
**PURSUANT TO CALIFORNIA REVENUE AND TAXATION CODE SECTION 6055 AND 18 CCR 1642**

1. **Definitions.** The following capitalized terms shall have the meaning ascribed to each as follows:
- a. **"Retailer"** means \_\_\_\_\_  
(Dealer's full legal name), located at \_\_\_\_\_  
\_\_\_\_\_ (physical and mailing address)  
  
and all its subsidiaries, affiliates, and assignees. The Retailer's California seller's permit is \_\_\_\_\_.
  - b. **"Lender"** means Apex Auto Lending, located at 210 Dahlongea Street Ste# 201 Cumming, GA 30040, and all of its subsidiaries, affiliates and assigns. If the Lender has not applied for a Certificate of Registration, the Lender agrees that it will apply for a Certificate of Registration no later than the date that it first claims a deduction or refund for bad debts charged off on the Accounts.
  - c. **"Accounts"** means any and all accounts and contracts created between the Retailer and its retail customers with respect to the purchase of tangible personal property which is subject to California sales tax, which accounts are, have been or will be assigned directly from Retailer to Lender.
2. **Blanket Assignment of Retailer's Rights and Interests in Accounts.** Retailer and Lender agree that all of the rights and interests of the Retailer in any and all Accounts, including the right to claim sales tax refunds, deductions or credits, are irrevocably assigned, transferred and relinquished to the Lender.
3. **Entitlement to Tax Refund or Deduction on Accounts.** The Retailer and the Lender agree that the Lender is the party entitled to claim any potential sales tax refunds or deductions as a result of bad debt losses charged off by the Lender on any and all Accounts currently existing or created in the future which have been assigned from the Retailer to the Lender. The Retailer agrees that they have not and will not claim a deduction or refund with respect to any Accounts currently existing or created in the future and hereby relinquishes to the Lender all rights to the Accounts and all rights to claim such deductions or refunds.
4. **Election Pursuant to Section 6055(B)(4) California Revenue and Taxation Code.** Retailer and Lender hereby make an irrevocable election pursuant to section 6055(b)(4), California Revenue and Taxation Code, that designates and entitles Lender (and not the Retailer) to claim the deduction or refund provided under section 6055(b) with respect to any Accounts found worthless and charged off for income tax purposes. The effective date of this election is the date in which the Retailer commences doing business with the Lender.
5. **Payment of Sales Tax.** Retailer represents and warrants that it has reported or shall report the tax on the sale of property with respect to the Accounts.
6. **Confidentiality.** Retailer and Lender acknowledge that the California State Board of Equalization may disclose relevant confidential information to all parties involved in order to evaluate, support and confirm the deductions or refunds claimed pursuant to Section 6055, California Revenue and Taxation Code.
7. **Documentation.** Retailer and Lender agree to furnish any and all documentation required or requested by the California State Board of Equalization that is necessary to support the claim for deduction or refund filed by the Lender.
8. **Term.** This election may not be amended or revoked unless a new election, signed by both the Retailer and Lender is filed with the California State Board of Equalization.
9. **Filing of Election.** Lender and Retailer agree that the Lender shall file this Agreement as an election with the California State Board of Equalization pursuant to Section 6055, California Revenue and Taxation Code.

**Retailer**  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Apex Auto Lending**  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## PERSONAL GUARANTY

1. I, \_\_\_\_\_ (“Guarantor”), as of the date noted below, absolutely, irrevocably and unconditionally guarantee to Apex Auto Lending, its successors, transferees, and assigns, (a) the payment in full of any and all sums due Apex Auto Lending, its successors, transferees, and assigns, pursuant to the Dealer Agreement between Apex Auto Lending and \_\_\_\_\_ (“Dealer”) dated \_\_\_\_\_ (“Agreement”), pursuant to which Dealer has and/or will offer to sell retail installment sale contracts for the purchase of motor vehicles by consumers (“RISC”), to which this Personal Guaranty (“Guaranty”) forms a part, and agree to pay immediately upon demand of Apex Auto Lending any and all obligations, interest, expenses, charges, reasonable attorney’s fees, and costs of whatsoever nature and kind, which Dealer may be obligated to pay Apex Auto Lending pursuant to the Agreement; and (b) the performance of obligations of Dealer thereunder. I further agree that upon the request of Apex Auto Lending I will at any time and from time to time supply to Apex Auto Lending my personal financial statements and/or last 3 monthly bank statements setting forth in reasonable detail information as required by Apex Auto Lending.
2. Apex Auto Lending will not enter into or continue to review RISCs and associated credit applications pursuant to the Agreement unless Guarantor guarantees payment of all sums owing to Apex Auto Lending thereunder and performance of all terms thereof by Dealer. Therefore, in consideration of the promises and other valuable consideration, receipt of which is hereby acknowledged, and to induce Apex Auto Lending to entered into and maintain the Agreement, Guarantor provides this Guaranty.
3. Guarantor and Apex Auto Lending are at times each referred to herein as a “Party” and collectively as “the Parties.”
4. This Guaranty shall remain in full force and effect until full satisfaction of the Agreement by Dealer; provided, however, that the Guarantor shall not be released from its obligations hereunder so long as any claim of Apex Auto Lending against Dealer which arises out of, or relates, directly or indirectly to, the Agreement is not settled to the satisfaction of Apex Auto Lending. The obligation of Guarantor under this Guaranty shall be in addition to any other obligations Guarantor may have to Apex Auto Lending under any other contracts or agreements.
5. The Guarantor hereby expressly waives (a) notice of acceptance of this Guaranty by Apex Auto Lending, (b) notice of any default or non-performance of Dealer under the Agreement, (c) notice of any modification to the Agreement or any extension of time granted to Dealer, and (d) all defenses, offsets and counterclaims which the Guarantor may at any time have to any claim of Apex Auto Lending against Dealer.
6. The liability of the Guarantor shall in no way be affected or impaired by (a) any amendment, alteration, extension, renewal, waiver, indulgence or other modification of the Agreement; (b) any settlement or compromise in connection with the sums or obligations owed by Dealer to Apex Auto Lending; (c) any subordination of payments under the Agreement to any other debt or claim; (d) any substitution, exchange, release or other disposition of all or any part of the sum or obligations owed by Dealer to Apex Auto Lending; (e) any failure, delay, neglect, act or omission by Apex Auto Lending to act in connection with sums or obligations owed by Dealer to Apex Auto Lending; (f) any Apex Auto Lending advances for the purpose of performing any covenant or agreement of the Dealer, or curing any breach or default; (g) the filing by or against Dealer of bankruptcy, insolvency, reorganization or other debtor’s relief afforded Dealer pursuant to the present or future provisions of the Bankruptcy Code or any other state or federal statute or by the decision of any court; or (h) any other matter whether similar or dissimilar to the foregoing. Guarantor and Apex Auto Lending (by its acceptance of this Guaranty) confirm that the Parties intend that this Guaranty and the obligations of Guarantor hereunder not be a fraudulent transfer or conveyance  
for purposes of the federal bankruptcy law, any state insolvency, receivership, fraudulent conveyance or transfer law, or any other applicable federal or state law, therefore, the obligations of Guarantor under this Guaranty at any time shall be limited to the maximum amount as will result in the obligations of such Guarantor not constituting a fraudulent conveyance or transfer.
7. Guarantor is fully aware of the financial condition of Dealer, and delivers this Guaranty based solely on its own independent investigation and does not rely in any way on any representation or statement of Apex Auto Lending with respect to Dealer’s financial condition. Guarantor is in a position to and assumes full responsibility for obtaining any information concerning Dealer’s financial condition,

business operations, assets and other matters bearing on the risk of non-payment of the Indebtedness, as Guarantor may deem material to its obligations hereunder.

8. The obligations hereunder are independent of the obligations of Dealer, and a separate action or actions may be brought and prosecuted against the Guarantor whether action is brought against Dealer or whether Dealer be joined in any such action or actions. The Guarantor further agrees that no invalidity of the Agreement or any obligation thereunder shall affect or impair its liability under this Guaranty. All remedies afforded to Apex Auto Lending by reason of this Guaranty are separate and cumulative remedies. No one of such remedies, whether exercised by Apex Auto Lending or not, shall be deemed to be in exclusion of any of the other remedies available to Apex Auto Lending, and shall in no way limit or prejudice any other legal or equitable remedy which Apex Auto Lending may have in any security or collateral for the indebtedness and the obligations of Dealer. Nothing in this Guaranty is intended or shall be construed to prevent Apex Auto Lending, in the exercise of its sole discretion, from exercising all rights under the Agreement and enforcing the provisions thereof.
9. Apex Auto Lending may, in its sole discretion, proceed against the Guarantor to collect any obligation covered by this Guaranty without first proceeding against Dealer. Upon five (5) days written notice by Apex Auto Lending, the Guarantor shall pay any and all indebtedness, damages, costs and expenses due Apex Auto Lending by Dealer and shall perform any and all duties and obligation of Dealer to Apex Auto Lending.
10. The Guarantor waives any right to require Apex Auto Lending to (a) proceed against Dealer or any other person; (b) proceed against or exhaust any security held from Dealer; (c) pursue any other remedy in Apex Auto Lending power whatsoever.
11. Guarantor also agrees to indemnify Apex Auto Lending and hold Apex Auto Lending harmless against and from all obligations, demands and liabilities, by whomsoever asserted, and against all losses in any way suffered, incurred or paid by Apex Auto Lending as a result of or in any way arising out of, or following, or consequential to Apex Auto Lending transactions with Dealer relating to the Agreement.
12. Any notice to be given to the Guarantor may be sent to the address or number provided below, and all communications so sent, whether by mail, telegraph, facsimile, email, messenger or otherwise, shall be deemed duly given to the Guarantor personally, whether or not actually received. Notices sent by mail shall be deemed duly given on the business day immediately following the date of mailing.
13. The Guarantor agrees that the balance due and unpaid at any time from Dealer to Apex Auto Lending under the Agreement, as shown by the records of Apex Auto Lending, absent manifest error, shall be received as conclusive evidence of the amount of such indebtedness owing by Dealer to Apex Auto Lending as against Guarantor and shall not be disputed or questioned by Guarantor.
14. Guarantor agrees that Apex Auto Lending may (1) transfer or assign the Agreement, and (2) assign this Guaranty and all of its rights, interests and remedies hereunder, to any other person, firm, bank or corporation whatsoever, without notice to or consent by Guarantor. This instrument shall inure to the benefit of Apex Auto Lending and Apex Auto Lending successors and assigns, and shall bind Guarantor, and Guarantor's heirs, executors, administrators, legal representatives, successors, and assigns.
15. Guarantor authorizes Apex Auto Lending to obtain consumer reports or other credit reports of Guarantor as it deems necessary for the review, collection, and enforcement of this Guaranty
16. This Guaranty shall be governed by the laws of the State of California, without regard to conflicts of laws principles, and shall inure to the benefit of Apex Auto Lending, its successors and assigns, and shall be binding on the Guarantor, his heirs and assigns.
17. In the event of litigation or arbitration between the Parties hereto in respect to this Guaranty or any provision hereof, the prevailing party shall be entitled to recover from the other party his or its reasonable attorneys' fees, costs, and out-of-pocket expenses.

18. Binding Arbitration

- a) This paragraph concerns the resolution of any controversies or claims between the Guarantor and Apex Auto Lending, whether arising in contract, tort or by statute, including but not limited to controversies or claims that arise out of or relate to: (i) this Guaranty (including any renewals, extensions or modifications); or (ii) any document related to this Guaranty (collectively a "Claim").
- b) At the request of the Guarantor or Apex Auto Lending, any Claim shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code) (the "Act"). The Act will apply even though this Guaranty provides that it is governed by the

law of a specified state.

- c) Arbitration proceedings will be determined in accordance with the Act, the applicable rules and procedures for the arbitration of disputes of JAMS or any successor thereof (“JAMS”), and the terms of this paragraph. In the event of any inconsistency, the terms of this paragraph shall control.
- d) The arbitration shall be administered by JAMS and conducted in Forsyth County, Georgia. All Claims shall be determined by one arbitrator. All arbitration hearings shall commence within ninety (90) days of the demand for arbitration and close within ninety (90) days of commencement and the award of the arbitrator shall be issued within thirty (30) days of the close of the hearing. However, the arbitrator(s), upon a showing of good cause, may extend the commencement of the hearing for up to an additional sixty (60) days. The arbitrator shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed and enforced.
- e) For purposes of the application of the statute of limitations, the service on JAMS under applicable JAMS rules of a notice of Claim is the equivalent of the filing of a lawsuit. Any dispute concerning this arbitration provision or whether a Claim is arbitrable shall be determined by the arbitrator. The arbitrator shall have the power to award attorneys’ fees to the prevailing party pursuant to this Guaranty.
- f) This paragraph does not limit the right of the Guarantor or Apex Auto Lending to: (i) exercise self-help remedies, such as but not limited to, setoff; (ii) initiate judicial or nonjudicial foreclosure against any real or personal property collateral; (iii) exercise any judicial or power of sale rights, or (iv) act in a court of law to obtain an interim remedy, such as but not limited to, injunctive relief, writ of possession or appointment of a receiver, or additional or supplementary remedies.
- g) The filing of a court action is not intended to constitute a waiver of the right of the Guarantor or Apex Auto Lending, including the suing party, thereafter, to require submittal of the Claim to arbitration.

**JURY TRIAL WAIVER. BY AGREEING TO BINDING ARBITRATION, THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM. FURTHERMORE, WITHOUT INTENDING IN ANY WAY TO LIMIT THIS GUARANTY TO ARBITRATE, TO THE EXTENT ANY CLAIM IS NOT ARBITRATED, THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF SUCH CLAIM. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS GUARANTY. THIS WRITTEN GUARANTY REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THEPARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.**

IN WITNESS WHEREOF, the undersigned has executed this Guaranty as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 Guarantor (Printed Name)

In the presence of:

\_\_\_\_\_  
 Signature

Witness \_\_\_\_\_

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Street Address

\_\_\_\_\_  
 City, State, Zip