

DEALER AGREEMENT

THIS AGREEMENT ("Agreement"), entered into this _____ day of _____, 20____, by and between First Internet Bank of Indiana (the "Bank"), 11201 USA Parkway, Fishers, IN 46037, and _____ (the "Dealer"),

(Street and mailing addresses, city, state, and zip code)

WHEREAS, Dealer will from time to time sell and assign to Bank certain contracts (the "Contracts") which the Dealer has entered into with its customers (herein collectively the "Borrower") in connection with the sale or lease of goods or services sold or provided by Dealer, including, but not limited to, automobiles, boats and marine equipment, horse trailers, and recreational vehicles and any and all replacements, substitutions, additions, accessories, alterations and repairs incorporated or affixed thereto and all proceeds thereof (herein collectively referred to as "Vehicles").

WHEREAS, Bank is willing to purchase Contracts from Dealer from time to time pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Sale and Assignment of Contracts.** Subject to the terms and conditions of this Agreement, Dealer, in consideration of the payment by Bank to Dealer of (a) in the case of a loan transaction, the amount stated in the Contract as the "Amount Financed," less any applicable Bank Fees and (b) in the case of a lease transaction, the amount stated in the Contract as the "Adjusted Capitalized Cost," less any applicable Bank Fees (herein collectively referred to as the "Purchase Price"), the adequacy of which Dealer acknowledges, agrees to sell and assign to Bank, and Bank agrees to purchase and take assignment from Dealer, of all Contracts which Bank agrees to accept pursuant to this Agreement. The Purchase Price shall be paid by Bank to Dealer, by check or, in Bank's sole discretion, by ACH payment.

"Bank Fees" are any fee levied by the Bank against the Dealer, including but not limited to loan preparation fees.

2. **Document Package.** Dealer shall provide Bank with the following documents with respect to each Contract assigned to Bank, each of which shall be completely and properly executed and delivered:

- (a) The original Contract including the following:
 - (i) With respect to loan transactions, all fully completed loan application forms, promissory notes, disclosure statements, security agreements and Uniform Commercial Code financing statements, if required, and guarantees, if any, and with respect to lease transactions, all fully completed lease application forms, disclosure statements, and all amendments or riders to the lease agreement and guarantees, if any (collectively the "Contract Documents"); and
 - (ii) such other forms and documents as Bank, in its sole discretion, shall deem

appropriate or necessary, including copies of any documents included in Dealer's files which Bank may reasonably request.

- (b) Title to the Vehicle which collateralizes each Contract showing Bank's first priority, perfected and only lien thereon.

3. **Contract Documentation.**

- (a) Dealer will provide Bank, for Bank's prior approval in its sole discretion, such forms of Contract Documents or other instruments, certificates and documents which it expects to use in connection with sales and leases of Vehicles.
- (b) Dealer shall properly prepare and supervise the correct execution of all Contract Documents. Dealer shall complete each Contract Document with due care. Dealer shall also indemnify the Bank in accordance with Section 9 from any harm caused by, or resulting from, Dealer's incorrect preparation of the Contract Documents or the failure of the Contract Documents to be properly executed. Dealer shall also fulfill all of its responsibilities under the Contract Documents (including delivery of payments, if any, required to be made to third parties). Dealer shall deliver copies of the completed Contract Documents to the Borrower. Dealer will forward completed Contract Documents to the Bank in accordance with the procedures established by Bank from time to time.

4. **Representations and Warranties.** Dealer hereby represents and warrants to Bank, as of the date hereof, and as of the date of assignment of each Contract Document that:

(a) **Authorization.**

- (i) Dealer's execution of this Agreement is within its powers, has been duly authorized by all necessary corporate, partnership or other action and does not contravene any governmental or contractual restrictions on Dealer, and the Agreement is valid, binding and legally enforceable in accordance with its terms.
- (ii) Dealer has and shall maintain in full force all necessary licenses, permits and other required authorizations relating to the sale or lease of Vehicles in accordance with applicable law. Dealer shall provide evidence of such licenses and/or authorizations from time to time at the Bank's request.

(b) **Contracts.** With respect to each Contract Document and the Vehicle collateralizing such Contract:

- (i) Each Contract Document is genuine and in all respects what it purports to be;
- (ii) All statements of fact contained in the Contract are true;
- (iii) Dealer verified the existence of physical damage insurance on each Vehicle financed or leased prior to Vehicle delivery;

- (iv) With respect to a loan transaction, the security interest granted to the Dealer in the Vehicle is a properly noted and recorded first priority perfected lien upon the Vehicle, and that, if required, Dealer filed any Uniform Commercial Code financing statements;
- (v) With respect to a lease transaction, the security interest granted to the Bank by Dealer in the Vehicle is a properly noted and recorded first priority perfected lien upon the Vehicle, and that, if required, Dealer filed any Uniform Commercial Code financing statements;
- (vi) Neither Dealer nor Borrower have any defenses, counterclaims, or set-offs against one another, the Bank, or relating to the Contract Documents;
- (vii) The signature of each Borrower is genuine and each Borrower has the legal capacity to enter into the Contract;
- (viii) Dealer has no knowledge of any facts which would impair the validity or value of either the Contract or the Vehicle;
- (ix) Dealer has good, valid title to the Contracts and to the Vehicles purchased or leased by the Borrower, free and clear of all liens and encumbrances, and the vehicle titles are not noted, branded or endorsed for any reason (including but not limited to, reconstructed, salvage, flood damage, lemon law, repurchased because of alleged defects, or true miles unknown);
- (x) All dealings with the Borrower and the execution of each Contract Document comply with all applicable federal and state laws and regulations (including, but not limited to, the Truth-in-Lending Act, the Federal Consumer Leasing Act, Equal Credit Opportunity Act and Fair Credit Reporting Act);
- (xi) Any Contract Document submitted to the Bank on a form other than the attached forms complies with all applicable federal and state laws and regulations;
- (xii) The Contract arises out of bona fide sale or lease for the amount disclosed, that where such Contract discloses a "cash down payment," the cash down payment has actually been paid to Dealer by Borrower and that no payments which are not fully disclosed have been made under the Contract. If the Contract provides for a trade-in vehicle as part of the consideration for the purchase of the Vehicle to be financed by Bank, then Dealer shall: (A) diligently investigate the title for the trade-in vehicle, (B) pay any indebtedness secured by the trade-in vehicle, and (C) cause the discharge of any liens on the trade-in vehicle title;
- (xiii) The collateral described in the Contract has been accepted by the

Borrower;

- (xiv) All figures and amounts on each loan and lease application accurately and fully reflect the transaction between the Dealer and the Borrower and omit no information which could affect the Bank's decision to accept the Contract; and
- (xv) The Contract Documents were presented to the Borrower prior to consummation of the transaction in compliance with all federal and state laws.

5. **Approval.** Bank shall prescribe its own credit standards and criteria for evaluating prospective Contracts and shall have the sole responsibility and authority to accept or reject any prospective Contract and establish the terms under which any Contract shall be accepted for purchase. Approval of any application submitted by Dealer in accordance with this Agreement shall be at the sole discretion of the Bank and the Bank shall have no obligation to approve any application submitted by Dealer. All decisions concerning the Contract shall be made by the Bank after submission of applications to its main office, or such other full service branch as Bank may designate from time to time.

6. **Dealer Participation Fee.** The Dealer Participation Fee, as defined below, shall be paid monthly by Bank to Dealer, if a positive amount. If the total Dealer Participation Fee is a negative amount, upon receipt of an invoice or other appropriate notification from Bank then Dealer shall immediately pay to Bank the total amount due. Bank, in its sole discretion, may set-off amounts owed to it against future Dealer Participation Fee payments, if not timely paid by Dealer.

DEALER PARTICIPATION FEE AND RATE SCHEDULE

Dealer Participation Fee

The Dealer Participation Fee on each Contract shall be an amount equal to the applicable percent of Amount Financed based upon the then current rate sheet. This rate sheet can only be published by First Internet Bank of Indiana and is subject to change from time to time.

Recapture of Dealer Participation Fee

In the event of any prepayment in full of a Contract on which there was a Dealer Participation Fee paid to the dealer as set forth above, where such repayment in full is made on or before 180 days from the date of the Contract, Dealer shall refund to Bank the Dealer Participation Fee. Dealer agrees to refund One Hundred Percent (100%) of the Dealer Participation Fee paid by Bank if any Contract repays in full within the first 180 days from the date of contract.

In the event of a repossession by Bank of the underlying collateral associated with any Contract, or any financial loss realized by Bank due to default by Vehicle purchaser or lessee under any Contract, or filing of bankruptcy by Vehicle purchaser or lessee under any Contract, prior the receipt of the first 24 payments received, the Dealer shall refund the entire Dealer Participation Fee originally paid to Dealer.

7. **Dealer Rights and Responsibilities.**

- (a) Dealer shall have the sole responsibility for providing all goods and services related to the Contracts and all the representations and warranties pertaining thereto, including without limitation, extended warranty contracts (whether the Dealer is insured by an independent warranty company or self-insured) and insurance policies (the "Dealer Goods and Services"). Dealer shall, in its sole discretion and subject to applicable law, have the right to sell credit life and health and accident (including disability) insurance in connection with the sale or lease of Vehicles; provided, however, the responsibility for furnishing the Borrower with certificates of insurance, remitting any unearned premiums, and complying with the laws and regulations concerning the sale of such insurance shall be solely that of the Dealer. Dealer agrees that it will make a good faith effort to resolve any disputes it may have with the Borrower concerning the Dealer Goods and Services. Dealer agrees that it shall provide to the Bank, upon request, pertinent data relating to the Dealer Goods and Services. Dealer agrees to indemnify and hold Bank harmless from all expense or damage including reasonable attorney fees and other costs which Bank may sustain or incur as a result of the Dealer Goods and Services.
- (b) Dealer shall accept no payments on the Contracts from any Borrower but shall direct that all payments be made directly to Bank.
- (c) With respect to lease transactions, Dealer grants Bank a first priority security interest in all Vehicles which collateralize Contracts sold and assigned by Dealer to Bank. Bank shall be entitled to file Uniform Commercial Code financing statements as it deems necessary or appropriate to perfect the security interest granted by Dealer to Bank herein.

8. **Offset.** The Dealer Participation Account may be charged for any sums which are, as a result of any provision of this Agreement or of any other obligation of Dealer to Bank, payable to or for the benefit of the Bank by the Dealer but in respect of which the Dealer is in default. In the event of any default of the terms, conditions, representations and warranties made by Dealer, Bank may deduct from any deposit, security, funds or obligation due Dealer (including, but not limited to, the Dealer Participation Account), any amount Dealer owes Bank.

9. **Remedies.** Dealer agrees that if any representation herein was falsely made or is untrue, or if any warranty or covenant made herein is breached, or if a Borrower asserts any valid claim or defense with respect to a Contract, the Contract Documents, or the transactions represented thereby, Dealer will on demand of Bank re-accept assignment of the Contract and pay Bank the full amount then remaining due on such Contract plus all costs associated with it, including, but not limited to: (a) all losses and expenses incurred by Bank as a result of such breach or misrepresentation; (b) out of pocket expenses paid or incurred by Bank in connection with the collection of any amount due under any such Contracts, including attorneys' fees and costs of litigation whether by or against Bank and expenses with respect to repossession, storing, repairing and selling the Vehicle, and hold Bank harmless from any further obligation with respect to the transaction. Dealer shall indemnify the Bank for any losses and expenses, including attorneys' fees and costs, suffered by Bank, whether in any judicial or administrative proceedings or otherwise, because of any claim or defense asserted against Bank in connection

with the Contract, the Contract Documents or the related Vehicle which serves as collateral for the Contract. The remedies specified herein are in addition to any other rights or remedies which Bank may have by operation of law or otherwise.

10. **Termination.** Either Dealer or Bank may terminate this Agreement at any time by written notice to the other, specifying the effective date of the termination. The written notice shall be mailed to the respective addresses set forth above, or at such other address as may have been furnished in writing to the other party. No termination shall alter, change or modify the respective rights or liabilities of Dealer or Bank with respect to any Contract sold and assigned to Bank by Dealer prior to the date of termination, and all representations and warranties made by Dealer in this Agreement shall survive the termination.

11. **Disclaimer.** Dealer and Bank acknowledge that any documents required and provided by Bank in connection with the documentation of any transaction hereunder have been prepared by Bank solely for the purpose of Bank. Dealer further acknowledges that Bank makes no warranty of any kind whatsoever, expressed or implied, with respect to the form, substance or enforceability of any such documentation. Use by Dealer of such documents for any other purpose outside this Agreement is not permitted.

12. **Independent Contractor.** At all times Dealer is and shall be deemed to be an independent contractor and not the agent of Bank for any purpose. This Agreement does not create a partnership or a joint venture between the Bank and Dealer.

13. **Notice of Claim.** The Bank and Dealer shall promptly notify each other and forward a copy of every demand, notice, summons, and other process received in connection with any Contract or any Vehicle which serves as collateral for a Contract.

14. **Further Assurances.** Dealer shall execute and deliver to Bank, upon Bank's request, such instruments and assurances as Bank deems necessary for confirmation or perfection of this Agreement and the sale and assignment of the Contracts, including without limitation, Uniform Commercial Code financing statements.

15. **Power of Attorney.** Dealer hereby irrevocably appoints Bank as its attorney-in-fact (a) to endorse or sign Dealer's name on all checks, collections, receipts, Uniform Commercial Code financing statements or continuations or amendments thereto, or other documents related to the Contracts or the Vehicles; (b) to ask, demand, collect, receive, sue for, compound, and give acquittance for any and all Contracts sold and assigned to Bank; (c) to settle, adjust or compromise any claim as fully as Dealer can itself; and (d) to file any claim or take any other action that Bank may deem necessary or appropriate to collect any and all sums that may be or become due or payable under the Contract or that may be necessary or appropriate to protect the right, title and interest of Bank in and to the Contract or the Vehicle.

16. **Original Documents and Copies.** Dealer may provide and the Bank will accept all reports of information and any completed Contract Documents and other forms and documentation via facsimile or secured email transmission unless applicable law requires delivery of original certificates, instruments or other documents. The facsimile equipment telephone numbers or email addresses will be provided to the Dealer by the Bank from time to time. If original certificates, instruments or other documents must be provided by Dealer to Bank, then Bank shall notify Dealer of that requirement.

17. **Entire Agreement.** This Agreement and the attached Exhibits contain all the terms, conditions and provisions agreed upon by the parties concerning the subject of this Agreement. The invalidity of any portion of this Agreement shall not affect the remaining portions hereof.

18. **Amendments.** This Agreement shall be binding upon and inure to the benefit of the personal representatives, successors, and assigns of the respective parties and may be amended only in writing signed by the parties. Dealer may not assign its rights under this Agreement without the prior written consent of the Bank.

19. **Governing Law, Jurisdiction, and Venue.** The validity, enforcement and construction of this Agreement shall be governed by the laws of the State of Indiana without regard to its conflicts of law. Dealer agrees to submit to the jurisdiction of the state and federal courts located in Marion County, Indiana, and further agrees that the venue for any litigation shall be in Marion County, Indiana.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by individuals thereunto duly authorized as of the day and year first above written.

Dealer Legal Name

FIRST INTERNET BANK OF INDIANA

Assumed Business Names of Dealer:

By _____
Title _____

By _____
Title _____
Printed Name _____