



## Lease Contract Program Agreement

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

Fusion Auto Finance, LLC ("FAF")

Date: \_\_\_\_\_

**FOR GOOD AND VALUABLE CONSIDERATION RECEIVED**, the parties to this Agreement agree as follows:

**THE PROGRAM.** Dealer has requested FAF to establish a program (the "Program") under which FAF will, from time to time, one or more times, offer to purchase leases ("Contracts") originated by Dealer as lessor, that involve the lease of motor vehicles ("Vehicles") to Dealer's customers ("Customers"). Funding for the purchase of leases is provided through designated Credit Unions ("CU's") who have separate agreements in place with FAF and Dealer; these agreements are distinct from this Agreement and are referenced for understanding of the roles of FAF, Dealer, and CU's in the origination, funding, and purchase of leases. FAF has agreed to establish the Program and to offer to purchase Contracts from Dealer on a recurring basis.

**Program Purchases.** All Program purchases shall be made pursuant to the terms and conditions of this Agreement. Each Contract shall initially constitute a direct payment obligation of the Customer to and in favor of Dealer, which upon purchase will be assigned to FAF.

**CU's Funding.** The funding for purchases of Contracts under the Program is provided by CU's in the ordinary course of business in indirect automobile leasing and servicing their Credit Union members. Where specifically indicated in this Agreement, CU's are an authorized designee for FAF and have all of the rights and remedies of FAF under this Agreement.

**Leases of Vehicles.** All leases of Vehicles under Contracts purchased by FAF, through its designee, ("Leases") shall be in the ordinary course of Dealer's business. The agreed-upon value of each leased Vehicle shall not exceed the cash sales price for which Dealer otherwise would have agreed to sell the same Vehicle to an ordinary retail purchaser. A Contract may not provide for maintenance, insurance or other services by or at the expense of Dealer unless separate identifiable charges therefore are included in the Contract. Once a Contract is purchased by and assigned to FAF, Dealer shall cease for all purposes to have any rights to or interest in the Lease and in the leased Vehicle, which shall be titled in FAF's name.

**FAF's Discretion.** FAF, or its designee, shall have no obligation to purchase any particular Contract or Contracts from Dealer. FAF, through its designee, shall have absolute and total discretion with respect to which Contracts FAF, and its designee, may agree to purchase. FAF, through its designee, shall have the further right at all times and in its sole discretion: (1) to determine the extent to which, and the terms and conditions under which, FAF, and its designee, will purchase Contracts from Dealer; (2) to establish and approve the form and provisions of Contracts; (3) to determine the types of

Vehicles that may be leased under a Contract purchased by FAF, through its designee; (4) to establish minimum equipment requirements for leased Vehicles; (5) to determine the lease and credit terms of Contracts purchased by FAF, through its designee; and (6) to determine the creditworthiness of each Customer. Nothing under this Agreement, or under any existing or future agreement or understanding between the parties, whether in writing or in the form of oral statements, or any conduct or course of dealing on the part of FAF, and its designee, or on the part of its officers, employees or agents, may be construed by Dealer, or by Dealer's owners, partners, members, shareholders, principals or management officials, or by any Customer, or by any court of law, or in arbitration, to in any way obligate or commit FAF, through its designee, to purchase any particular Contract, or to amend, alter or in any way modify the discretionary nature of this Agreement.

**Right to Terminate Program.** FAF shall have the right to terminate the Program, and to cease purchasing additional Contracts, through its designee, from Dealer, at any time, and for any or no reason, with or without cause. Dealer's representations and warranties in favor of FAF, and Dealer's remarketing, indemnity, guaranty, repurchase, reserve, and additional obligations under this Agreement, shall remain in full force and effect notwithstanding FAF's election to terminate the Program.

**APPLICATION AND CONSUMMATION PROCEDURES.** Dealer agrees as follows:

**Acceptance of Lease Applications.** Dealer shall accept applications for leases, from Dealer's Customers, and if Dealer desires to sell and assign a Contract to FAF, Dealer shall promptly transmit the Customers completed and signed application to FAF's designee electronically, and subsequently by mail. Neither Dealer nor any of Dealer's employees shall make any statement or representation to a Customer as to whether the Customer

qualifies or pre-qualifies for a lease under FAF's designee's credit standards. Furthermore, neither Dealer nor any employee of Dealer may discourage a Customer from applying for a Lease or refuse to accept an application from any Customer. Dealer shall advise each Customer of Dealer's intent to offer the Customer's Contract to FAF, through its designee. Dealer shall promptly provide FAF's designee with all necessary and pertinent information requested by FAF's designee with respect to Dealer's intended lease of a Vehicle to the Customer.

**Approval and Acceptance Procedures.** If FAF's designee approves the Customer's lease application, FAF's designee will notify Dealer of its approval, and Dealer shall then notify the Customer. Unless otherwise extended by FAF's designee in writing, the lease must be consummated and the Contract must be executed within thirty (30) days following the date on which FAF's designee approved the Customer's lease application.

**Denial Procedures.** If, for any reason whatsoever, FAF's designee declines to purchase the Contract of a particular Customer, FAF's designee will so notify the Dealer. FAF's designee will then take whatever action regarding such denial as FAF's designee deems necessary to comply with applicable law and regulation, including without limitation, advising the Customer of the denial, responding to Customer inquiries, and sending appropriate notices of adverse action to the Customer pursuant to the Federal Equal Credit Opportunity Act, the Federal Fair Credit Reporting Act, and any applicable state laws and regulations.

**Completion and Execution of Contracts.** If FAF, through its designee, agrees to purchase a Contract from Dealer, Dealer shall complete the relevant portions of the Contract. Dealer shall then require the Customer to execute the completed Contract, which Dealer shall then immediately forward to FAF's designee. Dealer shall not permit or require the Customer to sign more than one original Contract.

**Delivery of Other Documents and Amounts.** Dealer shall deliver the following original documents to FAF's designee within ten (10) days of the Contract's execution: (1) the Customer's original lease application signed by the Customer; (2) a copy of the manufacturer's certificate of origin of the Vehicle; (3) a copy of the manufacturer's invoice with respect to the Vehicle; (4) a copy of any vendor's invoice applicable to dealer-installed optional equipment; (5) a copy of the application for title, registration, and licensure of the Vehicle; (6) the original certificate of title to the Vehicle, which in a lease shall reflect FAF as the record owner of the Vehicle; (7) a copy of any agreement covering maintenance or service to the Vehicle; and (8) such other information, documents, and materials as FAF, or its designee, may request from time to time. Dealer shall further deliver to FAF's designee, funds representing the amount of the Customer's first monthly rental payment (including applicable lease and use taxes) plus an acquisition fee, collected at the time the Contract was signed, or alternatively no later than when the Vehicle was delivered to the Customer.

**Purchase Price/Advance Amount.** FAF, through its designee, shall advise Dealer in writing from time to time, one or more times, of the buy rates/money factors or formulae used by FAF's designee to determine the purchase price/advance amount that FAF, through its designee, is willing to pay to Dealer in consideration of and for the purchase of Contracts. FAF, through its designee, shall have the right, and the full and complete discretion, to increase or decrease such buy rates/money factors from time to time, and to substitute other formulae or basis for determining the purchase prices/advance amounts of subsequently purchased Contracts.

**Funding; EFT and NACHA Authorization.** Following receipt of the Customer's original signed Contract and other required documents as described, by FAF's designee, FAF's designee will cause funds representing the Contract purchase price/advance amount, net of amounts due from Customer at Contract signing, to be wired or otherwise deposited into Dealer's designated operating account with Dealer's bank. Dealer agrees that the National Clearinghouse Association ("NACHA") Operating Rules will govern electronic funds transfers ("EFT") deposited into Dealer's designated operating account. ACH transactions presented to Dealer's designated bank will be originated from FAF's designee. This EFT and NACHA authorization shall remain in full force and effect until such time that either Dealer or FAF, through its designee, gives written notice to the other as provided in this Agreement.

**COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS; PROHIBITED DISCRIMINATION.**

Dealer represents and warrants that Dealer shall comply with all applicable federal, state and local laws and regulations, including, but not limited to: The federal Truth in Lending Act, the federal Consumer Leasing Act, the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Gramm-Leach-Bliley Act, any other laws relating to the Contracts and all regulations promulgated thereunder. Without limitation of the foregoing: (a) Dealer and its employees shall not discriminate in any respect against any applicant or potential applicant on a prohibited basis (as defined under any federal, state or local Equal Credit Opportunity Act or similar law); and (b) Dealer's marketing, joint marketing or other promotional activities, whether by written or oral agreement, shall comply with the joint marketing provisions of the Gramm-Leach-Bliley Act. FAF, or its designee, shall in no way be responsible for Dealer's compliance under such fair lending laws and regulations, and Dealer shall fully indemnify FAF, and its designee, from any and all liability to which FAF, and/or its designee, may be exposed as a result of Dealer's discriminatory or prohibited acts and practices.

**DEALER'S REPRESENTATIONS AND WARRANTIES.**

Dealer makes the following representations and warranties to FAF:

**Dealer's Status.** Dealer is a duly authorized, franchised, motor vehicle dealership. Dealer is properly and lawfully organized as a corporation, partnership, limited partnership, limited liability company, or is a sole proprietorship, and is properly licensed and qualified to do business, and is in good standing, in each jurisdiction

where such qualification and licensure is required. Dealer has and shall maintain and keep in effect all rights, licenses and franchises required for the conduct of its business, and shall carry on its business in a lawful manner.

**Authorization.** Dealer's execution, delivery and performance of this Agreement have been duly authorized, and do not conflict with, and will not result in a violation of, or constitute or give rise to an event of default, under any agreement or other instrument that may be binding upon Dealer, or any of its partners, members, or shareholders, or under any law, regulation, court decree or order applicable to Dealer, or any of its properties.

**Effectiveness.** Once properly executed, this Agreement is valid, binding and enforceable in accordance with its terms, as against Dealer and as against each of its owners, partners, members, or shareholders.

**Representations and Warranties with Respect to Each Customer.** (1) Each Customer is a bona fide individual or company. (2) If the Customer is an individual, the Customer is of the age of majority and has the legal capacity to enter into a lease with Dealer, and to enter into a binding contract in the form of the Contract. (3) If Customer is a company, the Customer properly exists, and is in good standing under applicable law, and has the capacity and authority to enter into a lease with Dealer, and to enter into a binding contract in the form of the Contract. (4) The Customer does not intend to use the leased Vehicle primarily for agricultural purposes.

**Representations and Warranties with Respect to the Lease and the Vehicle.** (1) The Customer, the Vehicle and the provisions of the Contract correspond in all respects with the Customer, the Vehicle and the provisions of the proposed Contract for which approval was granted by FAF's designee. (2) The Vehicle and all accessories and options have been delivered to and accepted by the Customer in their present condition, and without reservation of rights. (3) The Vehicle is a U.S. specification vehicle, and would not be considered a gray market or altered vehicle. (4) The lease of the Vehicle was bona fide and in the ordinary course of Dealer's business. (5) The agreed-upon value of the leased Vehicle was equivalent to or less than the sales price that Dealer would have otherwise agreed to sell the same Vehicle to an ordinary retail purchaser on an "all cash" basis. (6) In a Lease, the Vehicle was leased to the Customer and sold to FAF free of all liens, privileges, and encumbrances, including without limitation, free of any security interest or lien in favor of Dealer, the Vehicle manufacturer, and any floor plan lender. (7) In a Lease, the Vehicle was properly titled, licensed and registered in FAF's name. (8) All fees that are payable to public officials with respect to licensing, titling and registering the Vehicle have been paid in full. (9) All sales, excise and other taxes applicable to the lease or sale of the Vehicle have been paid in full. (10) Any extended warranty insurance or service contract that may have been purchased from or through Dealer, and included in the Contract, is in full force and effect. (11) Vehicle insurance protecting the interests of FAF and its designee, and the Customer against loss, destruction, or

damage to the Vehicle, in such form and amounts as FAF, through its designee, may from time to time require, has been obtained. (12) Liability insurance in such form and amounts as FAF, through its designee, may require, protecting the interests of FAF and the Customer against liability for injury to persons or property arising out of the lease, ownership, use, or operation of the Vehicle, has also been obtained. In no event shall a leased Vehicle have insurance with less than the following minimum coverage: (a) if the Vehicle is a passenger car, fire, theft and comprehensive, or if the Vehicle is a truck, combined additional coverage in an amount not less than the actual cash value of the Vehicle at the time of loss, subject to a deductible of not more than \$500; (b) collision and upset coverage in an amount not less than the actual cash value of the Vehicle at time of loss, subject to a deductible of not more than \$500; and (c) liability for bodily injury and property damages in amounts not less than \$100,000 for injuries or death to any one person, \$300,000 for injuries or death in any one accident, and \$50,000 for property loss or damage.

**Representations and Warranties with Respect to Each Purchased Contract.** (1) Dealer has furnished FAF's designee with credit information received by Dealer with respect to the Customer and the Contract, and such information is true, complete and accurate. (2) Dealer properly completed the Contract, and the Contract contains all required information, which is correct and accurate in all respects. (3) None of the preprinted provisions of the Contract have been altered, modified or stricken by the Customer or by Dealer. (4) The Contract, as delivered to FAF's designee is genuine and has been properly executed by the Customer or by the Customers duly authorized representative, if Customer is a company. (5) The Customer's signature, or that of the Customer's duly authorized representative, if Customer is a company, is genuine. (6) The completed and signed Contract constitutes a valid and binding contract on the part of the Customer that is enforceable in accordance with the Contract's terms. (7) A copy of the completed Contract was provided to the Customer at the time the Contract was signed. (8) The Customer did not execute more than one original lease agreement. (9) The amount of any cash payment represented to FAF, through its designee, as having been paid by the Customer, was in fact received by Dealer in cash prior to the time the Contract was signed, or no later than when the Vehicle was actually delivered to the Customer. (10) The amounts of any trade-in allowance, rebates or other incentive credits applicable to the lease of the Vehicle, are bona fide and genuine, and the Customer was actually entitled to the same. (11) The amounts of insurance premiums, extended warranty and service contract fees, license fees, certificate of title fees, registration fees, vehicle inspection fees, sales and excise taxes, and all other fees and charges disclosed in the Contract, are correct. (12) Dealer has made all disclosures required under the Federal Consumer Leasing Act, and Federal Reserve Board Regulation M, and similar state laws and regulations applicable to consumer lease transactions. (13) The conduct of Dealer and its employees shall not subject FAF, and/or its designee, to suit or administrative proceeding under any state or federal law, rule or regulation. (14) Dealer does not know of any fact not disclosed to FAF, or its designee, which indicates that FAF's designee will not receive all payments as provided

under the Contract. (15) At the time FAF, through its designee, pays the purchase price/advance amount of the Contract to Dealer, the Contract is free of all liens and encumbrances in favor of Dealer's creditors, irrespective of whether FAF's designee then has actual physical possession of the Contract documents. (17) The Contract has been properly assigned from Dealer to FAF. Dealer agrees to obtain appropriate subordination or release agreements in favor of FAF from any of Dealer's creditors who may have prior perfected security interests affecting Dealer's chattel paper.

**Continuing Representations and Warranties.** Dealer's representations and warranties in favor of FAF, and its designee, shall be continuing and shall survive FAF's election to terminate the Program.

**Notice of Non-Compliance.** Dealer shall immediately notify FAF, and its designee, electronically, and then confirm by mail, of Dealer's failure to comply with any of Dealer's obligations under this Agreement, and/or if any representation or warranty made hereunder, or under any other agreement between Dealer and FAF, or its designee, prove at any point in time to be false or incorrect in any material respect.

**Remedies Available to FAF.** Should Dealer fail to comply with any of its obligations under this Agreement, or should any representation or warranty made hereunder, or under any other agreement with FAF, or its designee, prove to be false or incorrect in any material respect, FAF, or its designee, shall have the right to insist that Dealer immediately repurchase each affected Contract, all as provided herein.

**FINANCIAL INFORMATION AND REPORTS.** Dealer agrees to maintain complete and accurate records concerning the lease of each Vehicle under a Contract purchased by FAF, through its designee, which shall include, without limitation, records of all other transactions affecting such Vehicles. Dealer further agrees to provide FAF, or its designee, with such additional reports as FAF, or its designee, may request from time to time, which shall include such information and summaries as FAF, or its designee, may designate and require. Dealer additionally agrees that FAF, or its designee, may inspect Dealer's books and all other financial records of Dealer at any reasonable time.

**DEALER'S SUBORDINATION OF RIGHTS.** Dealer recognizes that, following the purchase of a Lease Contract by FAF's designee, FAF will become the owner of the leased Vehicle. Dealer agrees that FAF's ownership rights and interests in the leased Vehicle shall at all times be superior in all respects to any rights that Dealer may have to receive and collect any amounts that the Customer may owe to Dealer for any reason. Dealer subordinates and releases in favor of FAF any contractual or statutory right, security interest, or lien that Dealer may have or acquire with respect to the property and assets of any Customer, including without limitation, any rights, liens, or privileges that Dealer may have with respect to the Vehicle.

**DEALER'S REMARKETING OBLIGATIONS.** Dealer agrees to assist FAF, through its designee, in remarketing Vehicles that are acquired by FAF's designee as a result of a Customer's default, or the Customer's voluntary surrender of the Vehicle, or as a result of delivery of the Vehicle to FAF, or its designee, at the end of the Contract term. Specifically, and without limitation, Dealer agrees to complete the following procedures at no cost to FAF, or its designee: (1) test drive the Vehicle; (2) prepare a vehicle condition report in such form as FAF may require, and which truly and accurately identifies damage to the Vehicle, and to the extent applicable, any excess wear and tear to the Vehicle, and excess mileage determined under the standards set forth in the Contract; (3) complete an odometer statement; (4) estimate the cost of repairs of any Vehicle damage and excess wear and tear; and (5) store the Vehicle for up to thirty (30) days. At the end of the Contract term, if offered by FAF, Dealer shall have the option to purchase the Vehicle from FAF under such terms and conditions as may then be acceptable to FAF. In the alternative, and if requested by FAF, Dealer agrees to sell the Vehicle on a consignment basis on FAF's behalf at such price as may be acceptable to FAF. Dealer further agrees to execute an appropriate UCC-1 financing statement evidencing FAF's ownership interest in consigned or stored Vehicles.

**DEALER'S INDEMNITY OBLIGATIONS.** Dealer agrees to indemnify, to defend and to save and to hold FAF, and its designee, and all subsidiaries and affiliates of FAF, and its designee, and their respective officers, employees, agents and attorneys ("Indemnified Persons"), harmless from any and all claims, suits, obligations, damages, losses, costs, expenses (including without limitation, reasonable attorneys' fees and costs of defense), demands, liabilities, penalties, fines and forfeitures, of every nature and kind, that may be asserted against or incurred by such Indemnified Persons arising out of or in any way occasioned by this Agreement, or arising out of or resulting from any Contract purchased by FAF, through its designee, which is due to an action or inaction on the part of Dealer or its employees. This includes, without limitation, any adverse claim, demand, administrative proceeding or lawsuit asserting that actions or inactions on the part of Dealer or of Dealer's officers, employees, or agents, were fraudulent, misleading, or constitute an unfair or deceptive practice, or violated any applicable federal or state law, rule, or regulation, or arising out of any other adverse claim, demand, administrative proceeding, or lawsuit in any way related to the Vehicle, or services provided by Dealer, or in any way arising directly or indirectly out of any default by Dealer under this Agreement. The foregoing indemnity obligations shall be continuous and shall survive FAF's election to terminate the Program.

**FAF'S INDEMNITY OBLIGATIONS.** FAF, and its designee, agrees to indemnify, to defend and to save and hold Dealer and its parent, and all subsidiaries and affiliates of Dealer and their respective officers, employees, agents and attorneys (the "Dealer Indemnified Parties"), harmless from any and all claims, suits, obligations, damages, losses, costs, expenses (including, without limitation, reasonable attorneys' fees and costs of defense), demands, liabilities, penalties,

finances, and forfeitures, of every nature and kind, that may be asserted against or incurred by such Dealer Indemnified Parties that both (a) arise and come into existence after the date that FAF, through its designee, purchases a Contract from Dealer and (b) arise out of FAF's designee's actions in servicing or collecting a Contract that FAF, through its designee, has purchased from Dealer. The foregoing indemnity shall be continuous and shall survive FAF's election to terminate the Program.

**PROTECTION OF FAF's RIGHTS.** Dealer shall be fully responsible for any losses that FAF, or its designee, may suffer as a result of anyone other than FAF, or its designee, asserting any right to or interest in any leased Vehicle or in any purchased Contract. If and when requested by FAF, or its designee, Dealer will appear in and defend all actions and proceedings purporting to affect FAF's, or its designee's, rights and interests. Should Dealer fail to do what is required of it under this section, or if any action or proceeding is commenced or threatened naming FAF, or its designee, as a party, or affecting FAF's, or its designee's, rights and interests, then FAF, or its designee, may, without waiving any right or remedy that FAF, and its designee, may have, and without releasing Dealer from any of its obligations, do whatever FAF, or its designee, believes is necessary and proper within its sole discretion to protect FAF's, or its designee's, rights and interests.

**DEALERS REPURCHASE OBLIGATIONS.** Dealer agrees to guarantee payment in full of, or alternatively to repurchase, each Contract that is affected or that may be affected by Dealer's failure to perform its obligations under this Agreement, or by a material breach of any of Dealer's representations and warranties as provided herein. Dealer unconditionally agrees to pay to FAF, or its designee, immediately on demand the unpaid balance of each guaranteed or repurchased Contract, in principal, interest, costs, expenses, collection attorney's fees and other fees and charges. The foregoing guaranty and repurchase obligations shall be continuous and shall survive FAF's election to terminate the Program.

**ELECTRONIC ACTIONS.** All rights and remedies of FAF, or its designee, under this Agreement may be performed and accomplished electronically to the extent otherwise permitted by applicable law, including, without limitation, electronic filings, electronic notices, electronic accountings and electronic enforcement, collection, realization and foreclosure activities.

**RELATIONSHIP.** Nothing in this Agreement or in the course of performance hereof shall be construed by the parties hereto, or by any court or administrative agency, or by an arbitrator, as making either Dealer or FAF, or its designee, the agent, employee or legal representative of the other, or as making the parties to this Agreement partners or joint ventures in any respect. The relationship of Dealer to FAF, and its designee, and FAF, and its designee, to Dealer, shall be that of independent contractors. Dealer is not granted any express or implied right to represent or bind FAF, or its designee, in any manner. To the extent necessary and appropriate, Dealer agrees to explain to each Customer that Dealer is not FAF's, or

**its designee's, agent or representative. and that Dealer has no right to bind, obligate or commit FAF, or its designee, in any way.**

**POWER OF ATTORNEY.** Dealer irrevocably appoints FAF, or its designee, as its true and lawful attorney-in-fact, coupled with an interest, and with full power of substitution, for the purpose of accomplishing any and all of the following actions: (1) To sign Dealer's name on any motor vehicle bill of sale, certificate of title or registration, or application or form submitted to a public agency, and/or on any other document necessary to perfect FAF's ownership, security and other rights and interests in and with respect to the Vehicles and Contracts purchased from Dealer. (2) To demand, collect or receive, receipt for, sue and recover all sums of money which may now and in the future become due, owing and payable with respect to each purchased Contract. (3) To sign Dealer's name on any check, draft or other instrument received in payment or as proceeds under any purchased Contract. (4) To assert, settle and compromise any and all claims arising with respect to each leased or sold Vehicle, and with respect to each purchased Contract. (5) To further act in Dealer's name, place and stead to perform such acts that may be required of Dealer under this Agreement, of which Dealer may not fully, or may refuse to perform for any or no reason, or that Dealer may delay in performing. (6) To contact Customers and other parties to confirm balances owed under Contracts, and to verify such other information as FAF, or its designee, may request or require. FAF, or its designee, may take any and all of the above actions as FAF, or its designee, may deem to be necessary and proper within FAF's, or its designee's, sole and exclusive discretion, without any obligation to do so. FAF, and its designee, agrees that: (a) unless a default exists under this Agreement [in which case no presentation of documents or instruments will be required under this clause (a)], FAF, or its designee, will not exercise its rights under clauses (1) and (3) above unless the applicable document or instrument signed by FAF, or its designee, has first been presented to Dealer for execution; and (b) FAF, or its designee, will not exercise its rights under clauses (2), (4) and (6) above unless a default exists under this Agreement. This power of attorney is irrevocable and shall remain in full force and effect until renounced by FAF, or its designee, in writing.

**EXECUTION OF ADDITIONAL DOCUMENTS.** Dealer agrees to execute such additional documents, instruments and agreements as FAF, or its designee, may deem necessary and appropriate, within FAF's, or its designee's, sole discretion, and in form and substance satisfactory to FAF, or its designee: (1) to keep this Agreement in effect; (2) to better reflect the true intent of this Agreement; (3) to consummate fully all of the transactions contemplated hereby, and under all other agreements, instruments or documents heretofore, now or at any time or times hereafter executed by Dealer and delivered to FAF, or its designee.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement:

**Advertising.** Dealer agrees not to identify FAF, or its designee, in any advertising placed in any medium (including signs on Dealer's premises) without prior written approval from FAF, or its designee.

**Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth herein. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Applicable Law.** This Agreement has been delivered to FAF and accepted by FAF in, and shall be governed by and construed in accordance with the laws of, the State in which Dealer is located, without respect to conflict of laws principles.

**Effective Date.** This Agreement is effective as of the date first written above.

**Electronic Storage; Reproduction Deemed an Original.** FAF may electronically store and preserve this Agreement, and discard and destroy the original signed document. Any reproduction of this Agreement derived from FAF's electronic storage system shall be deemed to be original and authentic, and may serve in the place of the original signed document for all purposes.

**Enforcement Expenses.** Should it become necessary for FAF, or its designee, to retain the services of an attorney to protect and enforce FAF's, or its designee's, rights and remedies as against Dealer, or against third persons asserting rights to or an interest in a Contract or Vehicle, Dealer agrees to reimburse FAF, and its designee, for its reasonable attorneys' fees and expenses of enforcement for both inside and outside counsel.

**Jury Waiver.** Dealer and FAF waive the right to trial by jury in any lawsuit brought by any party against any other party.

**Limitation on FAF's Liability to Dealer.** FAF shall have no liability to Dealer, or to Dealer's owners, partners, members, shareholders, principals or management officials, or to any other person or entity, for any action taken or omitted in connection with this Agreement, other than as a direct result of FAF's gross negligence or willful misconduct.

**Notices.** To give Dealer any notice required under this Agreement, FAF may hand deliver, electronically transmit, or mail such notice to Dealer. FAF will deliver or mail any notice to Dealer at any address which Dealer may have given FAF by written notice as provided in this paragraph. All notices required or permitted under this Agreement must be in writing and will be considered as given on the day it is delivered by hand, electronically transmitted, or deposited in the U.S. Mail, by registered or certified mail to the address specified in this Agreement.

**Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any

other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

**Sole Discretion of FAF.** Whenever FAF's consent or approval is required under this Agreement, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of FAF and FAF's decision shall be final and conclusive.

**Nominee's and Designee's of FAF.** Dealer shall, upon receipt of notice (a "Nominee Notice") from FAF, transfer and assign any Contract purchased hereunder directly to any nominee or designee of FAF, as indicated in the Nominee Notice. A Nominee Notice may relate to a single Contract or any number or types of Contracts. For example, a Nominee Notice could direct Dealer to assign all purchased Leases and leased Vehicles to a trust. Upon receipt of a Nominee Notice, Dealer will take all actions required to carry out the terms of the Nominee Notice, including, without limitation: (a) using new forms of the Contracts required by FAF; (b) assigning all indicated Contracts to the nominee or designee; (c) titling all leased Vehicles in the nominee or designee. If and when any Contract is assigned to a nominee or designee and/or any of the other actions described above is taken with respect to a nominee or a designee, the nominee or designee shall automatically be assigned, and shall succeed to, all of the rights and remedies of FAF under this Agreement as to the covered Contracts and Vehicles, as if an express assignment of FAF's rights and remedies under this Agreement had occurred.

**Successors and Assigns Bound.** Dealer's obligations and agreements under this Agreement shall be binding upon Dealer's successors, heirs, legatees, devisees, administrators, executors and assigns, as well as upon each of Dealer's owners, partners, members, or shareholders. However, notwithstanding the foregoing provision, Dealer shall have no right to assign this Agreement to a third party without obtaining FAF's prior written consent, which FAF shall have the right to withhold for any or no reason.

**Tax Benefits.** All tax benefits associated with or derived from the ownership of leased vehicles shall accrue to and be retained by FAF.

**Unconditional and Irrevocable Nature of Agreements and Consents.** Dealer's covenants, agreements and consents under this Agreement are unconditional and irrevocable, and may not be withdrawn or otherwise revoked by Dealer under any circumstance, other than as a result of FAF's prior written consent, which FAF has the right to reject or withhold for any or no reason, with or without cause.

**Waiver.** FAF will not be deemed to waive any right or remedy under this Agreement unless the waiver is specific, and in writing signed by FAF's authorized representative. No delay or omission on the part of FAF in exercising any right or remedy may be construed by Dealer, or by Dealer's owners, partners, members,

shareholders, principals, or management officials, or by any court of law or in arbitration, as a waiver or forbearance of any right or remedy that may be available to FAF. FAF's written waiver of a provision of this Agreement will not prejudice, and may not in any way be construed as a waiver of FAF's right otherwise to demand strict compliance with that provision, or with any other provision of this Agreement. No course of dealing between FAF, or its designee, and Dealer may be construed as a waiver of any of FAF's, or its designee's, rights or remedies, or of any obligation of Dealer.

**No Third Party Beneficiaries.** This Agreement is intended for the sole and exclusive benefit of FAF and Dealer. No other persons or entities shall be considered to be third party beneficiaries under this Agreement or to have any rights to rely upon the terms, provisions, covenants, representations or agreements set forth in this Agreement.

**CONFIDENTIALITY OF NONPUBLIC PERSONAL INFORMATION.** In the course of their performance under this Agreement and other agreements, Dealer and FAF, or its designee, may disclose to each other information that meets the definition of "nonpublic personal information" ("Nonpublic Personal Information") in the regulations promulgated under Title V of the Gramm-Leach-Bliley Act of 1999 as amended from time to time, 15 U.S.C. 6801 to 6809, ("GLB Act Privacy Regulations"). Dealer and FAF shall not use or disclose such Nonpublic Personal Information to any nonaffiliated third party except (1) to the extent necessary to carry out the purpose or purposes for which a party discloses such information to the other party or (2) in the ordinary course

of business to carry out the purpose or purposes for which the Nonpublic Personal Information was disclosed to Dealer or FAF, or its designee, under an exception to the GLB Act Privacy Regulations. Dealer and FAF each agree that all of their respective affiliates shall use and disclose Nonpublic Personal Information to any nonaffiliated third party only to the extent that Dealer or FAF, respectively, may use and disclose such information. If Nonpublic Personal Information is disclosed to Dealer or FAF, or its designee, in connection with marketing, joint marketing or other promotional activities, whether by written or oral agreement, that party shall use and disclose such Nonpublic Personal Information only (1) to the extent necessary to carry out the activity or activities for which such Nonpublic Personal Information is disclosed to it or (2) in the ordinary course of business to carry out the purpose or purposes for which the Nonpublic Personal Information was disclosed to Dealer or FAF under an exception to the GLB Act Privacy Regulations.

**SAFEGUARDING NONPUBLIC PERSONAL INFORMATION.** Dealer and FAF shall maintain physical, electronic and procedural safeguards in compliance with applicable federal and state regulations to protect the Nonpublic Personal Information received from the other party, including, but not limited to, the maintenance of appropriate safeguards to restrict access to Nonpublic Personal Information received from the other party to those employees, agents or service providers of that party who need such information to carry out the purpose or purposes for which such Nonpublic Personal Information was disclosed to it.

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**DEALER HEREBY CERTIFIES THAT: (1) DEALER HAS CAREFULLY READ THIS AGREEMENT AND AGREES TO ALL OF ITS TERMS AND CONDITIONS AS WRITTEN; (2) DEALER EITHER CONSULTED WITH AN ATTORNEY, OR HAD THE OPPORTUNITY TO DO SO, PRIOR TO EXECUTION OF THIS AGREEMENT; (3) DEALER KNOWINGLY CONSENTED TO ALL WAIVERS CONTAINED IN THIS AGREEMENT; AND (4) NEITHER FAF NOR ANYONE CONNECTED WITH FAF HAS MADE ANY STATEMENT OR PROMISE TO DEALER THAT MAY CONTRADICT IN ANY WAY WHAT IS WRITTEN IN THIS AGREEMENT.**

**IN WITNESS WHEREOF, DEALER AND FAF HAVE EXECUTED THIS AGREEMENT EFFECTIVE AS OF THE DAY, MONTH AND YEAR FIRST WRITTEN ABOVE.**

DEALER			Fusion Auto Finance LLC.		
ENTITY TYPE		STATE OF ORGANIZATION	ENTITY TYPE		STATE OF ORGANIZATION
BY		ITS	BY		ITS
NAME			NAME		
ADDRESS			ADDRESS		
CITY	STATE	ZIP	CITY	STATE	ZIP