

DEALER AGREEMENT (RECOURSE OR REPURCHASE CONTRACTS)

This Dealer Agreement ("hereinafter the Agreement"), made this day of _____ 20__, Is made between **AUTO FACTORS, INC.**, a corporation doing business in NY, NJ, CT and TX maintaining its principal place of business at 99 West Hawthorne Avenue, Valley Stream, NY 11580, (hereinafter referred to as the "**AFI**" and _____ ("**the DEALER**").

This agreement supersedes all prior written and oral agreements, if any, between **AFI** and the **Dealer**, and constitutes the entire Agreement between **AFI** and the Dealer. The Recitals set forth in Part A of this Agreement constitute part of terms and provisions of this Agreement as though fully set forth therein.

A. Recitals:

A1. **AFI** Finance is regularly engaged in the business of purchasing/ financing retail installment contracts.

A2. The Dealer is regularly engaged in the business of selling new and /or used automobiles and other chattels, on credit.

A3. The Dealer may, from time to time, present to the **AFI**, certain retail installment contracts (hereinafter referred to as "Contracts"), obtained by the Dealer from various retail consumers (hereinafter referred to as "Debtors"), to whom installment sales of automobiles or other chattels have been made, in the course of the Dealer's business.

A4. The Dealer understands that each individual Contract presented to **AFI** by the Dealer for purchase will be independently evaluated on its merits by **AFI**. **AFI** will decide, in its sole and absolute discretion, which Contracts, if any, it shall purchase. **AFI** finance shall not be obligated to purchase or finance any Contracts from the Dealer.

A5. **AFI** and the Dealer hereby agree that, in consideration for **AFI's** purchasing of any such Contracts from the Dealer, the parties will be bound by all of the terms and conditions contained within this Agreement, with respect to such Contracts as may hereafter be purchased by **AFI** from the Dealer.

A6. Full Recourse Reassignment or Repurchase Contracts.

Full Recourse Contracts (mark appropriate box on the AFI Installment Contract)

Notwithstanding anything to the contrary contained in this agreement or in any Contract approved and purchased by **AFI** under a "Full Recourse" designation (including, without limitation, any pre-printed assignment provision in any Contract, whether or not such provision is signed, or otherwise agreed to, by the Dealer), the assignment hereunder of any Contract by the Dealer to **AFI** under a "Full Recourse" designation shall, in the event of a default by the respective Debtor(s) under such Contract that remains uncured for at least ninety (90) days, be with "Full Recourse" to

the Dealer. Thus, in the event that any payment owed by such Debtor(s) under such Contract is 90 days or more past due, the Dealer irrevocably and unconditionally agrees, upon AFI's demand, to promptly repurchase such Contract from AFI in accordance with Section A7 hereof, but in no event later than the last day of the calendar month during which demand is made.

Repurchase Contracts (mark appropriate box on the AFI Installment Contract)

The dealer is obligated to reimburse AFI including all fees associated with securing the collateral. Once AFI is reimbursed by the dealer, we will reassign the contract to the dealer along with the release of lien in 10 business days. **There is no obligation to reimburse AFI if we fail to secure the collateral.**

A7. Calculation of Pay-Off Balance. In the event that the Dealer is required to repurchase any Contract under the terms of Section A6 hereof, the Dealer shall pay to AFI a repurchase price (the "Repurchase Price") equal to the sum of: (i) the difference between (a) the full "pay-off" balance that the relevant Debtor(s) would otherwise be required to pay to AFI to satisfy in full his or her obligation under such Contract (i.e., the balance of the remaining scheduled monthly payments hereunder) as of the date of the Dealer's repurchase thereof, minus (b) any unearned interest or other finance charges that would result such Contract from early payment of such obligation; plus (ii) all fees, costs and expenses incurred by AFI in repossessing, storing and disposing of the vehicle and/or other chattel covered by such Contract. Upon AFI's receipt of such Repurchase Price in good funds, and if the Dealer is not then in default under this Agreement (as modified from time to time), AFI shall reassign its remaining interest under such Contract to the Dealer, without recourse to, or representation or warranty of any kind by, AFI."

Miscellaneous. Any notice, demand, request or other communication given hereunder or in connection herewith (hereinafter "Notices") shall be deemed sufficient if in writing and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the party to receive such Notice at its address set forth in this Compliance Addendum or at such other address as such party may hereafter designate by Notice given in like fashion. Notices shall be deemed given when mailed.

IN WITNESS WHEREOF, the parties have caused this Recourse Addendum to be executed by their duly authorized officers as of the day and year noted above.

B. Repurchase By Reason of Debtor Complaint :

B.1 The Dealer agrees to repurchase from AFI any Contract that was previously purchased by AFI from the Dealer, in the event that such Contract shall become delinquent, due to a bonafide claim or complaint against the Dealer by the Debtor, arising out of the Dealer's alleged breach of a term of the subject Contract for the sale of goods, provided, however, that such claim or complaint shall be made within ninety (90) days after the date that the Debtor's first payment is due under the Contract.

B.2 In the event that a claim or complaint, as described above, shall be made, **AFI** shall determine the pay-off balance due on the subject delinquent Contract, together with accrued interest, and shall promptly communicate notice of such claim or complaint to the Dealer.

B.3. Within thirty (30) days after Dealer's receipt of such notice of claim or complaint, as described above, the Dealer shall pay **AFI** an amount equal to the pay-off balance owed on account of the subject Contract, including all accrued and unpaid interest thereon.

B.4. If the Dealer does not make prompt payment to **AFI** as provided above, **AFI** shall have the absolute right, in its sole and absolute discretion, to offset the amount of its said claim, against any funds held by **AFI** in any account of the undersigned Dealer or any guarantor.

C. Dealer Warranties:

C1. The Dealer warrants the genuineness of each Contract purchased from the Dealer by the **AFI**; that each and every signature appearing on any Contract or related document acquired by the **AFI** from the Dealers is genuine; that each signatory in a representative capacity is duly authorized so to act; that the purchase price of the vehicle covered by the Contract being assigned to the **AFI** is the same as the cash price offered to the debtor under the Contract; that no part of any discount has been added to the Dealer's standard cash price of the vehicle; that there are no claims or defenses which any obligor under the Contract can assert which would render the Contract unenforceable by **AFI**; and that each such Contract complies with all applicable federal, state and local laws and regulations including, without limitation, the federal Truth in Lending Act and applicable state motor vehicle retail installment sales acts. Upon breach of any of the foregoing warranties or guaranties, the Dealer shall, upon demand of **AFI**, repurchase the subject Contract or Contracts from **AFI** for an amount equal to the then Contract payoff amounts, inclusive of accrued interest then due and unpaid. The payoff amount also include, without limitation, all applicable repossession, storage, and/or delivery fees, reasonable attorneys fees and costs.

C2. The Dealer will, upon purchase of any Contract by **AFI**, provide **AFI** with any and all documents reasonably required in order to enable **AFI** to perfect its security interest in the vehicle or chattel constituting the subject matter of the Contract, including but not limited to, forms known as financing statement (UCC-1); certificate of origin (C.E.O); application for registration or title; application for certificate of ownership; or such comparable forms as may be required to lawfully reflect **AFI**'s interest in the subject vehicle or other chattel and the perfection of same.

C3. It shall be duty of the Dealer, with respect to each Contract purchased by **AFI**, to promptly secure the recordation of the **AFI**'s security interest therein, so as to properly secure the **AFI**'s lien.

C4. The Dealer hereby indemnifies and holds the **AFI**, its officers, directors, employees, agents and attorneys, harmless from and against any and all claims,

actions, proceedings, losses, damages, liabilities, costs and expenses incurred by or asserted against the **AFI** or any of them (including, without limitation, attorneys' fees and expenses, and litigation costs) as a result or arising out of: (a) the Dealer's breach of any representation, warranty, agreement or covenant contained in this Agreement or in any Assignment or other related document; (b) the violation of any applicable law or regulation by the Dealer or anyone under the Dealer's control; or (c) any defense, set-off, claim, demand, counterclaim, lien or encumbrance of any person or other entity against any Contract purchased by **AFI** or the motor vehicle and/or other goods and/or services sold, performed or provided hereunder, including (without limitation) any claim or defense that any obligor under the Contract may have against the **AFI**, the Dealer or any third party.

PERSONAL GUARANTY

In order to induce **AFI** to enter into the foregoing Agreement, each of the undersigned guarantors (individually) and collectively, the "Guarantor") hereby jointly and severally unconditionally guarantees reimbursement to **AFI**, when due, of all indebtedness, of any kind whatsoever, presently existing and hereafter arising, of the Dealer under such Agreement or otherwise (collectively, the "Obligations") (and its successors and assigns, collectively, the "Dealer") to **AFI** on the following terms and conditions:

This is a guaranty of reimbursement to **AFI** for our advance check. The Guarantor hereby expressly waives the following: notice of the incurring of indebtedness by any obligor; presentment and demand for payment, protest, notice of protest and notice of dishonor or non-payment of any instrument evidencing an Obligation; any right to require suit against the Dealer or any other party before enforcing this Guaranty; any right to have security applied before enforcing this Guaranty; notice of acceptance of this Guaranty; notice of any default hereunder or under any agreement evidencing any Obligation; all other notices and demands otherwise required by law which the Guarantor may lawfully waive; and any right of subrogation, reimbursement, exoneration, contribution, indemnification, or participation in any claim or remedy of the Dealer against **AFI** or any collateral security that **AFI** now has or hereafter acquires, and the Guarantor agrees that any Such rights are expressly subordinate to the rights and remedies of the **AFI** until the Obligations are paid in full. The Guarantor hereby expressly agrees that **AFI** may, in its sole and absolute discretion, without notice to or further assent of the Guarantor, and without in any way releasing, affecting or impairing the obligations and liabilities of the Guarantor hereunder: (i) waive compliance with, or any default under, or grant any other indulgences with respect to, any Obligation or any agreement or instrument securing any Obligation; (ii) modify, amend or change any provisions of any Obligation; (iii) grant extensions or renewals of or with respect to any Obligation, and /or effect any release, compromise or settlement in connection therewith; (iv) agree to the substitution, exchange, release or other disposition of all or any part of the collateral at any time securing any Obligation; (v) make advances for the purposes of performing any term or covenant contained in any agreement evidencing any Obligation or any instrument or agreement securing the Obligations, with respect to which the Dealer shall be in default; (vi) assign or otherwise transfer

any agreement evidencing any Obligation and any instrument or agreement securing the Obligations, including, without limitation, this Guaranty, or any interest therein; and (vii) deal in all respects with the Dealer as if this Guaranty were not in effect. The Obligations of the Guarantor hereunder shall be unconditional, irrespective of the genuineness, validity, regularity or enforceability of any agreement evidencing any Obligation or any other circumstances which might otherwise constitute a legal equitable discharge of a surety or guarantor.

All guarantor and remedies afforded to **AFI** by reason of this Guaranty by law are separate and cumulative and the exercise of one shall not in any way limit or prejudice the exercise of any other such rights or remedies. No delay or omission by **AFI** in exercising any such right or remedy shall operate as a waiver thereof. No waiver of any rights or remedies hereunder, and no modification or amendment hereof, shall be deemed made by **AFI** unless in writing and duly executed.

The Obligation of the Guarantor to reimburse **AFI** in accordance with the terms of this Guaranty shall not be changed, released or limited in any manner whatsoever by any change, release or limitation of the liability of the Dealer or its estate in bankruptcy or reorganization resulting from the operation of any present or future provision of Title 11 of the United States Code or other statute or from the decision of any court. The Obligations of the Guarantor hereunder shall survive any judgment, order, or decree subordinating or voiding in whole or part the obligations of the Dealer to **AFI** and shall extend to the repayment of any sums recovered from **AFI** on any basis (including any provision of Chapter 5 of Title 11, United States Code) either before or after satisfaction in full by Dealer of its obligations to the **AFI**. In the event that a petition in bankruptcy or for an arrangement or reorganization of, or for an order for relief with respect to, the Dealer under bankruptcy laws or for the appointment of a receiver for the Dealer or any its property is filed by or against the Dealer, or if the Dealer shall make an assignment for the benefit of creditors or shall become insolvent, or if a default shall occur under or with respect to any Obligation, all indebtedness of the Dealer shall, for the purpose of this Guaranty, be deemed at the **AFI**'s election to have become immediately due and payable.

The Guarantor hereby submits to the jurisdiction of the courts of the State of New York and the United States District Court for the Southern of New York for the purpose of any suit, action or other proceeding arising out of any of the Guarantor's Obligations under or with respect to this Guaranty, and expressly waives any and all objections the Guarantor may have as to venue in any of such courts.

THE GUARANTOR AND AFI MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH GUARANTY OR THE AGREEMENT.

The Guarantor hereby grants to **AFI**, a lien, security interest and right of setoffs as security for all liabilities and obligations to **AFI**, whether now existing or hereafter arising, upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of **AFI**, or in transit to it. At any time without demand or notice (after an default or event of default under the

Agreement, **AFI** may set off the same or any part thereof and apply the same to any liability or obligation of the Guarantor regardless of the adequacy of any other collateral securing the Obligations. **ANY AND ALL RIGHTS TO REQUIRE AFI TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING ITS RIGHTS OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF THE GUARANTOR, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.**

The Guaranty shall be governed by and construed in accordance with the laws of the State of New York. This Guaranty shall be binding upon the Guarantor and the Guarantor's heirs, executors, administrators and assigns, and shall inure to the benefit of **AFI** and its successors and assigns. The term "Obligations" shall also include, any and all reasonable attorneys' fees, costs and expenses incurred by **AFI** in the collection or enforcement of any of the Obligations and the perfection, preservation and enforcement of its rights and remedies hereunder and its security interest in any collateral.

Any notice, demand, request or other communication given hereunder or in connection herewith (hereinafter "Notices") shall be deemed sufficient if in writing and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the party to receive such Notice at its address set forth in this Guaranty or at such other address as such party may hereafter designate by Notice given in like fashion. Notices shall be deemed given when mailed. Any payments made by The Guarantor under the provisions of this Guaranty shall be made to **AFI** at its principal office at its address set forth in the Agreement above, unless some other address is hereafter designated by **AFI**.

AUTO FACTORS INC.

By: _____

Richard Peteroy
President

**ACKNOWLEDGE AND AGREE
TO THE ABOVE:**

PRINT: _____

By: _____