



NICHOLAS FINANCIAL, INC.

Independent Automobile Dealer Retail Agreement

Non-Recourse Dealer Retail Agreement ("Agreement")

The undersigned independent motor vehicle dealer ("Dealer") proposes to sell, from time to time, to Nicholas Financial, Inc. ("NFI"), Promissory Notes, Security Agreements, Retail Installment Contracts, Conditional Sales Contracts, or other instruments (hereinafter referred to collectively as "Contract(s)"), evidencing installment payment obligations owed to Dealer arising from the time sale of new or used motor vehicle(s) to each retail buyer, ("Buyer(s)") and secured by such Contracts.

1. **Sale and Purchase of Contracts.** NFI has sole discretion to determine which Contracts it will purchase from Dealer. The assignment and endorsement of each Contract ("Assignment") will only occur when NFI disburses funds in the agreed upon Purchase Price to the Dealer and will be governed by the terms and conditions of this Agreement. A Contract purchase has occurred only when NFI has paid the Purchase Price to Dealer, following receipt and verification of Contract information provided by Dealer. For each Contract, Dealer shall execute and deliver to NFI any additional assignment forms required by NFI, and shall deliver all other documents required for the purchase of the Contract by NFI (collectively "Required Documents"). The Required Documents shall include, but are not limited to the following:
 - (a) the original executed Contract, properly assigned to NFI and a true and correct copy of all related documents properly executed by Dealer and Buyer(s);
 - (b) original credit application and any other credit information obtained by Dealer as to the Buyer(s), to the extent permitted by law;
 - (c) a copy of the application for title to the motor vehicle, including all attachments, submitted by Dealer to the appropriate governmental agency;
 - (d) a properly executed copy of any Add-on Products and Services sold in connection with the motor vehicle; and,
 - (e) all other documents requested by NFI.
2. **Purchase Price.** The "Purchase Price" of each Contract purchased by NFI hereunder shall be determined by mutual agreement, and will generally be an amount not to exceed the "Amount Financed" in the Contract.
3. **Representations and Warranties of Dealer.** Dealer represents and warrants with respect to each Contract submitted to and purchased by NFI hereunder, on a continuing basis, that:
 - (a) The Contract arose from a bona-fide sale to the Buyer(s) thereunder, in the ordinary course of Dealer's business. Dealer had full power and authority to make such sale and the Contract is the only such instrument executed for the motor vehicle described therein;
 - (b) Dealer obtained permission from each Buyer to forward his or her credit application to NFI and each Buyer granted NFI permission to verify his or her credit, including but not limited to obtaining credit reports from credit reporting agencies;
 - (c) All statement and information contained in the credit application and Contract submitted by Dealer to NFI are true, accurate and complete;
 - (d) Dealer has complied with all federal, state and local laws and regulations, including but not limited to those relating to the licensing of Dealer, the advertisement of the motor vehicle, the making, form and completion of the Contract, the underlying sale of the motor vehicle, the disclosure of the motor vehicle condition, the acquisition and use of consumer credit information;
 - (e) Any down payment described in the Contract has been made by the Buyer(s) in cash, check or its equivalent, excluding credit card, that no portion thereof shall have been directly or indirectly advanced by Dealer, and that there is no portion of the down payment that has been deferred by the Dealer which has not been accurately disclosed on the Contract;
 - (f) The motor vehicle sold to Buyer(s) is not salvaged, is not a "lemon law" buyback, is not designated true mileage unknown, does not have frame damage (actual or possible), and the title to the motor vehicle is in good mechanical condition and is of merchantable quality;
 - (g) Dealer has not altered the sales price of a motor vehicle based on any of the terms, rates, discounts, or other conditions imposed by, or negotiated with NFI to purchase a Contract, or based on the Dealer's intent to assign or sell the Contract to NFI;
 - (h) Each instrument will evidence a valid registration of title to, or grant of a first and prior security interest in, the motor vehicle, and will have been timely filed or recorded, if permitted or required by law, as to be effective against all persons to preserve the priority of such lien;
 - (i) If the motor vehicle is sold with Add-on Products and Services (defined herein) Dealer will forward payment to the provider of such product or service; and,
 - (j) Dealer has good and marketable title to the motor vehicle and the Contract and property sold thereunder shall be free and clear of all liens, encumbrances, and rights of any third party, and Dealer has full right and authority to sell, transfer and assign the Contract.
4. **Perfection of Security Interest:** For each Contract purchased by NFI, Dealer shall, within 30 days of the date of the Contract or within a time period permitted by applicable law, file and record all documents necessary to properly perfect the valid and enforceable first priority security interest of NFI in the motor vehicle and shall send NFI all security interest filing receipts. A Contract shall be subject to Repurchase for the life of the Contract if NFI suffers a loss due to the Dealer's failure to: (1) file and record, within 30 days of the date of the Contract or within a period permitted by applicable law, all documents required to properly perfect the valid and enforceable first priority security interest of NFI in the Vehicle; and, (2) send NFI the filing receipts reflecting said perfection.
5. **Add-on Products and Services:**
 - a. *Defined.* "Add-on Products and Services," or ("APS"), shall mean service contracts, mechanical breakdown contracts, and GAP contracts. In addition, the term shall include other products and services acceptable to and approved in writing by NFI from time to time.
 - b. *Cancellation of APS.* If APS has been sold by the Dealer and financed in a Contract purchased by NFI, Dealer agrees that such APS shall be cancelable upon demand by Buyer. Upon such cancellation, Dealer shall immediately notify NFI that the Buyer has canceled the APS. Upon cancellation, Buyer shall be entitled to a refund of the unearned portion of the cash price of the APS as provided in the APS Contract or as may otherwise be required by law, whichever is greater. As between NFI and Dealer, Dealer agrees to pay to NFI, as appropriate, any refund due to Buyer under the terms of an APS Contract. Dealer's liability under this Section shall be limited to the amount Dealer collected and retained or otherwise received, directly or indirectly, in connection with the sale of the APS.

6. **Required Repurchase by Dealer:** In addition to such other obligations Dealer may have, Dealer agrees to pay NFI, upon demand full unpaid balance of a Contract plus any interest and/or late charges due and owing, plus any insurance premiums, fees, costs, and/or charges related to that Contract ("Payoff Balance"), whether or not possession of the motor vehicle has been taken by, or on behalf of NFI, and whether or not suit has been instituted against Buyer(s) or Dealer, if any of the following conditions shall exist or occur:
 - (a) Any of the representations or warranties made by Dealer in Section 2 hereof is breached or untrue, or becomes untrue before the Contract balance is fully paid to NFI;
 - (b) The motor vehicle sold to Buyer(s) suffers any mechanical issue which affects the safe and reliable operation of the motor vehicle within the first thirty (30) days after the sale or during any recourse period, whichever is longer, and is not repaired by Dealer or its agent within a reasonable period of time;
 - (c) The motor vehicle is not properly registered and/or titled and NFI is not identified as the lienholder of the subject motor vehicle in such manner as set forth in Section 3 hereof;
 - (d) There shall have occurred any fraud, fraudulent schemes, including forgery of signature, or any intentional or negligent misrepresentations by Buyer(s) or Dealer in connection with Contract, the motor vehicle, any APS sold, or the sale of the Contract to NFI, or if the Buyer(s) is a relative, agent or employee of Dealer or its principals;
 - (e) The full down payment received by Dealer, from the Buyer(s) shown on the Contract was not received in cash exactly as specified, or if any of the down payment was received in consideration other than cash (except for a manufacturers rebate) or if all or any portion of the down payment was a deferred obligation and was not properly disclosed as required by applicable law;
 - (f) The Buyer(s) assert against Dealer or NFI any claim that the Contract or the actions of Dealer or its agents or employees before, during or after the sale of the motor vehicle were fraudulent or have violated any laws or regulations, regardless of whether such claims are meritorious; and,
 - (g) The Contract is rescinded by operation of law, or by mutual agreement between Dealer and any Buyer(s).
7. **Indemnity:** As a separate and cumulative obligation, Dealer hereby indemnifies and holds NFI, its officers, directors, members, managers, employees, agents and assignees (collectively "Indemnified Parties") harmless from and against any and all claims, actions, suits, proceedings, costs, expenses, loss, damages and liabilities, including attorney's fees, expenses and amounts paid in settlement, which Indemnified Parties may incur to the extent they in any way relate to, in whole or part, the acts or omissions of Dealer, its subcontractors, suppliers, agents, or employees in the performance of this Agreement or any Contract, including but not limited to, the representations and warranties made by Dealer in the Contract or Section 2 herein, any claims for breach of warranty (express or implied), fraud, rescission or damages which may be asserted by any third-party relating to the motor vehicle or the Contract, whether or not such claims are proven meritorious.
8. **Privacy:** Dealer shall not make any unauthorized disclosure of, or use any personal information of individual consumers which it receives from NFI or on NFI's behalf other than to carry out the purposes for which such information is received. NFI and Dealer shall comply in all respects with all applicable requirements of the Gramm-Leach-Bliley Act (15 U.S.C. §6801 *et. seq.*) and its implementing regulations.
9. **Right of Set Off:** Dealer agrees that NFI may deduct from any obligation or funds due Dealer any amount Dealer owes NFI. Any monies, Contracts or any property of any nature or description that may come into possession of NFI may be held by NFI and applied, at any time, to offset any amount owing to NFI.
10. **No Waiver:** NFI's failure to exercise any right hereunder shall not operate as a waiver of said rights, but all rights hereunder shall continue until all Contracts shall have been fully paid and all right and remedies provided are cumulative and not alternative.
11. **Termination:** Either party shall have the right at any time, on written notice, to terminate this Agreement as to future transactions and it is hereby agreed that nothing herein shall be construed to obligate Dealer to sell Contracts or NFI to purchase Contracts. Termination shall be effective on notice. Notwithstanding the forgoing, the provisions of this Agreement shall survive termination with respect to Contracts purchased prior to the date of termination until such Contracts are paid in full.
12. **Entire Agreement:** This Agreement supersedes any existing or prior agreements between the parties. No provisions hereof may be modified, changed or supplemented, unless both parties agree to the amendment in writing.
13. **Non-Recourse:** This Agreement is a non-recourse obligation on the part of the Dealer, except as specifically provided herein for (a) a breach of any representation, warranty or breach of this agreement by Dealer, (b) a refund of the unearned amortized APS, and (c) indemnity obligations by Dealer.

Nicholas Financial, Inc.

Dealer: _____

By: _____

By: _____

Date: _____

Date: _____

Branch Location: _____ Branch #: _____