



**IRONHORSE
FUNDING LLC**

Dealer Agreement

Date:

SAMPLE



DEALER DOCUMENT CHECKLIST

To process your application with _____ (LENDER), please complete and sign the following documents, then return to LENDER. You can pre-fill all the necessary information from your computer and then print the documents for signing.

We look forward to helping you finance your customers with past credit challenges with LENDER's Non-Prime Recreation Lending Program.

- CAPTIVE Dealer Application
- Copy of Driver's License for Dealership Owner/Officer (Please Scan)
- CAPTIVE Recreation Dealer Agreement
- Certificate of Corporate Officer (For Corp, S-Corp, LLC)
- Copy of Voided Check (For ACH Payment)
- W-9 Form (Enclosed)
- Proof of FID # (IRS Document, SS-4, etc.)
- Copy of Dealer License
- Copy of current Surety Bond or Renewal (If State Required)
- Copy of sales and use Tax Permit (If State Required)
- Copy of Retail Installment Seller License (Florida Only)
- Copy of Department of Banking License (New Hampshire Only)

Lender:

Lender Address (Physical Address):

LENDER Mailing Address:

Lender Mailing Address:



CLIENT: DEALER APPLICATION

BUSINESS INFORMATION:

Dealership Name: _____ How long in business _____ yrs.
 Corporate/Legal Name: _____ Federal ID # _____
 Business Type (please check) C. Corporation S. Corporation LLC Partnership Sole Proprietorship
 Address 1: _____ City: _____
 State: _____ Zip: _____ Ph. :(____) _____ Fax :(____) _____
 Website: _____ Email: _____
 Address 2: _____ City: _____
 State: _____ Zip: _____ Ph.:(____) _____ Fax:(____) _____
 Website: _____ Email: _____
(Please attach additional contact information if there are more than two locations)
 New Motorcycle lines sold at dealership: _____
 Annual Sales: \$ _____

MANAGEMENT TEAM:

Principal/Owner: _____ Social Security # _____ - _____ - _____ D.O.B. ____/____/____
 Address 1: _____ City: _____
 State: _____ Zip: _____ Ph:(____) _____ Ownership % _____
 Principal/Owner: _____ Social Security # _____ - _____ - _____ D.O.B. ____/____/____
 Address 2: _____ City: _____
 State: _____ Zip: _____ Ph:(____) _____ Ownership % _____
 Finance Manager(s): _____ Email: _____
 Sales Manager(s): _____ Email: _____

REFERENCE:

Floor Line Finance Provider: _____
 Line Amount: _____ Bank Contact: _____ Ph:(____) _____

FINANCE:

DMS Platform used: _____ Can calculate: Weekly Bi-Weekly Monthly Bi-Monthly
 Which lenders do you finance with: _____
 Do you use CUDL: Yes No

ELECTRONIC FUNDS TRANSFER INFO:

LENDER prefers to fund loans electronically with no charge to the dealership; a \$25.00 fee is charged for overnight express mail delivery or wire transfers.
 Bank Name: _____ Bank Contact: _____ Ph:(____) _____
 Address: _____ City: _____ State: _____ Zip: _____
 Routing Number: _____
 Account Number: _____
 Account Type: Checking Savings (Optional) please attach a voided check or deposit slip to ensure accuracy.

By signing below, I hereby: 1. Understand and agree that CAPTIVE may make credit inquiries about me and/or any entity or business on whose behalf I am submitting this Application, and may provide and exchange information about me and/or the Business with any source of credit information to which the Company may apply; 2. Certify that all information on the Application or in connection with this Application is true, correct and complete; 3. I have authority to submit this Application on behalf of Business listed above. I understand the Company will rely on the information in this Application in making its decision to enter into a business relationship with me and/or the Business; 4. In accordance with the FCC rules regarding facsimile transmission, the Company is authorized to send any and all information pertinent to our business relationship including unsolicited advertisements to the fax numbers in this application; 5. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your



driver’s license or other identifying documents.

Principal/Owner Signature: _____ Principal/Owner Signature: _____
Title/Date: _____ Title/Date: _____

CAPTIVE, PO Box 55, BEVERLY, MA 01915 P: 978-969-0411

CLIENT: RECREATION DEALER AGREEMENT

This Recreation Dealer Agreement is entered into by and between _____ (**LENDER**), with its principal place of business at _____ and _____ (“Dealer”) having its principal place of business located at _____, and its affiliated or subsidiary dealers (jointly and severally), which is attached hereto and by this reference made a part hereof (collectively and individually referred to as "Dealer"). This agreement shall become binding upon the execution of it by both parties, however the effective date will be the date upon which the last party signs.

RECITALS

WHEREAS, Dealer is in the business of selling new and/or used recreational vehicles and/or recreational marine craft and/or motorcycles and/or other recreational products and services related to such Property;

WHEREAS, LENDER’s principal business is making consumer loans and purchasing retail installment sale contracts;

WHEREAS subject to its credit standards, LENDER offers consumer loans and purchases retail installment sale contracts from Dealers;

WHEREAS, LENDER desires to purchase retail installment sale contracts from Dealer and/or engage Dealer to document certain consumer loans for LENDER subject to the terms and conditions of this Agreement;

WHEREAS, certain employees and/or agents of Dealer will document consumer loans on behalf of LENDER; and

WHEREAS, Dealer will permit such employees and/or agents to document Loans pursuant to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1.0 DEFINITIONS

- 1.1 Buyer means a purchaser of Property.
- 1.2 Dealer means the Dealer specified above. With respect to promises, covenants, representations warranties or the like made hereunder relating to any Loan or proposed Loan, “Dealer” includes “Documentation Agents” as described below.
- 1.3 Documentation Agent has the meaning ascribed to it in Section 5.1 hereto.
- 1.4 Loan means a consumer loan as evidenced on a Simple Interest Note and Security Agreement and as revised from time to time by LENDER.
- 1.5 Note means the Simple Interest Note and Security Agreement as revised from time to time by LENDER.



- 1.6 Required Documentation means all documentation LENDER may require from time to time to assist LENDER in its determination to make a Loan or purchase a RISC.
- 1.7 RISC means a retail installment sale contract as approved and/or revised from time to time by LENDER in its sole discretion.
- 1.8 Dealer Repurchase means the dealer's contractual obligation to repurchase any repossessed collateral recovered by the lender by either voluntarily or involuntary means as escribed in section 11.1 and 11.2
- 1.9 Dealer Recourse means the dealer's contractual obligation to repurchase any defaulted contract, loan, or RISC, regardless as to whether the collateral is recovered or not by the lender as escribed in section 11.1,11.2, 11.3, and 11.4

2.0 ACCEPTANCE OF LOAN AGREEMENTS AND PURCHASE OF CONTRACTS

- 2.1 LENDER, in its sole discretion, may request Dealer to document Loans on the Note that are acceptable to LENDER. In the event a Buyer wishes to apply to LENDER for a Loan to finance the purchase of Property, Dealer agrees to contact LENDER and provide LENDER with the information LENDER requires to evaluate the Buyer's creditworthiness. To the extent LENDER approves the credit request, Dealer agrees to document the Loan on the Note in accordance with the instructions it receives from LENDER from time to time, and to provide such other information as LENDER may reasonably request, in LENDER's sole discretion. At no time will LENDER ever be obligated under the terms of this Agreement to make any Loan to any Buyer.
- 2.2 LENDER may, in its sole discretion, wish to purchase RISCs from Dealer. If so, LENDER will indicate its willingness to purchase RISCs to Dealer. If LENDER has not made such indication to Dealer, LENDER will not accept RISCs from Dealer. If LENDER has indicated its willingness to purchase RISCs, Dealer agrees to follow the procedures required by LENDER from time to time relating to LENDER's review and acceptance of such RISCs. In the event Dealer requests that LENDER review an application for RISC financing, Dealer agrees to contact LENDER and provide LENDER with the information LENDER requires to evaluate the Buyer's creditworthiness. To the extent LENDER approves the credit request, Dealer agrees to document the retail installment sale transactions on a RISC approved by LENDER and in accordance with the instructions it receives from LENDER from time to time, and to provide such other information as LENDER may reasonably request, in LENDER's sole discretion. At no time will LENDER ever be obligated under the terms of this Agreement to purchase any RISC from Dealer.

3.0 RESPONSIBILITY FOR SALE

- 3.1 Dealer will have the sole responsibility for the underlying sale transaction and for the nature, quality, and performance of all goods and services purchased from Dealer and financed under any RISC or with the proceeds of any Loan. Such responsibility includes any liability for any actions or omissions in connection with the sale of goods and services, for failure to deliver goods or perform services, for failure to properly handle, sell, or dispose of as agreed any down payment or trade-in or the proceeds of the trade-in or down payment, and for any and all representations and warranties, express or implied, made in connection with such goods and services, whether by Dealer, the manufacturer or provider of the goods and services, or any third party.



4.0 PAYMENT/REQUIRED DOCUMENTATION FOR FUNDING

- 4.1 When Dealer requests that LENDER purchase a RISC or forwards a Buyer's request for Loan financing to LENDER, Dealer agrees to submit all Required Documentation as required by LENDER in its sole discretion.
- 4.2 Upon receipt of the Required Documentation by LENDER at its address above, LENDER will, as promptly as possible, but no later than five (5) banking days thereafter, deliver to Dealer funds in an amount communicated to Dealer by LENDER. Dealer hereby authorizes LENDER to debit Dealer's account via Automated Clearing House ("ACH") in the event of an error resulting.
- 4.3 Dealer agrees to deliver Required Documentation on forms previously reviewed and/or approved by LENDER.
- 4.4 Required Documentation will include, among other things, a fully executed original Note or RISC and an original Certificate of Title to the Property naming LENDER as first lienholder. Prior to funding, Dealer is required to secure the lien in favor of LENDER and has sixty (60) days from the date of funding in which to ensure LENDER receives the original Certificate of Title evidencing such lien. In the event LENDER does not receive the original Certificate of Title within sixty (60) days of funding, LENDER will notify Dealer of such deficiency and Dealer will have thirty (30) days to cure such deficiency. If Dealer fails to cure the deficiency in such time period, such failure will constitute a default under this Dealer Agreement and will result in: (a) no further applications will be accepted by LENDER from the Dealer for any future RISCs and (b) the Dealer will repurchase the Loan or RISC in question from LENDER at a price equal to the entire outstanding principal balance of the Loan or RISC at the time of purchase, plus any accrued interest and unpaid interest or finance charges, and other charges reasonably incurred by or due to LENDER.
- 4.5 With respect to any Loan made by LENDER to a Buyer or RISC purchased from a Dealer, LENDER may, in its sole discretion provide Dealer the opportunity to receive a portion of the Annual Percentage Rate evidenced on such Loan or RISC (such amount hereinafter referred to as "Participation"). LENDER will determine the amount of such Participation from time to time in its sole discretion. LENDER will pay any applicable Participation amount to Dealer at the time of funding. Notwithstanding anything to the contrary in this Agreement, Dealer agrees that in the event the Buyer obligated on such Loan or RISC pays off such Loan or RISC in full within ninety (90) days after the execution date of such Loan or RISC, or if the Property securing such Loan or RISC is repossessed, relieved, voluntarily surrendered or otherwise taken possession of by LENDER or its agents or assigns at any time within such ninety (90) days, Dealer agrees, represents and warrants that it will refund to LENDER the full amount of the Participation paid to Dealer with respect to such Loan or RISC within 10 business days after LENDER mails a request for such refund to Dealer. Dealer hereby authorizes LENDER to deduct the refund from any future payments LENDER may be obligated to pay to Dealer to the extent Dealer fails to make any required refund in a timely manner.

5.0 LIMITED AGENTS FOR LOAN DOCUMENTATION: DUTIES AND RESPONSIBILITIES

- 5.1 Documentation Agents. Dealer will appoint one or more of its employees or agents as limited agents on behalf of LENDER for the sole and limited purpose of documenting Loans that are acceptable to LENDER (each, a "Documentation Agent"). Dealer will appoint such Documentation Agents, and will be solely responsible for ensuring such Documentation Agents' compliance with the terms and conditions of this Agreement, as well as any instructions LENDER may provide from time to time. Dealer agrees that only duly appointed Documentation Agents will document Loans, and that Dealer will advise LENDER of the identity of such Documentation Agents as of the date of this Agreement and as Documentation Agents are added and removed throughout the term of this Agreement.
- 5.2 Documentation Agent Authority. Dealer, through the Documentation Agents it appoints, are authorized under this Agreement to document Loans acceptable to LENDER on behalf of LENDER. This Agreement grants no other authority to Dealer, including, without limitation, any authority to approve a Loan, or bind or commit LENDER to making any Loan.



Dealer has sole responsibility and will be liable for all acts and/or omissions of Documentation Agents.

- 5.3 Loan Approval. LENDER will make all decisions and determinations with regard to Loan approvals and the acceptability of proposed Loans it receives from Dealer. Dealer represents and warrants that it will not obtain a Buyer's signature on any Note until LENDER has received the credit application data requested by LENDER, determined that the proposed Loan meets its credit standards, and notified Dealer that it approves the Loan. Notwithstanding the foregoing, LENDER reserves the right to refuse to fund any Loan that does not comport to the terms of the Loan approval communicated to the Dealer by LENDER.
- 5.4 Interest Rates. LENDER, in its sole discretion, will establish and publish appropriate rates for Loans, and make such rates available to Dealer from time to time. Dealer represents and warrants that it will not present for funding any proposed Loan evidencing an annual percentage rate in excess of or below LENDER's published rates.
- 5.5 Further Assurances Regarding Perfection of Security Interest. Dealer represents and warrants that it will perform all acts necessary to establish and maintain a perfected first priority security interest in Property financed with the proceeds of a Loan in favor of LENDER as of the time each Loan is consummated. Dealer further represents and warrants that it will take all steps necessary to ensure that no other liens attach to the Property.
- 5.6 Evidence of Insurance. For each Loan to be funded by LENDER, Dealer will provide evidence to LENDER of physical damage insurance acceptable to LENDER covering the Property securing a Loan against fire, theft and collision. Dealer represents and warrants that it will furnish complete and accurate information about such insurance to LENDER before LENDER will fund a Loan.
- 5.7 Borrower Identification. For each Loan, Dealer will obtain certain information required by LENDER from time to time from each Buyer to verify the identity of each Buyer before any Loan is consummated.
- 5.8 Privacy Policy/Notices. Dealer further represents and warrants that it will provide LENDER's then current Privacy Policy to each Buyer who consummates a Loan prior to the time of such consummation. Dealer further agrees to undertake further actions and/or provide further notices as LENDER reasonably may require from time to time in order to comply with legal or regulatory requirements.

6.0 DEALER REPRESENTATIONS AND WARRANTIES AS TO LOANS AND RISC WITH RESPECT TO EACH LOAN RISC, DEALER REPRESENTS AND WARRANTS AS FOLLOWS:

- 6.1 Buyer will use Loan proceeds to purchase the Property described in the Note;
- 6.2 Dealer holds title to the Property at the time of sale free of any liens, except liens in favor of Dealer's flooring financing arrangement;
- 6.3 Dealer will satisfy promptly the flooring lien on the Property;
- 6.4 Dealer will not make misrepresentations to Buyer about LENDER's willingness to make a particular Loan;
- 6.5 Each Buyer has legal capacity to enter into the Loan or RISC, as applicable, executed by such Buyer, and such Loan or RISC, as applicable, is and will be legally enforceable against the Buyer;
- 6.6 To the best of the Dealer's knowledge, all information submitted to LENDER in connection with the Loan or RISC, including, without limitation, Buyer's credit application, is accurate and complete;
- 6.7 The Property and all optional equipment, goods and services to be delivered with the Property have been delivered to and accepted by the Buyer;
- 6.8 **Title to the Property has never been branded a salvage, rebuilt, manufacturer's buy-back, or lemon law title or otherwise subject to any laws regarding the same;**



- 6.9 Dealer is not aware that the actual user of the Property is anyone other than the Buyer(s) named in the Loan or RISC, as applicable. LENDER makes its decision to extend credit to the Buyer based upon the assumption that the Buyer will be the principal user of the Property; if Dealer is aware that any other person, such as a child or friend of the Buyer, will be the principal user of the Property, then Dealer will insure that such other person is specifically named on all documents on which LENDER relies in extending credit;
- 6.10 Each Loan is correctly documented on the Note and evidences an Interest Rate and/or Annual Percentage Rate acceptable to LENDER;
- 6.11 Each RISC is completely filled out with no blank spaces and evidences an Interest Rate and/or Annual Percentage Rate acceptable to LENDER;
- 6.12 Dealer properly made all disclosures to Buyer required by law in accordance with the timing requirements of such law;
- 6.13 The Note or RISC has not been altered by Dealer and is enforceable in accordance with its terms;
- 6.14 No obligation of any Buyer, guarantor or surety with respect to any Loan or RISC, as applicable, will be obtained by fraudulent or other illegal means;
- 6.15 Dealer has complied with all applicable laws and agreements and has not exceeded the scope of their authority granted hereunder;
- 6.16 Dealer and Documentation Agents have complied with all applicable laws;
- 6.17 Dealer and Documentation Agents have at all times all applicable licenses, permits or similar authorization from all applicable governmental agencies required to engage in the activities contemplated by this Agreement;
- 6.18 Dealer will ensure that all insurance documentation relating to insurance financed under the Note or RISC is delivered to the Buyer within the time required by law;
- 6.19 If any portion of the Loan proceeds or the amount finance under a RISC is used to purchase credit insurance or property insurance from or through Dealer or an affiliate of Dealer, such insurance denotes LENDER as the first lien holder;
- 6.20 If any portion of the Loan proceeds or the amount financed under a RISC is used to purchase credit insurance or property insurance from or through Dealer or an affiliate of Dealer, such insurance is valid and collectible according to its terms and Dealer will comply with all applicable laws with respect thereto and will provide any assistance reasonable required by LENDER with respect to any refunds due upon cancellation of such insurance;
- 6.21 The down payment for the Property is in cash or fair trade allowance, or a combination of both, and is not represented by or does not consist of the Buyer's deferred obligations. There is no negative equity amount included in the amount financed under the Loan or RISC, as applicable;
- 6.22 The "Finance Charge" set out in the Loan or RISC, as applicable, is in each case the actual sum of all charges directly or indirectly charged and imposed on the Buyer as a condition for the extension of credit;
- 6.23 There is no refund or rebate due under the Loan or RISC, as applicable, to any person or entity except as specified;
- 6.24 Buyer has not obtained any right in or possession of the Property by fraud or unlawful scheme;
- 6.25 Dealer is not aware that any Buyer is currently in bankruptcy or has the intention to file a voluntary petition in bankruptcy, or is reasonably expected to seek protection under any bankruptcy law or under any state or federal law affecting creditor's rights;
- 6.26 All signatures on the Loan or RISC, as applicable, are genuine;
- 6.27 Each Loan or RISC, as applicable, is genuine, and arose from the bona fide sale of the Property described therein in the ordinary course of Dealer's business;



- 6.28 The Property has been delivered into the possession of the Buyer named in the Loan or RISC, as applicable;
- 6.29 Dealer agrees to indemnify LENDER for any expense or loss LENDER suffers as a result of the assertion of a claim or defense under a warranty or service contract procured through Dealer to the extent Dealer is unable to resolve the dispute with the Buyer within a reasonable time, not to exceed sixty days; and
- 6.30 Documentation Agents have complied with all instructions received from LENDER from time to time.
- 6.31 Lawsuits. There is no lawsuit or other proceeding pending or, to the best knowledge of Dealer, threatened, against or affecting a Buyer or any other person or entity before any court, arbitrator, or administrative or governmental body, which relates to or will affect or encumber the Loan or RISC, as applicable, or any security therefore.
- 6.32 Taxes. All federal, state, county, local and other taxes due and payable with respect to any Loan or RISC, as applicable, the Property securing the Loan or RISC, as applicable, and the business of the Dealer have been paid. To the best of Dealer's knowledge, the Dealer has no outstanding or unsatisfied deficiency tax assessments with respect to its present or any former businesses.

7.0 DEALER REPRESENTATIONS AND WARRANTIES GENERALLY

DEALER REPRESENTS AND WARRANTS AS FOLLOWS:

- 7.1 Organization. Dealer, if a corporation, is duly organized, validly existing, and qualified and authorized to transact business in, and is in good standing under the laws of the jurisdiction of its organization and each jurisdiction in which it performs or will perform its obligations under this Agreement or is otherwise doing business or is otherwise exempt under applicable law from such qualification.
- 7.2 Dealer. As to the Property, Dealer is a merchant in goods of that kind.
- 7.3 Capacity; Authority; Validity. Dealer has the power, authority and legal right to execute, deliver, and perform this Agreement and the transactions contemplated hereunder. The execution, delivery and performance of this Agreement by Dealer have been duly authorized by all necessary action, and this Agreement is enforceable against Dealer in accordance with its terms, except only to the extent such enforceability may be limited by bankruptcy, insolvency, reorganization, and other laws relating to or affecting creditors' rights generally and by general equity principles.
- 7.4 Consents; Conflicts. No consent or approval of any other party or any governmental authority, bureau or agency is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement, except such as have been obtained prior to the event or circumstances for which it is required. There is no pending claim, cause of action, governmental action or litigation that, if determined adversely to Dealer, would affect Dealer's ability to perform its obligations under this Agreement. This Agreement will not result in Dealer's breach of any other agreement, instrument or relationship by which Dealer is bound.
- 7.5 Licenses. Dealer is, and throughout the term of this Agreement will remain, duly authorized and properly licensed under all applicable laws to transact business as presently conducted, and to perform the transactions contemplated under this Agreement, and Dealer has full power and authority to perform its obligations contemplated by this Agreement.
- 7.6 Compliance with Law. Dealer will perform all of its duties and obligations under this Agreement, and with respect to each Loan and RISC, in compliance with all applicable laws, including, but not limited to the Equal Credit Opportunity Act and Regulation B.
- 7.7 Financial Statements. Dealer will furnish to LENDER, promptly upon LENDER's request, financial statements and information regarding its business affairs and financial condition as LENDER may from time to time in good faith require.
- 7.8 Misrepresentations. No representation, warranty, or covenant by the Dealer contained in this Agreement, or any statement or certificate furnished to or to be furnished by Dealer pursuant to this Agreement, contains (or will contain) any untrue



statement of a material fact or omits (or will omit) to state a material fact necessary to make the statements contained therein not misleading.

8.0 DEALER OVERSIGHT

- 8.1 Dealer will supervise and oversee the activities of Documentation Agents pursuant to this Agreement and will ensure that Documentation Agents perform all acts required of them by this Agreement in a manner acceptable to LENDER. If Documentation Agents fail to perform any required acts or keep any promises of Dealer made under this Agreement, Dealer is deemed to have breached this Agreement.

9.0 PAYMENTS RECEIVED BY CLIENT

- 9.1 Dealer hereby grants to LENDER a power of attorney to endorse Dealer's name to any remittance offered as payment on any Loan or RISC and to retain the proceeds thereof as payment on such Loan or RISC. The parties agree that this power is coupled with an interest and is irrevocable. This power survives the termination of this Agreement.

10.0 PAYMENTS RECEIVED BY DEALER

- 10.1 Dealer shall forward to LENDER promptly, in kind, all payments, inquiries, and communications received by Dealer with respect to any Loan made by LENDER or RISC bought by LENDER, and shall reimburse LENDER for any and all losses it may suffer as a result of Dealer's failure to do so.

11.0 RECOURSE, REPURCHASE, PROPERTY RETURNED TO DEALER

- 11.1 If any Property covered by any Loan or RISC comes into the possession of Dealer while the Buyer is indebted to LENDER for such Property, Dealer will promptly notify LENDER, hold the Property in trust for LENDER, and will deliver the Property to LENDER on demand. Dealer may charge a reasonable storage fee not to exceed ten dollars (\$10) per day for storage of the Property, but only for that period of storage that exceeds thirty (60) days.
- 11.2 **"Dealer Repurchase"** of Repossessed Collateral. Dealer will Repurchase any repossessed collateral recovered by lender by involuntary or by voluntary means. The dealer shall pay the lender the "Repurchase Price" within 30 days of receiving lenders notice for repurchase. Dealers repurchase obligation is limited to NADA clean trade less verifiable wear and tear. For tilted on road motorcycles. Off road units are limited to NADA rough trade.
- 11.3 **"Dealer Recourse"** on Defaulted Loan, Contract, or RISC. For any loan, contract, or RISC which is approved by LENDER on a Recourse basis, Dealer will Repurchase any defaulted loan, contract, or RISC. The dealer shall pay the lender the "Repurchase Price" within 30 days of receiving lenders notice for repurchase.
- 11.4 **"Dealer Recourse Price"** shall mean, the Unpaid Balance of any loan, contract, or RISC, plus any and all out-of-pocket expenses, and the amount (if any) by which the Purchase Price paid for such loan, contract, or RISC exceeds the Unpaid Balance (as of the date of purchase) discounted to present value using the discount rate used to compute the Purchase Price, and less unearned interest or finance charges computed as the Purchaser customarily computes



such rebates. The unearned interest or finance charges referred to in the preceding sentence shall be computed on the basis of actual days elapsed using a 360-day year. The term “out-of-pocket expenses” shall include (without limitation) the cost of repossession of the collateral, storage, transportation, and sale of the collateral, compliance with applicable legal requirements, reasonable attorney fees and court costs, and like expenses incurred by the Purchaser in connection with such Paper.

12.0 PROMOTIONAL OTHER MATERIALS

- 12.1 Dealer will not refer to LENDER in any promotional or advertising materials without LENDER’s prior written approval.

13.0 UNEARNED INSURANCE PREMIUMS

- 13.1 If, without fault of LENDER, LENDER suffers any loss on any Loan or RISC as a result any of the following. Early payoff, customer voluntarily cancels ancillary products, repossession, bankruptcy, or a total loss of Property, Dealer agrees to return to LENDER all unearned insurance premiums within sixty (60) days post request of refund or rebate, including but not limited to Extended service contracts, GAP, Tire and Wheel, credit life, prepaid maintenance and disability insurance in accordance with applicable law.

- 14.1 Dealer shall notify LENDER of any material or significant change in Dealer’s ownership, organization or business, including

14.0 DEALER CHANGES

the death of a principal, whether a shareholder, general partner, or owner, a dissolution, merger, consolidation, or reorganization, or a conversion to another form of legal entity or type of business. Such notice shall be provided 30 days before such change or, if unknown to Dealer before the change, then within 30 days after Dealer has knowledge of such change. LENDER reserves the right to terminate this Agreement in the event of such change, and Dealer's failure to notify LENDER of such change will be a breach of this Agreement.

15.0 DEFAULT

- 15.1 If Dealer defaults in the performance of any obligation to LENDER, whether pursuant to this Agreement or otherwise, or breaches any representation or warranty contained in this Agreement, LENDER, at its election, may notify Dealer of such default or breach and may, unless the Dealer cures the breach within ten (10) days after any such notice, demand payment from Dealer of the Purchase Price. The Purchase Price, as to any Loan or contract, will be the then outstanding unpaid balance (principal and accrued and unpaid interest or finance charges) of the Loan or RISC, as applicable, with respect to which the breach occurred, together with all costs (including reasonable attorneys' fees, whether or not a LENDER salaried employee serves as attorney for LENDER) incurred by LENDER in relation thereto and Dealer will promptly pay such amount to LENDER, in cash or certified funds.
- 15.2 Notwithstanding the preceding paragraph, Dealer may cure any breach as follows:
- 15.2.1 Purchase any affected Loan or RISC, as applicable, at the Purchase Price.
 - 15.2.2 If the breach results from the Dealer's failure to submit the Required Documentation, the Dealer may submit such Required Documentation within the time prescribed by LENDER.
 - 15.2.3 By any other means which LENDER and Dealer agree to in writing.
- 15.3 If any law prohibits Dealer from purchasing a Loan or RISC as contemplated by this Agreement, Dealer shall still be obligated to pay the Purchase Price to LENDER. Upon receipt of the Purchase Price, LENDER agrees to service and collect such Loan or RISC in accordance with its ordinary policies and procedures, and to pay the proceeds to Dealer less LENDER's fees for providing such services.

16.0 PRIVACY

- 16.1 To the extent either Party has access to "non-public personal information" ("NPI") as that term is defined in Title V of the Gramm-Leach-Bliley and/or the California Information Privacy Act from time to time and as applicable, each Party agrees to comply with their respective obligations under such laws, including, without limitation, obligations relating to the disclosure of NPI to third parties.

17.0 CONFIDENTIALITY

- 17.1 Each Party and its affiliates, its agents, subcontractors and employees receiving confidential information of the other Party (other than NPI) shall use such confidential information only for the purposes set forth herein and shall treat such information as strictly confidential, and shall use the same care to prevent disclosure of such information as such Party and/or its affiliates uses with respect to its own confidential and proprietary information, which shall not be less than the care a reasonable



person would use under similar circumstances.

18.0 FURTHER ASSURANCE

18.1 Each party to this Agreement will execute and deliver all such further instruments and documents as may be reasonably requested by the other party in order to fully carry out the transactions contemplated by this Agreement. Each party hereto represents and warrants that it has the right, power, legal capacity, authority and means to enter into and perform this Agreement (as well as the documents referenced in this Agreement), and that the same will not contravene or result in the violation of any agreement, rule, or regulation to which any such party may be subject. In this connection, Dealer will deliver to LENDER upon execution of this Agreement, a certificate of corporate officer substantially in the form of attached.

19.0 INVOLVEMENT OF CLIENT

19.1 Dealer is affiliated and/or under common control with LENDER. This Agreement creates a partnership or joint venture between LENDER and Dealer. The services of Dealer under this Agreement, except as otherwise expressly provided, are rendered independent of LENDER, and Dealer is not otherwise an agent, employee or representative of any kind or nature of or for LENDER.

20.0 REMEDY FOR BREACH

20.1 If Dealer breaches this Agreement, Dealer will pay LENDER all losses and expenses incurred by LENDER as a result of such breach. In addition, Dealer will indemnify LENDER for any losses incurred by LENDER because of any judicial set-off or recovery suffered because of any claim or defense asserted against LENDER as a result of any act or omission on the part of Dealer or the Documentation Agents to the extent such act or omission was outside the scope of authority granted under this Agreement. Dealer will be liable even if a waiver, compromise, settlement or variation of the terms of the Loan Agreement releases a Buyer.

21.0 TERMINATION

21.1 LENDER or Dealer may terminate this Agreement upon written notice to the other party, effective immediately. LENDER may terminate the agency of any Documentation Agents, upon written notice to Dealer, effective when sent. In the event Dealer terminates the employment of, or its other relationship with, a Documentation Agent, Dealer will promptly notify LENDER of such termination. The agency of such Documentation Agent terminates as of the time such Documentation Agent's employment or other relationship with the Dealer terminated. The termination of this Agreement will not release LENDER or Dealer from any obligations incurred with regard to Loans that are subject to this Agreement.

22.0 AMENDMENTS

22.1 LENDER reserves the right to amend the Dealer Agreement from time to time with notification to Dealer.



23.0 MISCELLANEOUS

- 23.1 No Agency. Except as otherwise expressly provided herein, this Agreement does not make either the Dealer or LENDER the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. Neither party owes the other any fiduciary obligation.
- 23.2 Entire Agreement. This Agreement applies to all past and future Loans prepared by Dealer for LENDER or RISCs purchased by LENDER, as applicable, constitutes the entire agreement between the parties and supersedes all prior agreements of the parties with respect to the subject matter of this Agreement. No waiver of any of the provisions of this Agreement constitutes a waiver of any other provision, nor will any waiver constitute a continuing waiver.
- 23.3 Validity; Amendment. This Agreement shall not be valid until signed and accepted by an authorized officer of LENDER and Dealer. Dealer agrees that LENDER may amend this Agreement, together with any addenda, schedules, exhibits or other documents attached hereto, from time to time by providing written notice to Dealer.
- 23.4 Additional Rights and Liabilities. The rights and liabilities of LENDER and Dealer in this Agreement are in addition to those set forth in the Loans or RISCs, as applicable, and any related agreements between Dealer and LENDER.
- 23.5 Assignment. This Agreement binds, and inures to the benefit of, the successors and assigns of the parties hereto. Notwithstanding the preceding sentence, Dealer may not assign this Agreement or any rights or obligations hereunder, voluntarily, involuntarily, by operation of law or otherwise without LENDER's prior written consent which LENDER may withhold for any reason whatsoever. LENDER may assign this Agreement to the extent it deems that such assignment does not materially and detrimentally affect the rights and obligations of Dealer.
- 23.6 Severability. In the event that any provision of this Agreement is held unenforceable, such provision is severable from the remaining provisions of this Agreement and the remainder of the Agreement remains in full force and effect.
- 23.7 Indemnification. Dealer agrees to defend, indemnify, protect, save, keep, and hold LENDER, and its shareholders, directors, officers, employees, representatives, agents, servants, successors and assigns harmless from and against any and all, claims, losses, liabilities, damages, injuries, costs, expenses, attorneys' fees, court costs and other amounts (collectively, "Indemnified Items") arising out of or resulting from (i) Dealer's breach of this Agreement, (ii) the failure of any representation or warranty of Dealer contained in this Agreement to be correct, or (iii) the actions of Dealer, its affiliates, or their respective shareholders, directors, officers, employees, representatives, agents, servants, successors and assigns in connection with the Loans, RISCs and Property, in particular and without limitation, any action or claim brought or asserted by the Buyer or any other person in connection with any Loan or RISC, as applicable, by reason of any improper action taken by Dealer (including Documentation Agents) in connection with such Loan or RISC, as applicable. Dealer shall assume the settlement and defense of any suit or suits or other legal proceedings brought to enforce all such Indemnified Items, and shall pay all judgments or settlement amounts resulting from any such suit or suits or other legal proceedings, together with all other costs and expenses, including, but not limited to, attorneys' fees and other litigation costs.
- 23.8 Governing Law. This Agreement is not complete until executed by LENDER at its offices in Beverly, Massachusetts. This Agreement shall be governed by and interpreted in all respects by the laws of the Commonwealth of Massachusetts without regard to any conflicts of law principles or choice of laws that would require the application of laws of another jurisdiction.
- 23.9 **Right Of Set-Off. Dealer agrees that LENDER has the ongoing right to deduct from any funds, deposit, account, obligation or other amounts due Dealer any and all amount(s) Dealer owes LENDER.**
- 23.10 Costs and Attorneys' Fees. If any legal action or other proceeding is brought for the enforcement of this Agreement, the successful or prevailing party is entitled to recover reasonable attorneys' fees (whether or not such party employs the attorney), and any other fees and costs incurred in the action or proceeding, in addition to any other relief to which such party is entitled.
- 23.11 Notices. Any notice required or otherwise to be given by any party under this Agreement will be in writing and mailed, postage prepaid, to the address of the other party specified in this Agreement or such other address as will have been



**IRONHORSE
FUNDING LLC**

theretofore specified in writing.

23.12 Headings of this Agreement are for convenience only and do not limit or construe this Agreement.

AGREEMENT

Signature: _____
Authorized Officer, Member/Manager, General Partner, Dealership

Signature: _____
Authorized Agent, CAPTIVE

Print Name: _____

Print Name: _____

Date: _____

Date: _____

SAMPLE



Forms of Resolution on following pages

SAMPLE



CORPORATE RESOLUTION

I, _____, as the corporate officer of _____
(President/Vice President/Secretary/Treasurer) (Legal Name and DBA Name)

(The "Corporation") hereby certify that at a meeting of the Board of Directors of said Corporation held on: _____, _____
(Date)

The following resolutions were unanimously adopted, and that said resolutions remain unchanged and in full force and effect on this

Date: _____.

RESOLVED, that each and any of the following persons be, and is hereby, authorized and empowered, in the name and behalf of this Corporation, to execute and/or endorse any and all documents or instruments, including, but not limited to, promissory notes, acceptances, agreements or any assignments thereof, in connection with any transactions between this Corporation and CAPTIVE;

Print Name	Signature	Title (If any)
_____	_____	_____
_____	_____	_____
_____	_____	_____

FURTHER RESOLVED, that any previous authorization of any person whose name and signature do not appear in the foregoing authorization be and the same is hereby revoked, provided, however that any aforesaid document or instrument executed in the name and behalf of this Corporation by any such person and accepted by CAPTIVE prior to the receipt by it of a certified copy of these resolutions shall be, and may be relied upon by CAPTIVE as the authorized act of this Corporation, notwithstanding such revocation.

In witness whereof, I have hereunto set my hand _____ this _____ day of _____, 20____.

(Print Name of Corporate Officer)

(Signature of Corporate Officer)



LIMITED LIABILITY COMPANY RESOLUTION

I, _____, as a member/manager of _____
(Member/Manager) (Legal Name and DBA Name)

(The "Company") hereby certify that at a meeting of the Members of said Company held on: _____
(Date)

The following resolutions were unanimously adopted, and that said resolutions remain unchanged and in full force and effect on this

Date: _____.
(Today's Date)

RESOLVED, that each and any of the following persons be, and is hereby, authorized and empowered, in the name and behalf of this Company, to execute and/or endorse any and all documents or instruments, including, but not limited to, promissory notes, acceptances, agreements or any assignments thereof, in connection with any transactions between this Company and CAPTIVE;

Print Name	Signature	Title (If any)
_____	_____	_____
_____	_____	_____
_____	_____	_____

FURTHER RESOLVED, that any previous authorization of any person whose name and signature do not appear in the foregoing authorization be and the same is hereby revoked, provided, however that any aforesaid document or instrument executed in the name and behalf of this Company by any such person and accepted by CAPTIVE prior to the receipt by it of a certified copy of these resolutions shall be, and may be relied upon by CAPTIVE as the authorized act of this Company, notwithstanding such revocation.

In witness whereof, I have hereunto set my hand _____ this _____ day of _____, 20____.
(Print Name of Member/Manager)

(Signature of Member/Manager)



PARTNERSHIP RESOLUTION

I, _____, as a partner of _____
(Partner) (Legal Name and DBA Name)

(The "Partnership") hereby certify that at a meeting of the Partners of said Partnership held on:

(Date)

The following resolutions were unanimously adopted, and that said resolutions remain unchanged and in full force and effect on this

Date: _____.
(Today's Date)

RESOLVED, that each and any of the following persons be, and is hereby, authorized and empowered, in the name and behalf of this Partnership, to execute and/or endorse any and all documents or instruments, including, but not limited to, promissory notes, acceptances, agreements or any assignments thereof, in connection with any transactions between this Partnership and CAPTIVE;

Print Name	Signature	Title (If any)
_____	_____	_____
_____	_____	_____
_____	_____	_____

FURTHER RESOLVED, that any previous authorization of any person whose name and signature do not appear in the foregoing authorization be and the same is hereby revoked, provided, however that any aforesaid document or instrument executed in the name and behalf of this Partnership by any such person and accepted by CAPTIVE prior to the receipt by it of a certified copy of these resolutions shall be, and may be relied upon by CAPTIVE as the authorized act of this Partnership, notwithstanding such revocation.

In witness whereof, I have hereunto set my hand _____ this _____ day of _____, 20____.
(Print Name of Partner)

(Signature of Partner)



SOLE PROPRIETORSHIP RESOLUTION

I, _____, as the sole proprietor of _____
(Sole Proprietor) (Legal Name and DBA Name)

(The "Sole Proprietorship") hereby certify that at a meeting of the Sole Proprietor of said Sole Proprietorship held on: _____
(Date)

The following resolutions were unanimously adopted, and that said resolutions remain unchanged and in full force and effect on this

Date: _____.
(Today's Date)

RESOLVED, that each and any of the following persons be, and is hereby, authorized and empowered, in the name and behalf of this Sole Proprietorship, to execute and/or endorse any and all documents or instruments, including, but not limited to, promissory notes, acceptances, agreements or any assignments thereof, in connection with any transactions between this Sole Proprietorship and CAPTIVE;

Print Name	Signature	Title (If any)
_____	_____	_____
_____	_____	_____
_____	_____	_____

FURTHER RESOLVED, that any previous authorization of any person whose name and signature do not appear in the foregoing authorization be and the same is hereby revoked, provided, however that any aforesaid document or instrument executed in the name and behalf of this Sole Proprietorship by any such person and accepted by CAPTIVE prior to the receipt by it of a certified copy of these resolutions shall be, and may be relied upon by CAPTIVE as the authorized act of this Sole Proprietorship, notwithstanding such revocation.

In witness whereof, I have hereunto set my hand _____ this _____ day of _____, 20____.
(Print Name of Sole Proprietor)

(Signature of Sole Proprietor)