



Encore Dealer Finance Dealer Agreement

This Dealer Agreement ("Agreement") made this ____ day of _____, 201_ by and between Encore Dealer Finance LLC. ("Encore"), whose address is 7000 W. Palmetto Park Rd. Suite 210 Boca Raton, FL 33433

and _____ ("Dealer"), whose business address is:

_____ Phone Number is: _____,

and email address is _____. Encore and the Dealer are collectively referred to as the "Parties".

WHEREAS, the Parties hereto are in the business of sales and/or finance and are desirous of entering into an agreement to facilitate the sales and direct financing of automobiles and/or related merchandise or services offered, sold, provided, or installed by Dealer ("Products") to be used by the purchaser thereof ("Customer").

NOW, THEREFORE, in consideration of the promises and covenants set forth in this Agreement and such other consideration as may be contained herein, the Parties hereto mutually covenant and agree as follows:

1. **AGREEMENT TO REFER CUSTOMERS.** Dealer agrees to refer Customers to Encore, that are seeking financing for Products and Encore agrees to assist in arranging a personal loan for such Customers.
2. **FINANCE PROGRAM(S).** Encore has established, and may amend from time to time, relationships with one or more potential lenders (each a "Lender") and shall provide Customers access to an online loan application system whereby Lenders will, in their sole discretion, make, or not make, financing offers to Customers pursuant to a loan agreement with the Customer ("Loan Agreement"). Each Lender will establish, and may amend from time to time, the terms it may require in the Loan Agreement, including conditions of sale, the initial principal amount, the interest rate, the term, and other documents to be completed by Customer to assure compliance with such terms and conditions (all such terms, conditions and schedules and other materials being hereinafter collectively referred to as a "Finance Program"). Notwithstanding any other provision contained in this Agreement, Finance criteria may be amended from time to time at the sole discretion of the related Lender. It is understood that the Lenders may offer or provide more than one Finance offer to Customers.
3. **CREDIT APPLICATION.** Dealer hereby agrees to direct each Customer to the online application that is included on Encore's website. The Lender shall have no obligation to make a loan to a Customer until the credit application is submitted to Lender by Customer and until the terms of the sale, documentation, Customer's completed credit application and credit history have been investigated and approved by Lender in its sole discretion.

4. DEALER REPRESENTATIONS AND WARRANTIES. Dealer represents and warrants to Encore as follows:

- a) Dealer has the requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder:
- b) The execution, delivery and performance of this Agreement has been duly and validly authorized by all requisite corporate, limited liability company or partnership proceedings, and no other corporate, limited liability company or partnership proceedings are necessary to authorize the execution, delivery and performance of this Agreement. The execution, delivery and performance of this Agreement does not conflict with Dealer's organizational documents or any material agreement to which Dealer is a party.
- c) This Agreement has been duly executed and delivered by Dealer and constitutes the valid and binding obligation of Dealer, enforceable in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights or by general principles of equity.
- d) If a corporation or a limited liability company, Dealer is duly organized, validly existing, and in good standing under the laws of the state in which it conducts business.
- e) Dealer is in compliance with all applicable state and federal laws and regulations;
and
- f) At the time the automobile and/ or related products or services were sold or provided to Customer by Dealer, Dealer was duly licensed, and was authorized to sell or provide such Products. Dealer agrees to notify Encore promptly in writing in the event of any change which would render this representation and warranty incorrect or untrue.
- g) All signatures, names, addresses, telephone numbers, figures and other statements of fact set forth in the credit application are genuine, true and correct and the Customer has the legal capacity to execute the Loan Agreement and create a legally binding Loan Agreement.

5. EFFECTIVE DATE; TERMINATION. This Agreement shall become effective upon execution by the Parties and shall remain in effect for an initial term of one year, and thereafter shall automatically renew for consecutive periods of one year, provided however, either Party may terminate this Agreement at any time upon written notice to the other Party. Notice of such termination shall be written and sent, postage paid, to the other Party's address as set forth in the heading of this Agreement. The termination of this Agreement shall not affect any right obligations of either Party to this Agreement or of any Loan Agreement financed by Lenders prior to termination.

6. DEFAULT. Dealer shall be in default under this Agreement if it fails to timely pay or perform any of its obligations under this Agreement, or makes any false or misleading statements as it relates to the financing.

7. INDEMNIFICATION. Dealer shall defend, indemnify and hold Encore, its officers, employees, lender partners and affiliates harmless from any and all claims, injuries, damages, liabilities, expenses, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement or any consumer loan agreement, except for injuries and damages caused by the gross negligence of Encore. Dealer hereby agrees to reimburse Encore for any reasonable legal or other expenses incurred in connection with investigating, defending or participating in any action or proceeding out of which any such losses, claims, damages, liabilities, or expenses may arise.

8. AMENDMENT. This Agreement represents the entire agreement between the parties. This Agreement may be amended only by a written instrument duly executed by the parties or their respective successors or assigns.

9. GOVERNING LAW. This Agreement shall be governed by the substantive laws of the State of Florida.

10. SEVERABILITY. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation, shall not in any way be affected or impaired thereby in any other jurisdiction.

11. EXECUTION IN COUNTERPARTS. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and both of which when taken together shall constitute one and the same Agreement.

12. FEE SCHEDULE. For each loan funded under the program, Dealer shall pay 5% of the original principle balance of the loan.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

ENCORE DEALER FINANCE

DEALER REPRESENTATIVE

BY: _____

BY: _____

NAME AND TITLE

NAME AND TITLE

DATE

DATE
