

## AGREEMENT

**THIS AGREEMENT HAS BEEN MADE FOR INVESTMENT PURPOSES ONLY AND NOT WITH A VIEW TO OR FOR SALE IN CONNECTION WITH THE DISTRIBUTION THEREOF AND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"). THIS AGREEMENT MAY NOT BE SOLD, TRANSFERRED, OR ASSIGNED ("TRANSFER") UNLESS IT IS SUBSEQUENTLY REGISTERED OR AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE AND THE MAKER CONSENTS IN WRITING TO SUCH TRANSFER.**

## AGREEMENT

**WHEREAS**, Fifth Austin Funding, LLC, ("**Borrower**"), desires to borrow money from \_\_\_\_\_, ("**Lender**"), and Lender desires to lend money to Borrower under certain terms and conditions;

**NOW THEREFORE**, Borrower and Lender agree as follows:

- 1 Lender will lend to Borrower \$\_\_\_\_\_ ("**Principal**") which shall accrue interest at the rate of \_\_\_% per annum on the remaining principal.
- 2 Borrower shall use the Principal to acquire one or more Retail Installment Contracts (a "**Contract**") collateralized by motor vehicles sold to consumers ("**Vehicles**"). The Contracts are set forth in the attached Exhibit 1 listing the buyer of the vehicle (the "**Consumer**"), the date of the Contract, and the vehicle identification number. The lien on the Vehicle will be a first lien in favor of Austin Titles, LLC.
- 3 Borrower shall repay the Principal in 36 equal monthly payments of \_\_\_\_\_ together with the accrued interest on the then remaining Principal (the "**Periodic Payment**"). Each payment shall be made within **thirty (30) days** after a payment is made by the Consumer under the applicable Contract. In no event shall interest accrue on any unpaid interest.
- 4 Lender may elect to have (check one):
  - All payments applied first to the payment of accrued interest, if any, and the balance to Principal.
  - All payments applied first to principal until the full balance of principal is paid in full and then to accrued interest.
- 5 Payments shall be made at the offices of Lender, or such other place as Lender may designate from time-to-time.
- 6 Notwithstanding the aforesaid, the periodic payments under this Agreement shall be the lesser of: i) the amount computed in the above ¶3; and, ii) the amount of the periodic payment made by the Consumer under the applicable Contract. In the event a payment by the Consumer is less than the Periodic Payment, Lender may extend the repayment of the Principal and interest for up to 24 months after the last Periodic Payment is due under ¶3, at which time all Principal and accrued interest will be due and payable.
- 7 If the Vehicle pledged as collateral under the applicable Contract is repossessed based on a default in the Contract, Lender shall, in Lender's sole discretion:
  - i) Resell the Vehicle and pay Lender the proceeds of the sale not to exceed the balance of the Principal and interest owed under this Agreement in which case the payment shall constitute full satisfaction of all amounts due Lender under this Agreement; or
  - ii) Resell the Vehicle pursuant to a new Retail Installment Contract in which case the new Contract shall replace the prior Contract (and all other terms herein shall apply to the new Contract) as the sole source of payment under this Agreement.
- 8 If Lender receives insurance proceeds for damage or loss of the Vehicle, Lender shall in Lender's sole

discretion:

- i) Pay the insurance proceeds to Lender not to exceed the balance of the Principal and interest owed under this Agreement in which case the payment shall constitute full satisfaction of all amounts due Lender under this Agreement; or
- ii) Use the insurance proceeds to purchase a new Vehicle and resell the new Vehicle pursuant to a new Contract in which case the new Contract shall replace the prior Contract (and all other terms herein shall apply to the new Contract) as the sole source of payment under this Agreement.

9 The sole source of payments under this Agreement shall be the payments made under a Contract, the proceeds received by Lender from the resale of a Vehicle, or the insurance proceeds received by lender in accordance with the aforesaid. In no event shall Borrower's other assets be subject to the payment of any sums due under this Agreement and Lender waives all rights to proceed against any of Borrower's other assets to satisfy sums due under this Agreement.

10 The status of amounts owed under this Agreement shall be periodically posted on the Borrower's website and accessible to the Lender.

11 Borrower may prepay the Principal and accrued interest in whole or in part, at any time without penalty. Any partial prepayment shall be applied against the Principal first.

12 Any notice between the Parties shall be effective three days after mailing Certified Mail, in the U.S. Mail, postage prepaid or upon actual receipt by Borrower if hand delivered or forwarded by overnight carrier. Notice may be transmitted and delivered by fax or e-mail or other electronic means but shall only be effective if there is proof of delivery of a fax and receipt of electronic delivery but not receipt of reading, in which case the effective date shall be the date of delivery.

13 Borrower shall be in default of this Agreement upon a material violation of any term of this Agreement provided that Lender provides thirty (30) days prior written notice and the violation remains uncured after said period.

14 Borrower may assign this Agreement to a third party without notice to Lender.

15 The terms of this Agreement shall supersede all prior agreements.

16 This Agreement will be governed by the laws of the State of Colorado, and any dispute regarding or arising from this Agreement or any underlying loan related to this Agreement will be resolved only in the District Court in and for the County of Adams or the County of Denver, State of Colorado, which courts shall have the exclusive jurisdiction and exclusive venue for such matters.

17 LENDER WAIVES ALL RIGHTS TO HAVE ANY CLAIMS BASED ON OR RELATED TO THIS AGREEMENT TRIED TO A JURY.

BORROWER:  
Fifth Austin Funding, LLC

LENDER

\_\_\_\_\_  
W C Schlapman, Manager      Date

\_\_\_\_\_  
\_\_\_\_\_  
(Print Name)      Date