



NORTH CAROLINA ADDENDUM TO RETAIL  
INSTALLMENT CONTRACT AND LEASE  
PROGRAM AGREEMENT

DATE

TD Auto Finance LLC (the "Company")

DEALER'S NAME

This Addendum to Retail Installment Contract and Lease Program Agreement is made and entered into as of the above date.

RECITALS

- A. Dealer and the Company have entered into a program (the "Program") under which Dealer may sell to the Company (and the Company may purchase from Dealer) leases, installment sales contracts, credit sales contracts and other chattel paper and financing arrangements (collectively, the "Contracts"). In furtherance thereof, Dealer and the Company have executed (1) a Retail Installment Contract and Lease Program Agreement (as amended, modified, replaced and restated from time to time, the "Agreement") and various documents that have been executed in connection with the Agreement and the Program (collectively, the "Ancillary Documents"). The Ancillary Documents include a document called Special Power of Attorney (Retail).
- B. N.C.G.S. 20-308.13 through 20-308.22 (as amended and modified from time to time, the "Captive Finance Law") places certain restrictions on the terms that the Company may place on North Carolina dealerships in connection with the Program, whether under the Agreement or the Ancillary Documents.
- C. The Company and Dealer desire to cause the Agreement and the Ancillary Documents to comply with the Captive Finance Law.

AGREEMENTS

NOW, THEREFORE, for good and valuable consideration, the adequacy and receipt of which is hereby mutually acknowledged, Dealer and the "Company" agree as follows:

- 1. Agreement; Ancillary Documents; Defined Terms. All capitalized terms used in this Addendum and not otherwise defined herein shall have the meanings set forth in the Agreement. Except as modified hereby, the Agreement and the Ancillary Documents remain in full force and effect.
- 2. Compliance with Captive Finance Law. To the extent that any clause, term, provision, covenant, representation, warranty or other agreement that is contained in the Agreement, any of the Ancillary Documents and/or any of the Contracts or any assignments of the Contracts or any similar documents (collectively, the "Retail Documents") is or would be in violation of the Captive Finance Law, such clause, term, provision, covenant, representation, warranty or other agreement shall be: (a) void to the extent that it so violates the Captive Finance Law; and (b) reformed to be consistent with the Captive Finance Law. Each such reformed clause, term, provision, covenant, representation, warranty or other agreement shall continue to be binding upon both the Company and Dealer. Without limitation of the foregoing, Dealer and the Company agree to the specific modifications set forth in Paragraphs 3 through 10 below.
- 3. Power of Attorney. To the extent that any clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement, any of the Ancillary Documents [including, without limitation, any Special Power of Attorney (Retail)] and/or any of the Retail Documents grants to the Company a power of attorney to do anything on behalf of Dealer other than the Authorized Powers (as defined below), it is modified to grant to the Company only the Authorized Powers. The term "Authorized Powers" shall mean a power of attorney to: (a) sign Dealer's name on any check, draft, or other instrument received in payment or proceeds under any Contract that is made payable to Dealer but which is properly payable to the Company; (b) correct an error in a Customer's finance application; or (c) process the regular titling of a Vehicle.
- 4. Customer Credit Information. To the extent that any clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement, any of the Ancillary Documents and/or any of the Retail Documents requires Dealer to warrant or guarantee the accuracy and completeness of any personal, financial or credit information provided by the Customer on its credit application and/or in the course of applying for credit (collectively, the "Customer Credit Information"), it is modified to: (a) limit Dealer's representations, warranties and/or guaranties with respect to any Customer Credit Information to the best of Dealer's knowledge, after Dealer has made the inquiries required below; and (b) require that Dealer make reasonable inquiry regarding the accuracy and completeness of the Customer Credit Information.

5. Repurchase, Pay Off, Guaranty and Indemnity Obligations. Each clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement, any of the Ancillary Documents and/or any of the Retail Documents that requires Dealer to repurchase, pay off or guaranty any Contract, or that requires Dealer to indemnify, defend, or hold harmless the Company for settlements, judgments, damages, litigation expenses or other costs or expenses incurred by the Company, are hereby modified to only require Dealer to repurchase, pay off or guaranty any Contract, or to indemnify, defend, or hold harmless the Company for settlements, judgments, damages, litigation expenses or other costs or expenses incurred by the Company, only if such repurchase, pay off, guaranty or indemnity obligations arise directly from: (a) Dealer's material breach of (i) any clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement, any of the Ancillary Documents and/or any of the Retail Documents (all as modified hereby) or (ii) the terms for the purchase of an individual Contract that the Company communicates to Dealer before the purchase of such Contract by the Company; or (b) Dealer's violation of applicable law. Dealer hereby warrants the accuracy of the information provided on each Contract. However, the Company agrees that it will not enforce its remedies for a violation of the warranty set forth in the immediately preceding sentence (i.e. Dealer's repurchase, pay off, guaranty and indemnity obligations with respect thereto) until after the Company has given Dealer a reasonable opportunity to cure or correct any errors on the applicable Contract where such cure or correction is possible. Without limitation of the customary definition of material under applicable laws, rules and regulations (and under applicable court, administrative and other case law), Dealer agrees that any allegation by a third party that would constitute a breach of any clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement, any of the Ancillary Documents and/or any of the Retail Documents (all as modified hereby) shall be considered a material breach.
6. Application of Agreement. The Company agrees that, notwithstanding any clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement, any of the Ancillary Documents and/or any of the Retail Documents: (a) the Company will not treat Dealer's breach of the Agreement, any Ancillary Document or any Retail Document (all as modified hereby) with respect to the Company's purchase of any individual Contract as a breach of the Agreement, the Ancillary Documents and/or any Retail Documents with respect to the Company's purchase of any other Contracts; (b) nor shall such a breach, in and of itself, constitute a breach of any other agreement between Dealer and the Company or between Dealer and any affiliate of the Company. The Company is not a Vehicle manufacturer or distributor and has no right or ability to bind any Vehicle manufacturer or distributor (whether or not such Vehicle manufacturer or distributor is an affiliate of the Company) to the terms of clause (b) above.
7. Waiver of Defenses. Each clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement, any of the Ancillary Documents and/or any of the Retail Documents that requires Dealer to waive any defenses that may be available to it under the Agreement, the Ancillary Documents or applicable laws is deleted from the Agreement and the Ancillary Documents.
8. Class Actions. Nothing in any clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement and/or any of the Ancillary Documents shall require Dealer to settle, or to contribute any of its own funds or financial resources toward the settlement of, any multiparty or class action litigation without obtaining Dealer's voluntary and written consent subsequent to the filing of such litigation.
9. Reserves. Each clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement and/or any of the Ancillary Documents that requires Dealer to contribute to any reserve or contingency account established or maintained by the Company in connection with the financing of the sale or lease of any Vehicles purchased or leased by any of Dealer's Customers is modified to limit such required contributions to an amount that is based upon only the reasonable expected amount of future finance reserve chargebacks to Dealer by the Company. This Paragraph does not apply to or limit any clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement and/or any of the Ancillary Documents that: (a) require Dealer to reserve and maintain reasonable amounts related to the sale or financing of any products ancillary to the sale, lease or financing of the Vehicles themselves; (b) entitle the Company to delay or reduce the payment of Dealer's portion of the finance income from any Contract if Dealer agrees to such delay or reduction in exchange for the limitation, reduction or elimination of Dealer's responsibility for finance reserve chargebacks; or (c) entitle the Company to chargeback to Dealer (or offset of any amounts otherwise payable to Dealer by the Company) for any indebtedness properly owing from Dealer to the Company as part of a specific program covered by the Captive Finance Law, the terms of which have been agreed upon by the Dealer in advance, except to the extent such program violates the Captive Finance Law. Dealer agrees that: (i) by participating in the Program, it is agreeing, in advance, to all of the terms of the Program that are set forth in the Agreement (as modified hereby), the Ancillary Documents (as modified hereby) and all present and future Program notices that otherwise comply with the Captive Finance Law and other applicable law; and (ii) by funding Contracts using the Company's EFT system (or any successor electronic funding system), it is agreeing, in advance, that the Company can process all properly owing chargebacks and offsets electronically using the Company's EFT system (or any successor electronic funding system). Any chargebacks based upon any portion of any clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement and/or any of the Ancillary Documents and that has been eliminated due to this Addendum or the Captive Finance Law are not "properly" owing.

10. Vehicle Repossession. Each clause, term, provision, covenant, representation, warranty and/or other agreement that is contained in the Agreement and/or any of the Ancillary Documents that requires Dealer to repossess or otherwise gain possession of a Vehicle at the request of or on behalf of the Company is amended to only require Dealer to receive and process Vehicles that are voluntarily returned by the Customer or that are returned to the lessor at the end of the lease term.

**IN WITNESS WHEREOF**, this Addendum has been executed as of the date first written above.

The Company:

DEALER:

<b>TD Auto Finance LLC</b>	DEALER'S NAME
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BY

BY

NAME	NAME
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TITLE Manager	TITLE
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SAMPLE