

## **FINANCE THAT**

### **MERCHANT SERVICES AGREEMENT**

This Merchant Service Agreement (“Agreement”) is an agreement entered into between the lender, Finance That (“Lender”). (together with its affiliates, subsidiaries, assigns or designees herein (“Finance That”). Merchant and Finance That agree as follows:

This is a legal and binding agreement between the Lender and the Dealer.

#### **1. Definitions**

In this Merchant Services Agreement, including the above recitals and the Application Form attached hereto (the “Agreement”), the following expressions shall have the respective meanings set out as follows (except to the extent that the context requires otherwise):

- a) “Account” means the bank account of the Dealer.
- b) “Agreement” -This Merchant Services Agreement, including the recitals, the Application Form, and the appendices attached hereto.
- c) “Application Form”- The Forms that are appended hereto as Appendix “B” shall be the form that is submitted to the Lender and the Lender has the sole authority to change the Application Form from time to time as it may deem fit.
- d) “Business Day” means a day, other than a Saturday, a Sunday or a public holiday, on which banks are open for business in Canada.
- e) “Dealer” – Any individual or entity that is engaged in the sale of vehicles as defined below and agrees to be bound by the terms and conditions herein.
- f) “Lender”- At all times the lender shall be Finance That.
- g) “Purchaser” – Any individual or entity acquiring a vehicle from the Dealer.
- h) “Vehicle” - includes an automobile, a motorcycle, an all-terrain vehicle, a power-assisted bicycle, a boat, a motorized snow vehicle, a farm tractor.

#### **2. General**

The Lender is a financing company that can finance vehicles for purchases made on its online platform being <http://www.financethat.ca>

#### **3. Dealer Conditions**

Dealer shall submit a dealer registration form to be approved a registered Dealer with the Lender as set out in Appendix “A”

Dealers to this agreement agree to post and display a sign on the exterior and interior of their establishment stating, “FinanceThat. authorized dealer”. If the Dealer has a website or online forum that it shall also have this statement posted on it as well. If this signage is removed at any time that is a breach of the agreement and the Lender has the right to terminate the agreement at any time.

The Dealer understands and acknowledges that the Lender will be entitled to list and market the dealer’s inventory on any platform of their choosing including but not limited

to Facebook, Instagram, Twitter and print media. The dealer may market its own inventory wherever else they choose to do so.

The Dealer shall upload its inventory to the Lenders platform with the details of the vehicle, specifically the make, model, colour, and vehicle identification number ("VIN") along with a detailed description of the physical state of the vehicle.

The Dealer warrants and represents that any inventory uploaded to the Lender's platform shall be owned by it, they are the legal and beneficial owner of the vehicle, have no encumbrances of any sort and no claims or actions against the vehicle and that the Dealer has the sole right to sell the vehicle. A copy of the ownership must be provided to the Lender.

Any inventory that is uploaded to the Lender's platform shall be available at the Dealers business establishment or shall be immediately available upon sale. If any inventory is sold that is on the Lender's platform that is no longer available, the Dealer shall immediately remove it from the lender's platform.

The Dealer further represents and warrants that:

- a. Organization Dealer is a corporation, limited liability company or limited partnership, duly organized, validly existing, 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.
- b. Capacity, Authority, Validity: Dealer has the power, authority, and legal right to execute, deliver, and perform this Agreement and its obligations. The execution, delivery and performance of this Agreement by Dealer has been duly authorized by all necessary sanctions, and this Agreement is enforceable against Dealer in accordance with its terms, except 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.
- c. 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.
- d. Compliance with Law: All business practices, acts and operations of Dealer are in compliance with all applicable Federal, Provincial and Municipal laws and regulations.
- e. Power of Attorney: Dealer hereby appoints Lender and its authorized officers and attorneys-in-fact, as its true and lawful agents and attorneys-in-fact, with full power and authority to do any and all things necessary or appropriate in Dealer's name to carry out the intent of this Agreement, including, but not limited to, signing and endorsing the name of Dealer to any assignment of a Contract and endorsing Dealer's name on payment checks applicable to Contracts purchased by Lender. The aforementioned power of attorney is

hereby declared to be irrevocable and a special power coupled with an interest, in recognition of the fact that Lender will be relying upon this power to act as contemplated by this Agreement. This power of attorney shall extend to Dealer's successors and assigns. Dealer shall execute and deliver to Lender, within 15 calendar days of receipt of the Lender's request, such further designation, powers of attorney and/or other instruments as Lender deems necessary to effectuate this power of attorney.

The Dealer shall notify Lender of any material or significant change in Dealers ownership, organization or business, including 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, and change of address or contact information, such notice shall be provided 30 calendar days before such change or, if unknown to the , then forthwith after Dealer has knowledge of such change.

#### **4. Fees and Billing**

The dealer will receive a dealer reserve of 1.5% of the face value as stated on the Bill of Sale exclusive of Federal or Provincial taxes.

Dealer will be allowed to charge a fee of no more than \$499, provided it is clearly shown to the purchaser and stated prominently on the Bill of Sale. This is the only fee of any sort that the Dealer shall be entitled to charge.

The Dealer shall make the Bill of Sale to the Purchaser and the Lender and shall include the Dealer's full and legal name, address, phone number, the full description of the vehicle including the VIN number, its provincial tax number and license number if applicable.

If there are any accessories sold with the vehicle, those shall be clearly identified and listed on the Bill of Sale.

#### **5. Application Process**

The Dealer shall send a fully completed Application in the form that is appended hereto as Appendix "B". This is the only form that will be accepted by the Lender and shall be submitted to the Lender in the assigned portal.

Upon receipt of a properly submitted Application, the Lender shall review the Application and provide the Dealer with its decision to approve or reject the application instantly of receiving same.

The interest rate, term and amount available for the transaction will also be provided within one hour, along with any conditions of the approval. The Dealer shall ensure that both them and the Purchaser comply with all the terms of the approval and execute all documents required by the Lender. Upon completion of any further compliance conditions the Lender will in its sole discretion fund the purchase transaction and the Dealer will receive email confirmation along with a payout statement. After the Dealer receives and acknowledges the payout statement the Lender will within 24 to 48 hours deposit funds into the Dealers' bank account.

The Lender's funds once submitted to the Dealer are not to be used for any purpose or released to anyone including itself until the Dealer has delivered and surrendered the vehicle to the purchaser including the transfer of ownership.

## **6. Setoff**

Dealer agrees that Lender has the ongoing right to deduct from any funds, deposit, account, obligation or other amounts due Dealer by Lender, whether under this Agreement or any other agreement, any and all amount(s) Dealer owes Lender or its affiliates.

## **7. Information and Payments Received By Merchant:**

After purchase of a Contract by Lender, Merchant will not accept any payments on the contract and will direct Buyer to Lender. If for some reason, Merchant receives payment on the Contract or written communication with respect to a contract, Merchant will hold it in trust for the benefit of Lender and will promptly forward it to Lender. The provisions of this Section 11 shall survive the execution, delivery, expiration or termination of this Agreement.

## **8. Indemnity:**

Dealer agrees to indemnify, defend and hold Lender, and its respective shareholders, directors, officers, employees, representatives, agents, servants and successor, harmless from and against any and all claims, losses, damages, injuries, liabilities, costs, expenses, actions, suits and proceedings, including , but not limited to, court costs and legal fees, arising out of or relating to (i) Dealer's breach of this Agreement, (ii) Dealers maintenance, use or disclosure of Buyer's information (including Personal Information), (iii) Dealer's evaluation of Buyer for financing, (iv) Dealers pricing of the Vehicle or pricing of the credit as relates to the Buyer, (v) Dealer's denial of financing, or other adverse action, relating to a Buyer, or (vi) any actions or failure to act of Dealer in connection with the Credit Applications.

## **9. Books and Records:**

Dealer shall maintain complete and accurate records concerning the following (i) Credit Applications forwarded to Lender for consideration, (ii) any sales made and financed through the Lender. The Lender has the right to review and inspect Dealer Records upon reasonable notice to Dealer (which shall in no event be less than 5 business

days), during normal business hours. Dealer shall reasonably cooperate with Lender during such review and inspection.

**10. Further Assurances:**

Dealer agrees to perform all acts and execute all supplementary instruments or documents that may be necessary to carry out the provisions of this Agreement.

**11. Default:**

Each of the following shall constitute an event of default by Dealer under this Agreement (i) any representation, warranty or covenant contained in this Agreement, with the exception of the Contract Representations, proves untrue or misleading in any material respect, (ii) Dealer fails to pay Lender any indebtedness when due or fails to perform any other obligation hereunder, after written notice and a 30 business day opportunity to cure, (iii) Dealer ceases to do business as a going concern, (iv) Dealer becomes insolvent or makes any assignment for the benefit of creditors, or any bankruptcy, reorganization, arrangement, receivership, insolvency or other state of federal proceeding for the relief of debtor is commenced by or against it and is not dismissed within 30 business days of such filing. Should Dealer be in default, including, but not limited to, failing to complete a Repurchase, Lender may cease paying Dealer lot any Contact purchases, or otherwise any amounts due to Dealer, until Lender is paid in full.

**12. Severability:**

Should any provision of the Agreement, or any phrase, sentence, clause or paragraph so determined to be unenforceable, such enforceability shall not affect any other term or condition of this Agreement; rather, this Agreement shall be construed as if such invalid, illegal, or unenforceable term or condition had never been contained in the Agreement.

**13. Modification and Assignment:**

Lender can modify and amend this Dealer Agreement at any time by written notice to Dealer. Each time Dealer sends Lender a Credit Application and/or accepts payment for a Contract, Dealer expresses its agreement to and acceptance of the then current terms of the Dealer Agreement. Dealer may not assign this Agreement without the prior written consent of Lender. Lender may assign this Agreement upon written notice to Dealer, This Agreement shall be binding upon and insure to the benefit of the parties hereto and their respective successors and permitted assigns.

**14. Waiver and Remedies:**

No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party. No failure or delay by a party to insist upon the strict performance of any conditions under this Agreement or to exercise any right or remedy available under this Agreement at law or in equity, and no course of deciding between the parties, shall simply or otherwise constitute a waiver of such right or remedy, and no

single or partial exercise of any right or remedy by any party will preclude any other or further exercise thereof, All rights and remedies provided in this Agreement are cumulative and not alternative; and are in addition to all other available remedies at law or in equity.

**15. Entire Agreement:**

This Agreement (including any agenda, schedules, or exhibits reduced herein or attached hereto) constitutes the entire agreement between the parties relating to the subject matter hereof.

**16. Miscellaneous:**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement. A facsimile copy of a signature shall be treated as an original. Headings at the beginning of each paragraph are for convenience only and are not intended to otherwise influence or affect the interpretations of any provisions of this Agreement.