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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

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By Kristin Sorianosos, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN DIEGO – CENTRAL DIVISION

11 DESIRAE NIEVES, an individual,

12 Plaintiff,

13 v.

14 KMT/UAG Inc., dba Kearny Mesa Toyota, a  
15 California corporation;  
16 CAPITAL ONE, NATIONAL ASSOCIATION:  
17 WESTCHESTER FIRE INSURANCE  
18 COMPANY, A New Hampshire corporation; and  
19 DOES 1 through 75, inclusive,

20 Defendants.

Case No. 37-2019-00013229-CU-CO-CTL

**COMPLAINT**

1. VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT
2. VIOLATION OF THE SONG-BEVERLY CONSUMER WARRANTY ACT
3. VIOLATION OF BUSINESS & PROFESSIONS CODE §17200
4. FRAUD AND DECEIT
5. NEGLIGENT MISREPRESENTATION
6. BREACH OF WARRANTY OF TITLE
7. VIOLATION OF CALIFORNIA VEHICLE CODE § 11711

21  
22  
23 **PARTIES AND VENUE**

24 1. Plaintiff, Desirae Nieves, is an individual who resided in the City of San Diego, County of  
25 San Diego, State of California at the time the Vehicle that is the subject of this lawsuit was purchased.

26 2. Defendant KMT/UAG, Inc. dba Kearny Mesa Toyota. (“Dealer”) is, or was a car dealership,  
27 registered to do business in the State of California, and doing business in the City of San Diego, County of  
28 San Diego.

1           3.       Defendant Capital One, National Association (“Capital One”) is and was at all material  
2 times a California corporation doing business as a lender through Dealer in the City of San Diego, County  
3 of San Diego, State of California.

4           4.       Defendant Westchester Fire Insurance Company (“WFIC”) is a New Hampshire  
5 corporation that issued the bond to Dealer under Vehicle Code §11710 (Bond # K07432653 effective  
6 March 31, 2006) and is, therefore, liable for the acts of Dealer and Does 1 through 75 for the illegal  
7 conduct stated in this Complaint.

8           5.       Plaintiff does not know the true names and capacities, whether corporate, partnership,  
9 associate, individual or otherwise, of Defendants sued herein as Does 1 through 75, inclusive, and thus  
10 names them under the provisions of § 474 of the California Code of Civil Procedure. Defendants Does 1  
11 through 75, inclusive, are in some manner responsible for the acts, occurrences and transactions set forth  
12 herein, and are legally liable to Plaintiff and/or they are the alter-ego of the Defendants named herein.  
13 Plaintiff will set forth the true names and capacities of the fictitiously named Defendants together with  
14 appropriate charging allegations when ascertained.

15           6.       All acts of the Dealer’s employees, as hereinafter alleged, were authorized or ratified by  
16 the owner or managing agents of Dealer.

17           7.       Each Defendant, whether actually or fictitiously named herein, was the principal, agent  
18 (actual or ostensible), co-conspirator, or employee of each other Defendant and in acting as such principal  
19 or within the course and scope of such employment, agency, or conspiracy, took some part in the acts  
20 and omissions hereinafter set forth by reason of which each Defendant is liable to Plaintiff for the relief  
21 prayed for herein.

22           8.       Plaintiff signed a Retail Installment Sale Contract (“RISC”) for the purchase of the vehicle  
23 that is the subject of this litigation. A true and correct copy of the RISC is attached hereto as Exhibit 1.

24           9.       The RISC for the Vehicle includes the following term:

25                   NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT  
26                   IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR  
27                   COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES  
28                   OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS  
                      HEREOF, RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT  
                      EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.



1           17.     The Plaintiff informed Dealer that she would be using the vehicle for travel to and from  
2 Mexico using the Secured Electronic Network for Travelers Rapid Inspection (“SENTRI”) program and  
3 wanted a reliable vehicle for that purpose.

4           18.     SENTRI is a US Customs and Border Protection program that allows expedited clearance  
5 for pre-approved low-risk travelers to the United States. SENTRI provides dedicated lanes to enter the  
6 Unites States that results in significantly faster entry into the United States.

7           19.     Initially, Plaintiff was looking at a larger sports utility vehicle. Dealer told Plaintiff that  
8 she needs a vehicle with better gas mileage and handling for travel to and from Mexico. Dealer directed  
9 Plaintiff to the Vehicle.

10          20.     Dealer represented that the Vehicle would be perfect for the use of travel to and from  
11 Mexico using the SENTRI program. Dealer told Plaintiff the past owner also used the vehicle to travel  
12 back and forth between Mexico and the United States.

13          21.     The Plaintiff relied on the Dealer’s skill and judgment to select the Vehicle.

14          22.     Dealer provided an implied warranty that the goods are fit for that purpose.

15          23.     Dealer was informed and knew that the vehicle would be used to travel back forth  
16 between Mexico and the United States and knew that the Plaintiff was using the SENTRI program.

17          24.     When attempting to cross the border using the SENTRI program, a border patrol agent  
18 told Plaintiff that this Vehicle had been flagged for past drug trafficking. The border patrol agent took  
19 the SENTRI pass from the Plaintiff and told Plaintiff that she cannot use the SENTRI program because  
20 of the Vehicle’s history. Further, Plaintiff was told that the Vehicle would be flagged every time she  
21 attempts to cross the border due to the past drug activity that occurred with the Vehicle.

22          25.     Upon information and belief, the Dealer knew or should have known of the past criminal  
23 activity and that the Vehicle could not be used for the SENTRI program.

24          26.     The vehicle could not be used for the purpose of driving back and forth between Mexico  
25 and the United Sates using the SENTRI program, because the Vehicle’s VIN was flagged for past drug  
26 trafficking.

27          27.     Dealer provided an express warranty for the Vehicle, triggering the implied warranty of  
28 merchantability.



1 37. Dealer violated the CLRA by: (1) misrepresenting that the Vehicle could be used for the  
2 SENTRI program for travel from Mexico, when it knew that it could not (2) intentionally and/or  
3 recklessly failing to timely and/or properly submit the necessary and proper documents to the Department  
4 of Motor Vehicles to transfer title and ownership of the Vehicle to Plaintiff, as required by law.

5 38. Prior to filing this Complaint, Plaintiff mailed to Defendants, via certified and regular  
6 mail, a copy of the lawsuit, which seeks injunctive relief only under the CLRA and gives notice of  
7 Dealer's violations of the CLRA. No monetary damages are sought under the CLRA at this time.

8 39. The CLRA provides that a complaint for violations may be amended without leave of  
9 court should the violations not be remedies within 30 days. Plaintiff will amend this Complaint to add a  
10 claim for damages, rescission, and restitution under the CLRA should the violations complained of herein  
11 not be remedied within the requisite time frame. In addition to actual, statutory, general, incidental, and  
12 consequential damages, Plaintiff will seek punitive damages from Dealer for its malicious, oppressive,  
13 and fraudulent acts against Plaintiff.

14 40. Civil Code § 1780(a)(2) of the CLRA provides that a consumer is entitled to an injunction  
15 prohibiting acts or practices which violate the CLRA. Plaintiff seeks an order enjoining Dealer from the  
16 acts, methods, and practices set forth in Paragraph 37, of this Complaint.

17 41. Pursuant to California Civil Code § 1780(e), Plaintiff may also recover attorneys' fees and  
18 costs according to proof at time of trial.

19 42. The Holder Clause makes Capital One liable, contractually and under State law, for all  
20 claims and defenses that could be raised against Dealer, with respect to the purchase/sale of the Vehicle.  
21 Therefore, Capital One is liable for the acts of Dealer as stated herein.

22 **SECOND CAUSE OF ACTION**  
23 **Violation of the Song-Beverly Consumer Warranty Act, Civil Code § 1790, et seq.**  
24 **(Against to all Defendants except WFIC )**

25 43. Plaintiff incorporates by reference each and every allegation set forth in paragraphs 1  
26 through 42, inclusive, of this Complaint.

27 44. Pursuant to the Song-Beverly Consumer Warranty Act (hereinafter "Song-Beverly"),  
28 Civil Code §1790 *et seq.*, the Vehicle constitutes "consumer goods" purchased primarily for family or  
household purposes and Plaintiff has used the Vehicle primarily for those purposes.

1 45. Plaintiff is a “buyer” of consumer goods under Song-Beverly.

2 46. Dealer is a “seller” and/or “retailer” under Song-Beverly and sold the Vehicle with an  
3 express 30-day warranty.

4 47. Dealer knew that Plaintiff was purchasing the vehicle for travel to and from Mexico using  
5 the SENTRI program.

6 48. Plaintiff relied on Dealer’s skill and judgment to select a vehicle that was suitable for the  
7 particular purpose.

8 49. Plaintiff justifiably relied on Defendant’s skill and judgment.

9 50. The Vehicle was not suitable for the purpose of traveling to and from Mexico using the  
10 SENTRI program and could not be used for that purpose.

11 51. The Dealer breached the implied warranty of fitness for a particular purpose.

12 52. The implied warranty of merchantability arose as a matter of law.

13 53. Plaintiff is entitled to, and justifiable, revokes acceptance of the Vehicle under Song-  
14 Beverly.

15 54. Plaintiff is entitled to, and seeks damages and other legal and equitable relief, including,  
16 but not limited to, all incidental, consequential and general damages resulting from Defendants’ failure  
17 to comply with their obligations under Song-Beverly.

18 55. Plaintiff is entitled under Song-Beverly to recover as part of the judgment a sum equal to  
19 the aggregate amount of costs and expenses, including attorneys’ fees, reasonably incurred in connection  
20 with the commencement and prosecution of this action.

21 56. Capital One is liable, contractually and under State law, for all claims and defenses that  
22 could be raised against Dealer, with respect to the purchase/sale of the Vehicle. Therefore, Capital One  
23 is liable for the acts of Dealer as stated herein.

24 **THIRD CAUSE OF ACTION**  
25 **Unlawful, Unfair, or Fraudulent Business Acts and Practices,**  
26 **Business & Professions Code §17200, et seq.**  
**(As to all Defendants except WFIC)**

27 57. Plaintiff incorporates by reference each and every allegation set forth in paragraphs 1  
28 through 56, inclusive, of this Complaint.

1           58.     Dealer committed acts of unfair competition, as defined by Business and Professions Code  
2 § 17200, et seq. As set forth more fully above, Dealer has engaged in a course of conduct of systematically  
3 violating the consumer laws in this State prohibiting the commitment of deceptive practices, including  
4 the laws of fraud and deceit, and the Consumers Legal Remedies Act.

5           59.     Dealer has engaged in an “unlawful” business act and/or practice by: (1) misrepresenting  
6 that the Vehicle could be used for the SENTRI program for travel from Mexico, when it knew that it  
7 could not (2) ) intentionally and/or recklessly failing to timely and/or properly submit the necessary and  
8 proper documents to the Department of Motor Vehicles to transfer title and ownership of the Vehicle to  
9 Plaintiff, as required by law.

10          60.     The harm to Plaintiff outweighs the utility of Dealer’s policies and practices particularly  
11 considering the available alternatives, and that Dealer’s policies and practices are immoral, unscrupulous,  
12 unethical and against public policy. Dealer’s policies and practices consequently constitute an “unfair”  
13 business act or practice within the meaning of Business and Professions Code § 17200.

14          61.     Dealer’s deceptive policies and practices, as set forth above, are likely to and/or have  
15 deceived Plaintiff. Thus, Dealer has also engaged in “fraudulent” business practices.

16          62.     Dealer has engaged in, and continues to engage in, the same form of deceptive acts and  
17 practices.

18          63.     Dealer’s unlawful, unfair and fraudulent business practices present a continuing threat to  
19 Plaintiff and others in that Dealer will continue utilizing similar policies and practices.

20          64.     Business and Professions Code § 17203 provides that Plaintiff is entitled to an order  
21 enjoining Dealer from engaging in acts or practices that violate Business and Professions Code § 17200,  
22 as well as providing for equitable monetary relief so as to preclude the retention of all ill-gotten monies  
23 by Dealer or so as to restore any monies wrongfully obtained by Dealer to Plaintiff.

24          65.     Plaintiff has lost money and suffered injury in fact as a result of Dealer’s illegal conduct.  
25 Plaintiff seeks such equitable monetary relief, and an order enjoining Dealer from engaging in the acts  
26 and practices set forth in this Complaint, imposing an asset freeze or constructive trust over such monies  
27 as the Court deems appropriate, as well as compelling a corrective informational campaign to correct the  
28 misperceptions in the marketplace created by such conduct.



1 amount according to proof at trial.

2 77. Dealer's conduct constitutes conduct that is oppressive, fraudulent, or malicious, also  
3 entitling Plaintiff to punitive damages under Civil Code §3294.

4 78. The acts of Dealer's corporate employees as alleged were authorized or ratified by an  
5 officer, director, or managing agent of Dealer.

6 79. The Holder Clause makes Capital One liable, contractually and under State law, for all  
7 claims and defenses that could be raised against Dealer, with respect to the purchase/sale of the Vehicle.  
8 Therefore, Capital One are liable for the acts of Dealer as stated herein.

9 **FIFTH CAUSE OF ACTION**  
10 **Negligent Misrepresentation**  
**(As to all Defendants except WFIC)**

11 80. Plaintiff incorporates by reference each and every allegation set forth in paragraphs 1  
12 through 79, inclusive, of this Complaint.

13 81. Prior to the execution of the RISC, at the time the RISC was executed, and afterward,  
14 Dealer made misrepresentations as set forth above in paragraphs 15 through 30.

15 82. Prior to the execution of the RISC, at the time the RISC was executed, and afterward,  
16 Dealer omitted material facts from the statements it made as set forth above in paragraphs 15 through 30,  
17 the disclosure of which were required by law.

18 83. Specifically, Dealer represented that the Vehicle could be used for travel to and from  
19 Mexico using the SENTRI program.

20 84. The representations by Dealer were not true. Regardless of its actual belief, Dealer made  
21 the representations without any reasonable grounds for believing them to be true.

22 85. Dealer failed to exercise due care in ascertaining the accuracy of the representations about  
23 the Vehicle made to Plaintiff.

24 86. Plaintiff relied upon those representations and acted in reliance thereon by purchasing the  
25 Vehicle.

26 87. Plaintiff was unaware of the falsity of the representations and acted in reliance upon the  
27 truth of those representations and was justified in relying upon those representations.

28 ///

1 88. As a direct and proximate result of Dealer's negligent misrepresentations of material fact,  
2 Plaintiff suffered damages, including all actual, consequential, and incidental damages according to proof  
3 at trial.

4 89. Plaintiff was fraudulently induced to enter into the purchase contract, and therefore is  
5 entitled to rescission and/or restitution in an amount according to proof at trial, including all actual,  
6 consequential, and incidental damages.

7 90. The Holder Clause makes Capital One liable, contractually and under State law, for all  
8 claims and defenses that could be raised against Dealer, with respect to the purchase/sale of the Vehicle.  
9 Therefore, Capital One are liable for the acts of Dealer as stated herein.

10  
11 **SIXTH CAUSE OF ACTION**  
12 **Violation of Vehicle Code §11711**  
13 **(As to WFIC, only)**

14 91. Plaintiff incorporates by reference each and every allegation set forth in paragraphs 1  
15 through 90, inclusive, of this Complaint.

16 92. As a condition of obtaining a license from the California DMV to sell vehicles, Dealer  
17 was required by Vehicle Code § 11710 to obtain, and did obtain, a surety bond in the amount of \$50,000  
18 from WFIC.

19 93. WFIC issued bond #K07432653 effective March 31, 2006, to Dealer to fulfill its  
20 obligations under Vehicle Code § 11710. The bond issued to Dealer was in effect on the date of the  
21 incidents alleged in this Complaint.

22 94. Pursuant to Vehicle Code § 11710(a), the bond was issued to Dealer and made payable to  
23 "a purchaser" in the case of "fraud" by Dealer.

24 95. Plaintiff is a purchaser within the meaning of Vehicle Code §11710(a). Fraud, as that term  
25 is used in Vehicle Code § 11710(a), is the same fraud as commonly defined in the law, including fraud  
26 as defined in Civil Code §§ 1571, 1572, 1573 and Vehicle Code § 11710(a). See *Beverly Finance Co. v.*  
*American Casualty Co. of Reading* (1969) 273 Cal.App.2d 259.

27 96. As set forth herein, Dealer has committed fraud within the meaning of Civil Code §§ 1571,  
28 1572, 1573 and Vehicle Code § 11710(a).

1 97. Vehicle Code § 11711(a) provides a consumer with a cause of action against the bond if  
2 a dealership committed fraud. Plaintiff alleges that Dealer committed fraud in the sale of the Vehicle by:  
3 (1) Misrepresenting the vehicle could be used for travel to and from Mexico using the SENTRI program.

4 98. WFIC is liable under the bond to Dealer, based on the fraud of Dealer, in the amount of  
5 the purchase price of the Vehicle, or such other sum as is established at the time of trial, according to  
6 proof.

7 PRAYER FOR RELIEF

8 Accordingly, Plaintiff prays for judgment as follows and as permitted as to each cause of action:

- 9 1. For general damages according to proof at trial;
- 10 2. For rescission of the purchase contract;
- 11 3. For incidental and consequential damages according to proof at trial;
- 12 4. For punitive and statutory damages where available;
- 13 5. Only injunctive relief is sought under the CLRA;
- 14 6. No request for punitive damages are made as to WFIC;
- 15 7. No request for punitive damages are made as to Capital One;
- 16 8. For the equitable and injunctive relief permitted under Civil Code § 1780 and Business &  
17 Professions Code § 17200;
- 18 9. For pre-judgment interest at the legal or contract rate;
- 19 10. For reasonable attorneys' fees and costs of suit as permitted by law (including, but not  
20 limited to, Civil Code §§ 1780(e), 1794, Code of Civil Procedure § 1021.5, and the bond  
21 company claims);
- 22 11. Relief under Business & Professions Code § 17200 as limited as provided by law; and
- 23 12. For such other and further relief as the Court deems just and proper under the  
24 circumstances.

25 Dated: March 11, 2019

ROSNER, BARRY & BABBITT, LLP

26 By:  for HDR  
27 Hallen D. Rosner  
28 Attorney for Plaintiff

# Exhibit 1

**RETAIL INSTALLMENT SALE CONTRACT – SIMPLE FINANCE CHARGE (WITH ARBITRATION PROVISION)**

Dealer Number \_\_\_\_\_ Contract Number \_\_\_\_\_ R.O.S. Number 55496621 Stock Number 69841A

<b>Buyer Name and Address</b> (Including County and Zip Code) DESIRAE R NIEVES 4872 BUNHELL ST SAN DIEGO CA 92113 SAN DIEGO	<b>Co-Buyer Name and Address</b> (Including County and Zip Code) N/A	<b>Seller-Creditor (Name and Address)</b> KEARNY MESA TOYOTA 4910 KEARNY MESA RD. SAN DIEGO CA 92111 SAN DIEGO
--	--	--

You, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit under the agreements on the front and back of this contract. You agree to pay the Seller - Creditor (sometimes "we" or "us" in this contract) the Amount Financed and Finance Charge in U.S. funds according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-In-Lending Disclosures below are part of this contract.

New Used	Year	Make and Model	Odometer	Vehicle Identification Number	Primary Use For Which Purchased
USED	2014	TOYOTA COROLLA	32651	5YFBURHE3EPL04660	<input type="checkbox"/> Personal, family or household unless otherwise indicated below. <input type="checkbox"/> business or commercial

FEDERAL TRUTH-IN-LENDING DISCLOSURES				
ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sale Price
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.	The total cost of your purchase on credit, including your down payment of \$500.00
14.63 %	\$ 9991.30 (e)	\$ 19317.74 (e)	\$ 29809.04 (e)	\$ 29809.04 (e)
(e) means an estimate				

YOUR PAYMENT SCHEDULE WILL BE:		
Number of Payments:	Amount of Payments:	When Payments Are Due:
One Payment of	500.00	04/13/2018
One Payment of <u>N/A</u>	N/A	N/A
One Payment of <u>N/A</u>	N/A	N/A
<u>71</u>	407.07	Monthly beginning 05/27/2018
<u>N/A</u>	N/A	N/A
One final payment	407.07	DUE ON 04/27/2024

**Late Charge.** If payment is not received in full within 10 days after it is due, you will pay a late charge of 5% of the part of the payment that is late. **Prepayment.** If you pay early, you may be charged a minimum finance charge. **Security Interest.** You are giving a security interest in the vehicle being purchased. **Additional Information:** See this contract for more information including information about nonpayment, default, any required repayment in full before the scheduled date, minimum finance charges, and security interest.

ITEMIZATION OF THE AMOUNT FINANCED (Seller may keep part of the amounts paid to others.)	
<b>1. Total Cash Price</b>	
A. Cash Price of Motor Vehicle and Accessories	\$ 14725.00 (A)
1. Cash Price Vehicle	\$ 14725.00
2. Cash Price Accessories	\$ N/A
3. Other (Not Taxable)	\$ N/A
Describe _____	\$ N/A
Describe _____	\$ N/A
B. Document Processing Charge (not a governmental fee)	\$ 80.00 (B)
C. Emissions Testing Charge (not a governmental fee)	\$ 50.00 (C)
D. (Optional) Theft Deterrent Device(s)	\$ 790.00 (D1)
1. (paid to) _____	\$ N/A (D2)
2. (paid to) _____	\$ N/A (D3)
3. (paid to) _____	\$ N/A (D3)
E. (Optional) Surface Protection Product(s)	\$ N/A (E1)
1. (paid to) _____	\$ N/A (E2)
2. (paid to) _____	\$ N/A (E2)
F. EV Charging Station (paid to)	\$ 1212.49 (F)
G. Sales Tax (on taxable items in A through F)	\$ 29.00 (G)
H. Electronic Vehicle Registration or Transfer Charge (not a governmental fee) (paid to)	\$ 29.00 (H)
I. (Optional) Service Contract(s)	\$ 2058.00 (I1)
1. (paid to) _____	\$ N/A (I2)
2. (paid to) _____	\$ N/A (I3)
3. (paid to) _____	\$ N/A (I4)
4. (paid to) _____	\$ N/A (I4)
5. (paid to) _____	\$ N/A (I5)
J. Prior Credit or Lease Balance (e) paid by Seller to	\$ N/A (J)
Vehicle 1 _____	\$ N/A (J)
Vehicle 2 _____	\$ N/A (J)
(see downpayment and trade-in calculation)	
K. (Optional) Debt Cancellation Agreement	\$ 350.00 (K)
L. (Optional) Used Vehicle Contract Cancellation Option Agreement	\$ N/A (L)
M. Other (paid to)	\$ N/A (M)
For _____	\$ N/A (M)
N. Other (paid to)	\$ N/A (N)
For _____	\$ N/A (N)
<b>Total Cash Price (A through N)</b>	\$ 19794.49 (1)
<b>2. Amounts Paid to Public Officials</b>	\$ N/A (A)
A. Vehicle License Fees	\$ N/A (A)

**STATEMENT OF INSURANCE**  
 NOTICE: No person is required as a condition of financing the purchase of a motor vehicle to purchase or negotiate any insurance through a particular insurance company, agent or broker. You are not required to buy any other insurance to obtain credit. Your decision to buy or not buy other insurance will not be a factor in the credit approval process.

**Vehicle Insurance**

	Term	Premium
\$ N/A Ded. Comp., Fire & Theft	N/A Mos.	\$ N/A
\$ N/A Ded. Collision	N/A Mos.	\$ N/A
Bodily Injury	\$ N/A Limits	\$ N/A
Property Damage	\$ N/A Limits	\$ N/A
Medical	N/A Mos.	\$ N/A
	N/A Mos.	\$ N/A
	N/A Mos.	\$ N/A
Total Vehicle Insurance Premiums		\$ N/A

UNLESS A CHARGE IS INCLUDED IN THIS AGREEMENT FOR PUBLIC LIABILITY OR PROPERTY DAMAGE INSURANCE, PAYMENT FOR SUCH COVERAGE IS NOT PROVIDED BY THIS AGREEMENT.

You may buy the physical damage insurance this contract requires (see back) from anyone you choose who is acceptable to us. You are not required to buy any other insurance to obtain credit.

Buyer X \_\_\_\_\_  
 Co-Buyer X \_\_\_\_\_  
 Seller X \_\_\_\_\_

**OPTIONAL DEBT CANCELLATION AGREEMENT.** A debt cancellation agreement is not required to obtain credit and will not be provided unless you sign below and agree to pay the extra charge. If you choose to buy debt cancellation, the charge is shown in item 1K of the Itemization of Amount Financed. See your debt cancellation agreement for details on the terms and conditions it provides. It is a part of this contract.

Term 72 Mos. DAC IBEX GAP  
 Debt Cancellation Agreement

I want to buy a debt cancellation agreement.

Buyer Signs X \_\_\_\_\_

**OPTIONAL SERVICE CONTRACT(S)** You want to purchase the service contract(s) written with the following company(ies) for the term(s) shown below for the charge(s) shown in item 1I.

<b>11 Company</b> <u>TOYOTA EXTRA CARE</u>	Term <u>84</u> Mos. or <u>100000</u> Miles
<b>12 Company</b> _____	Term <u>N/A</u> Mos. or <u>N/A</u> Miles
<b>13 Company</b> _____	Term <u>N/A</u> Mos. or <u>N/A</u> Miles
<b>14 Company</b> _____	Term <u>N/A</u> Mos. or <u>N/A</u> Miles
<b>15 Company</b> _____	Term <u>N/A</u> Mos. or <u>N/A</u> Miles

Buyer X \_\_\_\_\_

**Trade-In Vehicle(s)**

**1. Vehicle 1**

Year N/A Make N/A  
 Model N/A Odometer N/A  
 VIN N/A

a. Agreed Value of Property \$ N/A  
 b. Buyer/Co-Buyer Retained Trade Equity \$ N/A  
 c. Agreed Value of Property Being Traded-In (a-b) \$ N/A  
 d. Prior Credit or Lease Balance \$ N/A  
 e. Net Trade-In (c-d) (must be ≥ 0 for buyer/co-buyer to retain equity) \$ N/A

**2. Vehicle 2**

Year N/A Make N/A  
 Model N/A Odometer N/A  
 VIN N/A

a. Agreed Value of Property \$ N/A  
 b. Buyer/Co-Buyer Retained Trade Equity \$ N/A  
 c. Agreed Value of Property \$ N/A

C. California Tire Fees	\$	N/A (C)
D. Other	\$	N/A (D)
<b>Total Official Fees (A through D)</b>	\$	15.00 (2)
<b>3. Amount Paid to Insurance Companies</b> (Total premiums from Statement of Insurance)	\$	N/A (3)
4. <input type="checkbox"/> State Emissions Certification Fee or <input type="checkbox"/> State Emissions Exemption Fee	\$	8.25 (4)
5. Subtotal (1 through 4)	\$	1987.74 (5)
<b>6. Total Downpayment</b>		
A. Total Agreed Value of Property Being Traded-In (see Trade-In Vehicle(s)):	\$	N/A (A)
Vehicle 1 \$ N/A Vehicle 2 \$ N/A		
B. Total Less Prior Credit or Lease Balance (e)	\$	N/A (B)
Vehicle 1 \$ N/A Vehicle 2 \$ N/A		
C. Total Net Trade-In (A-B) (indicate if negative number)	\$	N/A (C)
Vehicle 1 \$ N/A Vehicle 2 \$ N/A		
D. Deferred Downpayment Payable to Seller	\$	500.00 (D)
E. Manufacturer's Rebate	\$	N/A (E)
F. Other	\$	N/A (F)
G. Cash, Cash Equivalent, Check, Credit Card, or Debit Card	\$	N/A (G)
<b>Total Downpayment (C through G)</b>	\$	500.00 (6)
(If negative, enter zero on line 6 and enter the amount less than zero as a positive number on line 1J above)		
<b>7. Amount Financed (5 less 6)</b>	\$	1487.74 (7)

d. Prior Credit or Lease Balance	\$	N/A
e. Net Trade-In (c-d) (must be ≥ 0 for buyer/co-buyer to retain equity)	\$	N/A
<b>Total Agreed Value of Property Being Traded-In (1c+2c)</b>	\$	N/A
<b>Total Prior Credit or Lease Balance (1d+2d)</b>	\$	N/A
<b>Total Net Trade-In (1e+2e)</b>	\$	N/A

(\*See item 6A-6C in the Itemization of Amount Financed)

OPTION:  You pay no finance charge if the Amount Financed, item 7, is paid in full on or before N/A, Year N/A

SELLER'S INITIALS N/A

Agreement to Arbitrate: By signing below, you agree that, pursuant to the Arbitration Provision on the reverse side of this contract, you or we may elect to resolve any dispute by neutral, binding arbitration and not by a court action. See the Arbitration Provision for additional information concerning the agreement to arbitrate.

Buyer Signs X  
Co-Buyer Signs X

**Trade-In Payoff Agreement:** Seller relied on information from you and/or the lienholder or lessor of your trade-in vehicle(s) to arrive at the payoff amount shown as the Prior Credit or Lease Balance in Trade-In Vehicle(s). You understand that the amount quoted is an estimate.

Seller agrees to pay the payoff amount shown as the Prior Credit or Lease Balance in Trade-In Vehicle(s) to the lienholder or lessor of the trade-in vehicle(s), or its designee, if the actual payoff amount is more than the amount shown as the Prior Credit or Lease Balance in Trade-In Vehicle(s), you must pay the Seller the excess on demand. If the actual payoff amount is less than the amount shown as the Prior Credit or Lease Balance in Trade-In Vehicle(s), Seller will refund to you any overage Seller receives from your prior lienholder or lessor. Except as stated in the "NOTICE" on the back of this contract, any assignee of this contract will not be obligated to pay the Prior Credit or Lease Balance shown in Trade-In Vehicle(s) or any refund.

Buyer Signature X  
Co-Buyer Signature X

**AUTO BROKER FEE DISCLOSURE**

If this contract reflects the retail sale of a new motor vehicle, the sale is not subject to a fee received by an autobroker from us unless the following box is checked:

Name of autobroker receiving fee, if applicable: N/A

**HOW THIS CONTRACT CAN BE CHANGED.** This contract contains the entire agreement between you and us relating to this contract. Any change to the contract must be in writing and both you and we must sign it. No oral changes are binding.

Buyer Signs X  
Co-Buyer Signs X

**SELLER'S RIGHT TO CANCEL** If Buyer and Co-Buyer sign here, the provisions of the Seller's Right to Cancel section on the back giving the Seller the right to cancel if Seller is unable to assign this contract to a financial institution will apply.

Buyer X  
Co-Buyer X

THE MINIMUM PUBLIC LIABILITY INSURANCE LIMITS PROVIDED IN LAW MUST BE MET BY EVERY PERSON WHO PURCHASES A VEHICLE. IF YOU ARE UNSURE WHETHER OR NOT YOUR CURRENT INSURANCE POLICY WILL COVER YOUR NEWLY ACQUIRED VEHICLE IN THE EVENT OF AN ACCIDENT, YOU SHOULD CONTACT YOUR INSURANCE AGENT.

**WARNING:**  
YOUR PRESENT POLICY MAY NOT COVER COLLISION DAMAGE OR MAY NOT PROVIDE FOR FULL REPLACEMENT COSTS FOR THE VEHICLE BEING PURCHASED. IF YOU DO NOT HAVE FULL COVERAGE, SUPPLEMENTAL COVERAGE FOR COLLISION DAMAGE MAY BE AVAILABLE TO YOU THROUGH YOUR INSURANCE AGENT OR THROUGH THE SELLING DEALER. HOWEVER, UNLESS OTHERWISE SPECIFIED, THE COVERAGE YOU OBTAIN THROUGH THE DEALER PROTECTS ONLY THE DEALER, USUALLY UP TO THE AMOUNT OF THE UNPAID BALANCE REMAINING AFTER THE VEHICLE HAS BEEN REPOSSESSED AND SOLD.

FOR ADVICE ON FULL COVERAGE THAT WILL PROTECT YOU IN THE EVENT OF LOSS OR DAMAGE TO YOUR VEHICLE, YOU SHOULD CONTACT YOUR INSURANCE AGENT.

THE BUYER SHALL SIGN TO ACKNOWLEDGE THAT HE/SHE UNDERSTANDS THESE PUBLIC LIABILITY TERMS AND CONDITIONS.

S/S X  
X/A

**Notice to buyer:** (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.

If you have a complaint concerning this sale, you should try to resolve it with the seller. Complaints concerning unfair or deceptive practices or methods by the seller may be referred to the city attorney, the district attorney, or an investigator for the Department of Motor Vehicles, or any combination thereof. After this contract is signed, the seller may not change the financing or payment terms unless you agree in writing to the change. You do not have to agree to any change, and it is an unfair or deceptive practice for the seller to make a unilateral change.

Buyer Signature X  
Co-Buyer Signature X

**The Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to receive a part of the Finance Charge.**

**THERE IS NO COOLING-OFF PERIOD UNLESS YOU OBTAIN A CONTRACT CANCELLATION OPTION**

California law does not provide for a "cooling-off" or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign below, you may only cancel this contract with the agreement of the seller or for legal cause, such as fraud. However, California law does require a seller to offer a two-day contract cancellation option on used vehicles with a purchase price of less than forty thousand dollars (\$40,000), subject to certain statutory conditions. This contract cancellation option requirement does not apply to the sale of a recreational vehicle, a motorcycle, or an off-highway motor vehicle subject to identification under California law. See the vehicle contract cancellation option agreement for details.

YOU AGREE TO THE TERMS OF THIS CONTRACT. YOU CONFIRM THAT BEFORE YOU SIGNED THIS CONTRACT, WE GAVE IT TO YOU, AND YOU WERE FREE TO TAKE IT AND REVIEW IT. YOU ACKNOWLEDGE THAT YOU HAVE READ BOTH SIDES OF THIS CONTRACT, INCLUDING THE ARBITRATION PROVISION ON THE REVERSE SIDE, BEFORE SIGNING BELOW. YOU CONFIRM THAT YOU RECEIVED A COMPLETELY FILLED-IN COPY WHEN YOU SIGNED IT.

Buyer Signature X Date 12/18 Co-Buyer Signature X/A Date /A

Co-Buyers and Other Owners — A co-buyer is a person who is responsible for paying the entire debt. An other owner is a person whose name is on the title to the vehicle but does not have to pay the debt. The other owner agrees to the security interest in the vehicle given to us in this contract.

**Other Owner Signature X** Address \_\_\_\_\_

**GUARANTY:** To induce us to sell the vehicle to Buyer, each person who signs as a Guarantor individually guarantees the payment of this contract. If Buyer fails to pay any money owing on this contract, each Guarantor must pay it when asked. Each Guarantor will be liable for the total amount owing even if other persons also sign as Guarantor, and even if Buyer has a complete defense to Guarantor's demand for reimbursement. Each Guarantor agrees to be liable even if we do one or more of the following: (1) give the Buyer more time to pay one or more payments; (2) give a full or partial release to any other Guarantor; (3) release any security; (4) accept less from the Buyer than the total amount owing; or (5) otherwise reach a settlement relating to this contract or extend the contract. Each Guarantor acknowledges receipt of a completed copy of this contract and guaranty at the time of signing.

Guarantor waives notice of acceptance of this Guaranty, notice of the Buyer's non-payment, non-performance, and default; and notices of the amount owing at any time, and of any demands upon the Buyer.

Guarantor X Date \_\_\_\_\_ Guarantor X Date \_\_\_\_\_  
Address \_\_\_\_\_ Address \_\_\_\_\_

Seller Signs KEARNEY, NISA, TOYOTA Date 12/18 By X Title \_\_\_\_\_

## OTHER IMPORTANT AGREEMENTS

### 1. FINANCE CHARGE AND PAYMENTS

- a. **How we will figure Finance Charge.** We will figure the Finance Charge on a daily basis at the Annual Percentage Rate on the unpaid part of the Amount Financed. Seller - Creditor may receive part of the Finance Charge.
- b. **How we will apply payments.** We may apply each payment to the earned and unpaid part of the Finance Charge, to the unpaid part of the Amount Financed and to other amounts you owe under this contract in any order we choose.
- c. **How late payments or early payments change what you must pay.** We based the Finance Charge, Total of Payments, and Total Sale Price shown on the front on the assumption that you will make every payment on the day it is due. Your Finance Charge, Total of Payments, and Total Sale Price will be more if you pay late and less if you pay early. Changes may take the form of a larger or smaller final payment or, at our option, more or fewer payments of the same amount as your scheduled payment with a smaller final payment. We will send you a notice telling you about these changes before the final scheduled payment is due.
- d. **You may prepay.** You may prepay all or part of the unpaid part of the Amount Financed at any time. If you do so, you must pay the earned and unpaid part of the Finance Charge and all other amounts due up to the date of your payment. As of the date of your payment, if the minimum finance charge is greater than the earned Finance Charge, you may be charged the difference; the minimum finance charge is as follows: (1) \$25 if the original Amount Financed does not exceed \$1,000, (2) \$50 if the original Amount Financed is more than \$1,000 but not more than \$2,000, or (3) \$75 if the original Amount Financed is more than \$2,000.

### 2. YOUR OTHER PROMISES TO US

- a. **If the vehicle is damaged, destroyed, or missing.** You agree to pay us all you owe under this contract even if the vehicle is damaged, destroyed, or missing.

#### GAP LIABILITY NOTICE

In the event of theft or damage to your vehicle that results in a total loss, there may be a gap between the amount you owe under this contract and the proceeds of your insurance settlement and deductible. THIS CONTRACT PROVIDES THAT YOU ARE LIABLE FOR THE GAP AMOUNT. An optional debt cancellation agreement for coverage of the gap amount may be offered for an additional charge.

- b. **Using the vehicle.** You agree not to remove the vehicle from the U.S. or Canada, or to sell, rent, lease, or transfer any interest in the vehicle or this contract without our written permission. You agree not to expose the vehicle to misuse, seizure, confiscation, or involuntary transfer. If we pay any repair bills, storage bills, taxes, fines, or charges on the vehicle, you agree to repay the amount when we ask for it.
- c. **Security Interest.**

You give us a security interest in:

  - The vehicle and all parts or goods put on it;
  - All money or goods received (proceeds) for the vehicle;
  - All insurance, maintenance, service, or other contracts we finance for you; and
  - All proceeds from insurance, maintenance, service, or other contracts we finance for you. This includes any refunds of premiums or charges from the contracts.

This secures payment of all you owe on this contract. It also secures your other agreements in this contract as the law allows. You will make sure the title shows our security interest (lien) in the vehicle. You will not allow any other security interest to be placed on the title without our written permission.
- d. **Insurance you must have on the vehicle.**

You agree to have physical damage insurance covering loss of or damage to the vehicle for the term of this contract. The insurance must cover our interest in the vehicle. If you do not have this insurance, we may, if we choose, buy physical damage insurance. If we decide to buy physical damage insurance, we may either buy insurance that covers your interest and our interest in the vehicle, or buy insurance that covers only our interest. If we buy either type of insurance, we will tell you which type and the charge you must pay. The charge will be the premium for the insurance and a finance charge computed at the Annual Percentage Rate shown on the front of this contract or, at our option, the highest rate the law permits. If the vehicle is lost or damaged, you agree that we may use any insurance settlement to reduce what you owe or repair the vehicle.
- e. **What happens to returned insurance, maintenance, service, or other contract charges.** If we get a refund of insurance, maintenance, service, or other contract charges, you agree that we may subtract the refund from what you owe.

### 3. IF YOU PAY LATE OR BREAK YOUR OTHER PROMISES

- a. **You may owe late charges.** You will pay a late charge on each late payment as shown on the front. Acceptance of a late payment or late charge does not excuse your late payment or mean that you may keep making late payments.

- f. **We will sell the vehicle if you do not get it back.** If you do not redeem, we will sell the vehicle. We will send you a written notice of sale before selling the vehicle.

We will apply the money from the sale, less allowed expenses, to the amount you owe. Allowed expenses are expenses we pay as a direct result of taking the vehicle, holding it, preparing it for sale, and selling it. Attorney fees and court costs the law permits are also allowed expenses. If any money is left (surplus), we will pay it to you unless the law requires us to pay it to someone else. If money from the sale is not enough to pay the amount you owe, you must pay the rest to us. If you do not pay this amount when we ask, we may charge you interest at the Annual Percentage Rate shown on the face of this contract, not to exceed the highest rate permitted by law, until you pay.

- g. **What we may do about optional insurance, maintenance, service, or other contracts.** This contract may contain charges for optional insurance, maintenance, service, or other contracts. If we demand that you pay all you owe at once or we repossess the vehicle, you agree that we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe or repair the vehicle. If the vehicle is a total loss because it is confiscated, damaged, or stolen, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe.

### 4. WARRANTIES SELLER DISCLAIMS

**If you do not get a written warranty, and the Seller does not enter into a service contract within 90 days from the date of this contract, the Seller makes no warranties, express or implied, on the vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose.**

This provision does not affect any warranties covering the vehicle that the vehicle manufacturer may provide. If the Seller has sold you a certified used vehicle, the warranty of merchantability is not disclaimed.

5. **Used Car Buyers Guide.** The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.

**Spanish Translation: Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.**

### 6. SERVICING AND COLLECTION CONTACTS

You agree that we may try to contact you in writing, by e-mail, or using prerecorded/artificial voice messages, text messages, and automatic telephone dialing systems, as the law allows. You also agree that we may try to contact you in these and other ways at any address or telephone number you provide us, even if the telephone number is a cell phone number or the contact results in a charge to you. **You agree that you will within a reasonable time notify us of any change in your name, address, or employment.**

### 7. APPLICABLE LAW

Federal law and California law apply to this contract. If any part of this contract is not valid, all other parts stay valid. We may delay or refrain from enforcing any of our rights under this contract without losing them. For example, we may extend the time for making some payments without extending the time for making others.

### 8. WARRANTIES OF BUYER

You promise you have given true and correct information in your application for credit, and you have no knowledge that will make that information untrue in the future. We have relied on the truth and accuracy of that information in entering into this contract. Upon request, you will provide us with documents and other information necessary to verify any item contained in your credit application.

You waive the provisions of Calif. Vehicle Code Section 1808.21 and authorize the California Department of Motor Vehicles to furnish your residence address to us.

### CREDIT DISABILITY INSURANCE NOTICE CLAIM PROCEDURE

If you become disabled, you must tell us right away. (You are advised to send this information to the same address to which you are normally required to send your payments, unless a different address or telephone number is given to you in writing by us as the location where we would like to be notified.) We will tell you where to get claim forms. You must send in the completed form to the insurance company as soon as possible and tell us as soon as you do.

If your disability insurance covers all of your missed payment(s), WE CANNOT TRY TO COLLECT WHAT YOU OWE OR FORECLOSE UPON OR REPOSSESS ANY COLLATERAL UNTIL THREE CALENDAR MONTHS AFTER your first missed payment is due or until the insurance company pays or rejects your claim, whichever comes first. We can, however, try to collect, foreclose, or repossess if you have any money due and owing us or are otherwise in default when your disability claim is made or if a senior mortgage or lien

- d. You may have to pay all you owe at once. If you break your promises (default), we may demand that you pay all you owe on this contract at once, subject to any right the law gives you to reinstate this contract.
- Default means:
- You do not pay any payment on time;
  - You give false, incomplete, or misleading information on a credit application;
  - You start a proceeding in bankruptcy or one is started against you or your property;
  - The vehicle is lost, damaged or destroyed; or
  - You break any agreements in this contract.
- The amount you will owe will be the unpaid part of the Amount Financed plus the earned and unpaid part of the Finance Charge, any late charges, and any amounts due because you defaulted.
- c. You may have to pay collection costs. You will pay our reasonable costs to collect what you owe, including attorney fees, court costs, collection agency fees, and fees paid for other reasonable collection efforts. You agree to pay a charge not to exceed \$15 if any check you give to us is dishonored.
- d. We may take the vehicle from you. If you default, we may take (repossess) the vehicle from you if we do so peacefully and the law allows it. If your vehicle has an electronic tracking device, you agree that we may use the device to find the vehicle. If we take the vehicle, any accessories, equipment, and replacement parts will stay with the vehicle. If any personal items are in the vehicle, we may store them for you at your expense. If you do not ask for these items back, we may dispose of them as the law allows.
- e. How you can get the vehicle back if we take it. If we repossess the vehicle, you may pay to get it back (redeem). You may redeem the vehicle by paying all you owe, or you may have the right to reinstate this contract and redeem the vehicle by paying past due payments and any late charges, providing proof of insurance, and/or taking other action to cure the default. We will provide you all notices required by law to tell you when and how much to pay and/or what action you must take to redeem the vehicle.

If the insurance company pays the claim within the three calendar months, we must accept the money as though you paid on time. If the insurance company rejects the claim within the three calendar months or accepts the claim within the three calendar months on a partial disability and pays less than for a total disability, you will have 35 days from the date that the rejection or the acceptance of the partial disability claim is sent to pay past due payments, or the difference between the past due payments and what the insurance company pays for the partial disability, plus late charges. You can contact us, and we will tell you how much you owe. After that time, we can take action to collect or foreclose or repossess any collateral you may have given.

If the insurance company accepts your claim but requires that you send in additional forms to remain eligible for continued payments, you should send in these completed additional forms no later than required. If you do not send in these forms on time, the insurance company may stop paying, and we will then be able to take action to collect or foreclose or repossess any collateral you may have given.

**Seller's Right to Cancel**

- a. Seller agrees to deliver the vehicle to you on the date this contract is signed by Seller and you. You understand that it may take some time for Seller to verify your credit and assign the contract. You agree that if Seller is unable to assign the contract to any one of the financial institutions with whom Seller regularly does business under an assignment acceptable to Seller, Seller may cancel the contract.
- b. Seller shall give you written notice (or in any other manner in which actual notice is given to you) within 10 days of the date this contract is signed if Seller elects to cancel. Upon receipt of such notice, you must immediately return the vehicle to Seller in the same condition as when sold, reasonable wear and tear excepted. Seller must give back to you all consideration received by Seller, including any trade-in vehicle.
- c. If you do not immediately return the vehicle, you shall be liable for all expenses incurred by Seller in taking the vehicle from you, including reasonable attorney's fees.
- d. While the vehicle is in your possession, all terms of the contract, including those relating to use of the vehicle and insurance for the vehicle, shall be in full force and you shall assume all risk of loss or damage to the vehicle. You must pay all reasonable costs for repair of any damage to the vehicle until the vehicle is returned to Seller.

**ARBITRATION PROVISION**

**PLEASE REVIEW - IMPORTANT - AFFECTS YOUR LEGAL RIGHTS**

- EITHER YOU OR WE MAY CHOOSE TO HAVE ANY DISPUTE BETWEEN US DECIDED BY ARBITRATION AND NOT IN COURT OR BY JURY TRIAL.
- IF A DISPUTE IS ARBITRATED, YOU WILL GIVE UP YOUR RIGHT TO PARTICIPATE AS A CLASS REPRESENTATIVE OR CLASS MEMBER ON ANY CLASS CLAIM YOU MAY HAVE AGAINST US INCLUDING ANY RIGHT TO CLASS ARBITRATION OR ANY CONSOLIDATION OF INDIVIDUAL ARBITRATIONS.
- DISCOVERY AND RIGHTS TO APPEAL IN ARBITRATION ARE GENERALLY MORE LIMITED THAN IN A LAWSUIT, AND OTHER RIGHTS THAT YOU AND WE WOULD HAVE IN COURT MAY NOT BE AVAILABLE IN ARBITRATION.

Any claim or dispute, whether in contract, tort, statute or otherwise (including the interpretation and scope of this Arbitration Provision, and the arbitrability of the claim or dispute), between you and us or our employees, agents, successors or assigns, which arises out of or relates to your credit application, purchase or condition of this vehicle, this contract or any resulting transaction or relationship (including any such relationship with third parties who do not sign this contract) shall, at your or our election, be resolved by neutral, binding arbitration and not by a court action. If federal law provides that a claim or dispute is not subject to binding arbitration, this Arbitration Provision shall not apply to such claim or dispute. Any claim or dispute is to be arbitrated by a single arbitrator on an individual basis and not as a class action. You expressly waive any right you may have to arbitrate a class action. You may choose the American Arbitration Association, 1633 Broadway, 10th Floor, New York, New York 10019 ([www.adr.org](http://www.adr.org)), or any other organization to conduct the arbitration subject to our approval. You may get a copy of the rules of an arbitration organization by contacting the organization or visiting its website.

Arbitrators shall be attorneys or retired judges and shall be selected pursuant to the applicable rules. The arbitrator shall apply governing substantive law and the applicable statute of limitations. The arbitration hearing shall be conducted in the federal district in which you reside unless the Seller-Creditor is a party to the claim or dispute, in which case the hearing will be held in the federal district where this contract was executed. We will pay your filing, administration, service or case management fee and your arbitrator or hearing fee all up to a maximum of \$5000, unless the law or the rules of the chosen arbitration organization require us to pay more. The amount we pay may be reimbursed in whole or in part by decision of the arbitrator if the arbitrator finds that any of your claims is frivolous under applicable law. Each party shall be responsible for its own attorney, expert and other fees, unless awarded by the arbitrator under applicable law. If the chosen arbitration organization's rules conflict with this Arbitration Provision, then the provisions of this Arbitration Provision shall control. Any arbitration under this Arbitration Provision shall be governed by the Federal Arbitration Act (9 U.S.C. § 1 et. seq.) and not by any state law concerning arbitration. Any award by the arbitrator shall be in writing and will be final and binding on all parties, subject to any limited right to appeal under the Federal Arbitration Act.

You and we retain the right to seek remedies in small claims court for disputes or claims within that court's jurisdiction, unless such action is transferred, removed or appealed to a different court. Neither you nor we waive the right to arbitrate by using self-help remedies, such as repossession, or by filing an action to recover the vehicle, to recover a deficiency balance, or for individual injunctive relief. Any court having jurisdiction may enter judgment on the arbitrator's award. This Arbitration Provision shall survive any termination, payoff or transfer of this contract. If any part of this Arbitration Provision, other than waivers of class action rights, is deemed or found to be unenforceable for any reason, the remainder shall remain enforceable. If a waiver of class action rights is deemed or found to be unenforceable for any reason in a case in which class action allegations have been made, the remainder of this Arbitration Provision shall be unenforceable.

**NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

The preceding NOTICE applies only to goods or services obtained primarily for personal, family or household use. In all other cases, Buyer will not assert against any subsequent holder or assignee of this contract any claims or defenses the Buyer (debtor) may have against the Seller, or against the manufacturer of the vehicle or equipment obtained under this contract.

Seller assigns its interest in this contract to		(Assignee) under the terms of Seller's agreement(s) with Assignee.	
<input type="checkbox"/> Assigned with recourse	<input type="checkbox"/> Assigned without recourse	<input type="checkbox"/> Assigned with limited recourse	
Seller	By	Title	