

DEALER AGREEMENT

Recitals

- (a) You desire to provide your consumer customers with a convenient financing vehicle to pay for certain Products via their use of Loans.
- (b) We are in the business of providing Loans in the United States to finance such Products.
- (c) You desire to enter into this Agreement for the purpose of arranging financing of your consumer customers' purchase of Products.

Agreement

1. **RECITALS.** The Recitals set forth above are true and correct, are incorporated into this Agreement by reference, and constitutes an integral part of the Agreement.
2. **IDENTIFICATION OF PARTIES.** This Dealer Agreement and related and attached forms and agreements (the "**Agreement**") is made by and between Fifth Third Bank, N.A., dba Dividend located at 1 California St., Suite 1500, San Francisco, CA 94111 (referred to as "**we**," "**us**," "**our**" or "**Dividend**") and the Dealer ("**you**" "**your**" or "**Dealer**") which has signed a Consent Form (referred to as the "**Application**"). This Agreement is effective upon our final approval of your Application. This Agreement supersedes all prior agreements, representations, promises and statements, written or oral, made in connection with the subject matter of this Agreement, except any certifications, representations or warranties made in the Application, and no prior agreement, representation, promise or statement not written in this Agreement or in the Application will be binding on the parties. You agree to begin utilizing this Program upon receipt of the necessary Instructions and Procedures, as determined by us in our sole discretion, on how to: (a) process credit applications; (b) obtain credit approvals on Loans; and (c) present Loans to us for payment. Nothing in this Agreement obligates Dividend to approve or Dealer to submit credit applications.
3. **DEFINITIONS.**
 - (a) "**Account**" is defined as a Borrower's Loan account owned by us that the Borrower has used for purchasing Products from you.
 - (b) "**Dealer Fee**" is defined as any fee charged by us for maintaining the Program, certain services rendered in connection with the Program that is set forth in writing from time to time, or both.
 - (c) "**Borrower**" is defined as a consumer customer(s) that has applied for and has been approved for and executes a Loan.
 - (d) "**Borrower Account Information**" is defined as any personal information about any applicant or co-applicant or any Borrower received in connection with a Loan or potential Loan including but not limited to the applicant and co-applicant's name, address, social security number, date of birth, income information, Loan Number, Loan limits and Loan balances and activity.
 - (e) "**Credit Application**" is defined as an application for financing under the Program, in either written or electronic format, that upon completion of and presentment to us represents such customer's desire to enter into a Loan and their consent to undergo financial review. Such Credit Application includes all documents containing the terms, conditions and disclosures governing such applications as provided for by Law, and is owned and governed by us. Any changes to the Credit Application will be solely made by Dividend.
 - (f) "**Initial Disclosures**" are defined as a disclosure or set of disclosures that you shall provide each Borrower at the opening of an Account in a manner and method determined by us in accordance with our Instructions and Procedures. Such Initial Disclosures must include, without limitation, the Truth in Lending disclosures and any other disclosures as determined by us in accordance with all applicable Law. The Initial Disclosures may appear in the Loan Agreement or other documents we provide in connection with the establishment of an Account.
 - (g) "**Instructions and Procedures**" is defined as any instruction or procedures that we communicate to you and update from time to time.
 - (h) "**Invoice**" is defined as evidence of a sale in paper or electronic form for Products purchased from you, including any sales slip or installation agreement, and includes any and all other documents referred to in the Invoice.
 - (i) "**Law**" or "**Laws**" is/are defined as all United States federal, state and local laws, regulations, rules, and ordinances, including but not limited to, the Fair Credit Reporting Act, the Truth in Lending Act, all applicable fair lending laws and regulations, the Federal Equal Credit Opportunity Act, as amended, and Section 5 of the Federal Trade Commission Act (FTC Act) – Unfair, Deceptive and Abusive Acts and Practices Regulation – and all state law counterparts of such, and all applicable regulations promulgated under these laws.
 - (j) "**Loan**" is defined as any credit transaction used in connection with the financing of Products, including retail installment contracts and closed-end loans, provided by us in connection with the Program.
 - (k) "**Loan Agreement**" is defined as a written agreement between us and the Borrower containing terms and conditions that govern the Loan. Any changes to the Loan Agreement will be solely made by Dividend.
 - (l) "**Loan Number**" is defined as a unique identification number assigned by us to a Loan issued to a Borrower.
 - (m) "**Products**" are defined as any good and/or service that you offer, sell, install, or provide that has not otherwise been prohibited under this Agreement or that requires our prior approval as may be noted hereunder.
 - (n) "**Program**" is defined as the home energy financing program that is contemplated by this Agreement for the purpose of arranging financing of your consumer customers' purchases.
4. **PROGRAM REQUIREMENTS.**
 - (a) **FINANCIAL STATEMENTS AND CREDIT REPORTS.** You authorize us to obtain credit reports on your business and to obtain credit reports individually upon any combination of the principals, partners, or owners who have signed the Application, and therefore this Agreement, for the purpose of qualifying your business for participation in the Program which is covered by this Agreement and for evaluating your business for continued participation in the Program. You understand that you are authorizing us to obtain credit reports and instructing any consumer reporting agency to provide such report now and in the future for the purpose of evaluating your business for future retention and participation in the Program. You also understand that upon request you may be required at any time to provide a copy of your businesses' most recent financial statements, including your balance sheets, statements of income and retained earnings, cash flows and any accompanying notes, in reasonable detail and prepared in accordance with generally accepted accounting principles.
 - (b) **DOCUMENTATION, EXAMINATIONS AND AUDITS.**
 - (i) **PROGRAM DOCUMENTATION.** You are required to maintain certain Program Documentation in connection with this Program. For the purposes of this Agreement, "Program Documentation" includes, without limitation, all Invoices and documents used with such Invoices, your books and records relating to such Invoices, Credit Applications and Loan Agreements, in addition to any and all documents used in connection with such, whether in electronic or printed form.

- (ii) **EXAMINATION AND AUDITS.** You agree that upon our request you will provide such Program Documentation as we may request from time to time, for the purpose of Program oversight and ongoing risk management. Further, we reserve the right to conduct onsite audits of any Program Documentation to determine that all the requirements of this Agreement are met. Any such audits will be conducted during your regular business hours with no less than forty-eight (48) hours notice from us to you.
 - (c) **USE OF PROGRAM AND COMPLIANCE.** Dividend is committed to meeting or exceeding all regulatory requirements that are applicable to our Program. You play an integral role in helping us ensure our compliance with all regulatory requirements due to your interactions with the consumer. In connection with your role, you acknowledge and agree that:
 - (i) you are responsible for complying with the provisions of all Laws as described below or otherwise may be set forth in this Agreement;
 - (ii) you are responsible for complying with all requirements of this Agreement and the Instructions and Procedures for the Program that we communicate to you and update from time to time;
 - (iii) you will collaborate with us on all training required by us in connection with the Program and designate the necessary and appropriate employees of yours at the appropriate level and departments within your business (e.g. office manager, finance manager, marketing/advertising manager) to participate in all required training related to their role and responsibilities in connection with the Program. Such employees will be responsible for disseminating the requirements of such training to all employees within your business who may be involved with the subject matter of the training, such as employees who accept any Consumer Application, Invoice or transaction that may be processed under our Program, so that your employees will be equipped to accurately and completely follow all of the requirements for providing financing under the Program; and
 - (iv) In the event you fail to comply with the training and compliance standards set forth in this subparagraph 4(c), we have the option to terminate this Agreement by providing you written notice of our decision to terminate.
 - (d) **APPROVAL OF ADVERTISING AND OTHER ASPECTS OF PROGRAM.** We reserve the right, in our sole discretion to approve or disapprove all aspects of this Program including, but not limited to, advertising, promotional material, credit terms and credit features, and including any changes to the Program, whether in hard copy, on television, on the radio, on the internet or in any other electronic form.
- 5. PROGRAM PROCESSES (CREDIT APPLICATIONS AND INVOICES).**
- (a) **PROCESSING CREDIT APPLICATIONS AND TRANSACTIONS.**
 - (i) In connection with your processing of Credit Applications, Invoices, Loans and authorizations you acknowledge and agree you will follow all terms of this Agreement and our Instructions and Procedures in connection with any processing method made available to you pursuant to this subparagraph 5(a).
 - (ii) **CREDIT PORTAL.** Unless otherwise agreed upon by the parties, we will provide you with an Internet address to access and process Credit Applications, Invoices, Loans and authorizations (the "Portal"). The Portal will be an address on a commercial site on the World Wide Web portion of the Internet accessible by you but not accessible directly by consumers. The Portal may be owned, managed and maintained by us or a third party with which we have a relationship.
 - (iii) We may elect to make other methods available to you for processing any of the following: Credit Applications, Invoices, Loans or authorizations (collectively hereinafter "Alternate Processing Methods"). Such Alternate Processing Methods will be subject to our Instructions and Procedures.
 - (iv) Notwithstanding anything to the contrary in this paragraph 5, processing may be temporarily unavailable from time to time without notice to you for reasons which may include but not be limited to, system changes, hardware or software updates, or power outages.
 - (b) **NEW ACCOUNTS.**
 - (i) **PROCESS.** If a person wants to apply for a Loan, you will:
 - (A) give the person the current version of the Loan Agreement, the Initial Disclosures and any other documentation we may reasonably request;
 - (B) collect the Credit Application information in accordance with this Agreement and our Instructions and Procedures;
 - (C) obtain the applicant(s) legal signature that acknowledges their receipt of the Initial Disclosures and applying for a Loan; and process the Credit Applications in accordance with this Agreement and our Instructions and Procedures.
 - (ii) Notwithstanding anything to the contrary in this subparagraph 5(b), Dividend reserves the right, in its sole discretion, to:
 - (A) make changes to how Credit Applications and Loans are processed;
 - (B) re-design the Credit Applications and the Loan Agreement as we deem necessary or appropriate; and
 - (C) update our Instructions and Procedures regarding the collection of, transmittal and retention of Credit Applications.
 - (c) **PRODUCT TRANSACTIONS.**
 - (i) **INVOICE.** Product sales will be evidenced by Invoices (which may include sales slips and/or installation contracts) in a form approved by us. The Invoice must be legibly completed by you in accordance with this Agreement and our Instructions and Procedures. In the event that we approve a form of Invoice supplied by you and you subsequently make revisions to such Invoice form, you agree to resubmit such Invoice to us for reapproval prior to using such revised form.
 - (ii) **APPROVAL.** If we approve a Credit Application, we will provide notice to you. Approvals are valid for one hundred and twenty (120) days. If an approval expires before Products are installed you will submit a new Credit Application. We may change the length of time an approval is valid by advising you in writing including updating the Instructions and Procedures.
 - (iii) **SINGLE TRANSACTION.** You will include all Products purchased in any given transaction in the total amount(s) on any Invoice(s) submitted to us in connection with said transaction and you will not submit, sell or assign any part of that transaction to any other creditor.
 - (iv) **SIGNATURE.** You will require the Borrower to sign the Invoice for all sales made in your presence.
 - (v) **COPY TO BORROWER.** You will provide a copy of the completed Invoice to the Borrower.
 - (vi) **NO EXTRA CHARGE FOR CREDIT.** You will not add an extra or special charge to the normal price of the Products when a sale involves credit or a Loan.
 - (vii) **CONSUMER PURCHASES ONLY.** Product purchases must be for personal, family, or household purposes.
 - (d) **COMPLETION CERTIFICATE.**
 - (i) You will present Invoices to us in accordance with this Agreement and our Instructions and Procedures.

- (ii) Invoices must only be presented to us after the transaction is completed and the Borrower has signed a completion certificate. For the purposes of this Agreement, a transaction is completed after you have performed all of your obligations to the Borrower in connection with each Invoice, including, but not limited to, the installation of purchased Products, the performance of any additional service purchased by the Borrower or both as required. A completion certificate signed by the Borrower must be provided to us before we release funds under a Loan. If we request, you will execute a separate assignment of any Invoice and we are authorized to place your endorsement on any Invoice or any check or similar instrument related to an Invoice at any time. Payment for an Invoice will not constitute a waiver by us of any of our rights.
- (iii) You agree not to present Invoices that you know or should have known to be either fraudulent or not authorized by the Borrower.
- 6. PAYMENTS UNDER THE PROGRAM.**
- (a) **PAYMENT BY US.** We will pay you the net amount of the Loan proceeds less the amount of all Dealer Fees in accordance with our Instructions and Procedures and this Agreement. We may also deduct any revoked Invoices, Dealer Fees and any other amounts you owe us under this Agreement and any other contractual arrangement you may have with us should such amounts not be paid by you as agreed. We will pay you by automatic deposit through the Automated Clearing House (ACH) or by any other method that we notify you of and choose to use. We will initiate an automatic deposit or otherwise initiate the payment within a reasonable time after the Invoices and completion certificate are presented, provided, however, that we reserve the right to periodically audit transactions before funding, or if we reasonably believe that you are insolvent or may be in default under any provision of this Agreement, we reserve the right to audit all transactions prior to funding. Any such auditing of transactions may delay funding. Any payment made by us to you will not be final but will be subject to subsequent review and verification by us. Upon payment by us to you, you agree to immediately release any lien you may claim against the Products, including but not limited to the design and installation of the Products, and you agree that any Loan, specifically including but not limited to any related retail installment sales contract, shall be transferred and assigned to and exclusively owned by us in accordance with the terms of the Blanket Retail Installment Contract Purchase and Assignment Agreement attached hereto.
- (b) **PAYMENT BY YOU.** You agree to pay us the Dealer Fees as set forth in writing by us from time to time (a "Price Sheet"). This Dealer Fee may be deducted from the amount of Loan proceeds paid to you, as set forth in Section 6(a) above. The Dealer Fee may vary depending on the terms of the purchase, the date of the purchase, or any other variable set by us as disclosed in the Price Sheet that we provide you.
- (c) **AUTHORIZATION FOR AUTOMATIC DIRECT DEPOSITS (ACH CREDITS) AND DIRECT DEBITS (ACH DEBITS).**
- (i) You authorize us to initiate credit entries for amounts that we may owe you. You authorize us to initiate debit entries for any amount you owe us under this Agreement and any other contractual arrangement you may have with us if such amount has not been paid upon demand. Such credit and debit entries will be to the bank account identified on the Application.
- (ii) The authorizations set forth in subparagraph 6(c)(i) above will remain in effect until the date on which no balances remain on Accounts.
- (d) **SUSPENSION OF PROCESSING.** If you fail or refuse to pay any amounts owed to us under this Agreement after our demand or if you are otherwise in breach of any covenant in this Agreement, we may cease authorization for and the funding of any Loans and cease the processing of Credit Applications.
- 7. REPRESENTATIONS AND WARRANTIES.**
- (a) As to each Credit Application, Loan Agreement and Invoice presented or delivered to us, and the transaction it evidences, you represent and warrant to us the following:
- (i) that you have verified the identity of the customer and that the customer was of legal age and competent to open an Account at the time of the execution of the Credit Application, and the Loan Agreement, and that the Credit Application, Invoice and Loan Agreement are bona fide and were actually made, agreed to, and signed by each person identified as an applicant or Borrower;
- (ii) that the Products which are the subject of the Loan Agreement and Invoice are truly and accurately described therein, are fit and merchantable for their intended purpose, have been delivered and installed in accordance with the Invoice, and any services so described have been performed, and that all installation has been completed in a proper and workmanlike manner to the Borrower's satisfaction;
- (iii) that the amount recited in the Invoice as the purchase price of the Products is no more than its actual cash value, and that the amount owed upon the Invoice at the time of its execution is correctly stated therein;
- (iv) that you have full and complete title to the Products, if any, subject only to the rights of the customer which exist by virtue of the Loan Agreement and the Invoice;
- (v) that the Invoice represents a bona fide sale of only Products in the ordinary course of business for the total sale price, and that you have performed your obligations to the Borrower in connection with the transaction evidenced by the Invoice;
- (vi) that the transaction is, in all respects, in compliance with all Instructions and Procedures, this Agreement, and all Laws governing the same;
- (vii) that the Credit Application, Loan Agreement and the Initial Disclosures given to the customer were the most recently provided versions available and a true completed copy of the Invoice was given to the Borrower at the time of the transaction; you have no knowledge or notice of any facts, events, issues or circumstances that would impair enforceability or collection of the Loan Agreement or Invoice as against the named Borrower;
- (viii) that you have properly and fully completed all forms pursuant to our Instructions and Procedures, and that the Loan Agreement and Invoice are legally enforceable according to their terms and have not been modified or changed by you, either prior to or after the Borrower's execution thereof;
- (ix) that you fully acknowledge and agree that you will honor a Borrower's right of cancellation or rescission including any rights a Borrower may exercise after the Product is delivered, any service or work is completed, and the transaction has been funded by us. You further represent and warrant that you have the right to present the Invoice to us, and that there are no liens, mortgages, encumbrances or security interests upon the Invoice or the rights evidenced by the Invoice or the Product;
- (x) that there are no present or future unvested or unrecorded rights that could give rise to a mechanic's, materialman's or laborer's lien in connection with the Product;
- (xi) that there is no material misrepresentation concerning the Credit Application, Loan Agreement, Invoice or Product and the facts, numbers, and other information set forth in each are true and correct and shall not be subject to a claim of fraud;
- (xii) that the Borrower has no claim or defense to payment of any amount reflected on the Invoice or the Loan Agreement based upon materials or workmanship or any act or omission of you, your employees, contractors, laborers or representatives;

- (xiii) you have paid all subcontractor invoices prior to submitting the Loan Agreement for funding or you will pay all outstanding subcontractor invoices from Loan proceeds upon receipt of Loan funding;
 - (xiv) that the customer identified on the documents that you have submitted to us is not a principal, officer, director, manager, owner or employee of your business.
- (b) As to all transactions involving your customers, you represent and warrant to us the following:
- (i) when you choose to offer any financing promotions under this Program you will ensure all consumer customers purchasing like or similar Products of similar cost have equal access to such promotions;
 - (ii) that you have complied with the provisions of all Laws, including but not limited to all Consumer Protection Laws including the Fair Credit Reporting Act, all applicable fair lending laws and regulations, the Federal Truth and Lending Act, the Federal Equal Credit Opportunity Act, as amended, the federal Unfair, Deceptive, or Abusive Acts and Practices regulations, all state law counterparts of them, and all applicable regulations promulgated under any of them, including, without limitation, any provisions requiring adverse action notification to any individual;
 - (iii) that you will comply with all applicable Laws related to servicing and collecting any Account returned to you;
 - (iv) that with respect to all advertising and marketing of Products, financing, or both, you, your employees, your subcontractors, your assigns and/or your agents have, in all respects, complied with:
 - (A) this Agreement,
 - (B) standards that we may communicate to you at our option and for our sole benefit from time to time, and
 - (C) all applicable Laws, including but not limited to, all Laws governing advertising, home improvement and door-to-door sales, and adherence to all related licensing, registration, documentation disclosure requirements, and any other such requirements as set forth by Law;
 - (v) that you will not offer extended product warranties and service agreements underwritten in conjunction with purchases made by Borrowers;
 - (vi) that you have not increased the purchase price of any Product or added any additional fee for financing to the Borrower to any Invoice;
 - (vii) that you have not taken any adverse action against an applicant or customer because the applicant or the customer is a member of a protected class, as defined by applicable Law, or because the applicant or customer has chosen to use credit to finance the purchase, nor have you engaged in any practice that has an impermissible negative impact on members of such protected class or customer that has chosen to use credit to finance the purchase; and
 - (viii) that your use of our forms, disclosures and other related documents and any other Program elements is solely to be used for your administration of and participation in this Program and that you will not use such forms in connection with any other financing program or consumer transaction.
- (c) You agree that if any representation or warranty is breached or if a Borrower asserts any claim or defense arising out of any Credit Application, Loan Agreement, Invoice or transaction evidenced by any Credit Application, Loan Agreement, or Invoice, you will pay us on demand the amount of any Account affected plus any finance charges related to the Account under the Loan Agreement with us. We may at our option deduct any amount you owe us pursuant to this paragraph or any other provision of this Agreement from any amount we may owe you.
- (d) You represent and warrant that:
- (i) prior to the execution of this Agreement that you have fully and accurately disclosed to us in writing your full legal business name, any names under which you do business as, your tax payer identification number and the tax payer identification number of any other entities from which you will be submitting Credit Applications, Loan Agreements and any other transactions to us under this Agreement; and
 - (ii) the execution of this Agreement is within your power, has been duly authorized by all necessary corporate, partnership or other action and does not contravene any government or contractual restriction on you. You are a business entity duly organized, validly existing and in good standing under applicable Laws, with full legal power and authority and all required licenses to conduct your business and to perform all your obligations under this Agreement.
- (e) You agree to follow our Instructions and Procedures to convert "wet signed" Loan Agreements to an electronic version of the Loan Agreement, which includes (but may not be limited to):
- (i) scanning or otherwise uploading "wet signed" Loan Agreements to DocuSign or such other third party document service provider designated by us;
 - (ii) maintaining the original "wet signed" version for no less than three (3) days but not more than seven (7) days after execution by the Borrower;
 - (iii) destroying the original "wet signed" version in a secure fashion after such time period indicated in (ii) above; and (iv) if requested by us, providing certification of destruction.

8. **TERM AND TERMINATION.**

- (a) **TERM.** This Agreement will be effective on the date this Agreement becomes effective pursuant to paragraph 2 above and will remain effective until one party gives the other party thirty (30) days advance written notice of its decision to terminate this Agreement.
- (b) **EFFECT OF TERMINATION.** Notwithstanding termination of this Agreement, the provisions of this Agreement will continue in force as to all Loans accepted or approved by us.
- (c) **REMEDIES UPON DEFAULT.** In the event of breach by either party, the non-breaching party will be entitled to exercise any and all rights and remedies as are available to it at Law or in equity. The non-breaching party may exercise remedies concurrently or separately, and the exercise of one remedy will not be deemed either an election of such remedy or a preclusion of the right to exercise any other remedy.

9. **INDEMNIFICATION.**

- (a) **YOUR INDEMNIFICATION OF US.** You agree to indemnify and hold us harmless from and against any losses, cost, damage and expense (including attorneys' fees) arising out of or resulting from (i) the breach of any of your representations, warranties, or covenants under this Agreement or your failure to comply with the terms of this Agreement or any applicable Law; (b) a Borrower's rescission of or attempt to rescind a Loan Agreement by reason of any action by you; (c) any claim by any Borrower against us that a Borrower may have against you as a defense, counterclaim, setoff, recoupment, or otherwise; (d) any direct claim by any Borrower

- against us, by suit or otherwise, arising out of any action by you; (e) any documents prepared by you and used in connection with the transaction, including but not limited to, documents given to Borrower pertaining to warranties or service agreements, except that your liability for the documents does not apply to the form of any document provided by us, but shall apply to any acts or omissions of you related to the use or completion of any such documents furnished by us, arising out of (A) your failure to properly complete any such document or deliver copies to Borrower in accordance with our instructions, (B) your failure to provide Products to Borrower in accordance with the terms contained in the documents, and (C) any product liability or warranty claims in respect of Products.
- (b) **OUR INDEMNIFICATION OF YOU.** We agree to indemnify and hold you harmless from and against any losses, cost, damage, and expense (including attorneys' fees) arising out of or resulting from (i) our gross negligence or willful misconduct, (ii) our breach of a representation, warranty or covenant under this Agreement or our failure to comply with the terms of this Agreement or any applicable Law and (iii) the failure of our Credit Application, Loan Agreement, or Initial Disclosures to comply with any applicable Law.
10. **INSURANCE.** During the term of this Agreement, you shall obtain and maintain the following insurance from an insurance company reasonably acceptable to us in the minimum coverages and limits set forth below:
- (a) Commercial General Liability insurance, with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 general aggregate;
- (b) Commercial Automobile Liability insurance, including coverage for liability arising out of the use of owned, non-owned, leased, hired, or scheduled automobiles, for both bodily injury and property damage in accordance with applicable law, with a limit of not less than \$1,000,000 combined single limit per occurrence; and
- (c) Worker's Compensation insurance, covering all of your employees, such insurance properly classified for the installation of the Products, in amounts and otherwise on terms and conditions as required by applicable law and employers' liability at limits of \$1,000,000 – each employee.
11. **OTHER PROVISIONS.**
- (a) **SURVIVAL CLAUSE.** All rights and obligations of the parties created under this Agreement will survive termination of this Agreement.
- (b) **ASSIGNMENT.** You will not assign this Agreement without our written consent. You agree that we may at our sole discretion assign this Agreement to any party or affiliate, including, but not limited to, our affiliates upon notice to you of such assignment.
- (c) **U.S.A. PATRIOT ACT.** Notwithstanding anything to the contrary, we have certain requirements under the U.S.A. Patriot Act with which we must comply before opening an Account for a customer. Since you have initial contact with the customer, you agree to assist us in complying with the U.S.A. Patriot Act. Such assistance may include, but not be limited to, providing a disclosure (as prescribed by us) to the applicant and co-applicant before he/she applies to open an Account with us, and verifying applicant's and co-applicant's identity including, but not limited to, an applicant's and co-applicant's full name, physical address, date of birth, and collecting his or her Taxpayer Identification Number (which for a U.S. Citizen is his/her social security number) upon our request and in the manner we reasonably request.
- (d) **DELAY IN ENFORCEMENT.** Our failure at any time to insist upon the performance of any provision of this Agreement will not operate as a waiver of any right or remedy we have under this Agreement. A waiver of one provision of this Agreement will not operate as a waiver of any other provision.
- (e) **NO AGENCY OR PARTNERSHIP.** You are not our agent or partner for any purpose whatsoever. You are not granted any right or authority to assume or create any obligation or responsibility on behalf of us, or in our name, or to bind us in any manner whatsoever.
- (f) **NOTICES.**
- (i) All notices under this Agreement must be in writing. Notices will be effective:
- (A) three (3) business days from the date of mailing by regular first class U.S. mail;
- (B) one (1) business day from the date of mailing by a commercial overnight mail carrier such as Federal Express, etc.; or
- (C) the business day on which notice is sent by facsimile with a date and time confirmation sheet that the fax went through to the other party. For purposes of this subparagraph 10(f), Saturdays, Sundays and federal holidays are considered non-business days. All notices to us must be sent to the addresses or fax numbers set forth below or to such other addresses or fax numbers as we may advise you in writing. Notices to you will be sent to your address or fax number listed on the Application or such other address and fax number as you may substitute by advising us of such by written notice. You acknowledge that we may send you promotions, advertising, and other communications of ours and our affiliates from time to time using any of the following methods:
- (1.) via mail at the address listed on the Application which accompanies this Agreement;
- (2.) via fax at the fax number listed on the Application which accompanies this Agreement; or (3.) any other marketing channel including but not limited to USPS mail, email, or telephone.
- (ii) Throughout this Agreement reference is made to our Instructions and Procedures. Notwithstanding the above provisions regarding notice, you agree that we may post our Instructions and Procedures on our website and that doing such will constitute notice to you of such Instructions and Procedures.
- (iii) You agree to provide us with prompt notification of any state or federal regulatory agencies' inquiries (e.g. inquiry by a state Attorney General's office, by a State regulator, by a federal regulator such as the Consumer Financial Protection Bureau, the Federal Trade Commission etc.); and any legal action received by you with respect to your advertising, marketing, sourcing of consumers, sales practices, if one of our applicants or Borrower's is involved in the legal action or if the legal action otherwise involves or makes reference to our program.
- (g) **BORROWER COMPLAINTS AND BILLING DISPUTES.** You will refer any customer complaint or inquiry correspondence from a consumer who has financed a Product using our Program directly to us as set forth in our Instructions and Procedures.
- (h) **MODIFICATIONS.** We may modify this Agreement by providing prior written notice to you. Your continued submission of Invoices or Credit Applications or other participation in the Program after the effective date of any such modification will constitute your acceptance of the modified terms and your agreement to be bound by them.
- (i) **YOUR OBLIGATIONS UNAFFECTED.** Your obligations under this Agreement are not affected by any settlement, extension, forbearance or variation in terms that we may grant in connection with any Account or by the release of the obligations of the Borrower by a court or by operation of Law.
- (j) **ACTIONS OF EMPLOYEES; AUTHORIZATION.** You are responsible for the actions of your employees. In the event employment of one of your employees is terminated, you will take reasonable steps to ensure they no longer have access to any Account information or access to our systems including changing any passwords necessary to access such information or system. We may rely upon any act or signature of your employees and you specifically authorize the use of "Digital Signatures" as provided in the attached Digital Signature Authorization Form.

- (k) **INFORMATION SECURITY; PRIVACY.** You agree not disclose and will take all commercially reasonable measures to protect any nonpublic personal information (as defined in the Gramm-Leach Bliley Act of 1999, title V, its implementing regulations, and other similar laws and regulations) obtained by either party (collectively, “NPI”) to (a) any third party or (b) any employee, officer, partner or director who is not engaged in the implementation and execution of work specified in this Agreement and having a need to know such information to perform its obligations under this Agreement. You agree that you have developed, implemented and will maintain at all relevant times contemplated by this Agreement effective information security policies and procedures that include administrative, technical and physical safeguards designed to (a) ensure the security and confidentiality of NPI, (b) protect against anticipated threats or hazards to the security or integrity of NPI, (c) protect against unauthorized access or use of NPI, and (d) ensure the proper disposal of NPI.
- (l) **SEVERABILITY.** If any part of this Agreement is found to be illegal or unenforceable, then that part will be curtailed only to the extent necessary to make it, and the remainder of this Agreement, legal and enforceable.
- (m) **LIMITATION OF CONSEQUENTIAL DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR COVER DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFIT, LOSS OF PERSONAL PROPERTY, OR ANY OTHER SIMILAR DAMAGE OR LOSS.**
- (n) **ACCOUNT ADMINISTRATION.** You acknowledge and agree that we have sole authority to prescribe the terms and conditions of the Loan Agreement, the terms of the Account, and the credit standards and criteria of current and prospective Borrowers and that we may change our credit standards at any time in our sole discretion without notice to you.
- (o) **GOVERNING LAW.** This contract will be governed by, construed, and enforced in accordance with the laws of the state of California without giving effect to the conflict of laws provisions thereof.
- (p) **FACSIMILES.** This Agreement and related or incidental agreements and documents may be executed by facsimile or some other enforceable electronic signature which will be deemed an original.
- (q) **NO THIRD PARTY RIGHTS.** Nothing expressed or referred to in this Agreement will be construed to give any person other than the parties to this Agreement any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement. This Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement and their respective heirs, administrators, executors, successors, legal representatives and assigns.
- (r) **BINDING EFFECT.** This Agreement, through the Application, will also be binding on and inure to the benefit of the parties’ respective administrators, successors, legal representatives and assigns.
- (s) **FORCE MAJEURE.** No party will be responsible, nor incur any liability to another party for any failure to comply with the terms of this Agreement due to causes beyond its reasonable control, including, without limitation, fire, storm, flood, acts of war, accident, insurrection, sabotage, labor disputes, computer system malfunction, acts of God, acts of third parties, acts of federal, state or local government or judicial action (“force majeure”), provided that such actions that do not substantially hinder or prohibit performance will not excuse nonperformance.
- (t) **ARBITRATION.** Any dispute arising out of this Agreement shall be submitted to an arbitrator in a mutually agreeable location in California, or failing the ability of the Parties to mutually agree on such a location, in the County of San Francisco, State of California, who shall be mutually selected by the Parties to conduct a binding arbitration. If the Parties cannot mutually agree on an arbitrator within sixty (60) days of written demand for arbitration, then either of the Parties may submit the dispute to the AAA for arbitration according to the Commercial Arbitration Rules of the AAA, and the AAA shall administer the binding arbitration. Judgment upon the award may be entered in any court having jurisdiction thereof. The arbitrator’s award shall be detailed and set forth both the legal and factual basis of the award. This agreement to arbitrate will be specifically enforceable by any court with jurisdiction thereof.
- (u) **WAIVER OF JURY TRIAL.** Each of the Parties hereby waives any and all rights to demand a trial by jury in any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.
- (v) **ENTIRE AGREEMENT.** This Agreement and the Application supersede all prior agreements, representations, promises and statements, written or oral, made in connection with the subject matter of this Agreement and the Application and no prior agreement, representation, promise or statement not written in this Agreement will be binding on the parties.

**BLANKET RETAIL INSTALLMENT CONTRACT
PURCHASE AND ASSIGNMENT AGREEMENT**

You may offer for sale and we may buy, at our sole discretion, certain Loans (specifically, retail installment contracts) subject to and in accordance with this agreement and the Dealer Agreement. In connection with any such Loans (each, a **“Purchased Loan”**) the representations and warranties contained herein and made by you in the Dealer Agreement and all other terms of the Dealer Agreement shall apply. Additionally, any other representation or warranties you make to us and any other terms contained in a separate assignment by you to us affecting a Purchased Loan shall apply. You agree that in the event you have elected Stage Funding (as defined by and subject to the terms of a Stage Funding Addendum attached hereto and made a part hereof), we may acquire a Purchased Loan by making payment to you at Stage 1 and Stage 2. The terms of the Stage Funding Addendum shall apply to our acquisition of a Purchased Loan via Stage Funding.

In connection with each Purchased Loan and for value received, you warrant:

1. You will not represent that you are our agent or in any way authorized to act on our behalf.
2. You will not represent that you are the exclusive contractor under our Program.
3. You will have and maintain in good standing all required licenses and other authorization to engage in and perform your services.
4. You will not engage in fraud, misrepresentation, or unfair, deceptive, misleading or abusive practices in any form of sales, marketing or advertising, or in any way connected with your services or products.
5. Every Purchased Loan will be correctly and accurately completed and filled in, will be signed by and binding upon the Borrower, will not be subject to any claims or defenses (including but not limited to any offset, counterclaim, recoupment, breach of warranty, defective workmanship or materials, or other claims or defenses), and will be fully enforceable in accordance with its terms.
6. The transaction that is the subject of the Purchased Loan will comply with all applicable rules, laws and regulations of the city, county and state where performed; and will comply with and satisfy any codes or permits or other building, construction or installation requirements in connection therewith.
7. The Purchased Loan will not contain the forged or unauthorized execution or signature of the Borrower(s).
8. Upon our acquisition of any Purchased Loan from you, we will own the Purchased Loan free and clear of all claims, liens, or encumbrances whatsoever.
9. All Purchased Loans comply with and satisfy all applicable federal, state and local laws, rules and regulations, including but not limited to all consumer credit regulations, the Truth in Lending Act and Regulation Z, the Equal Credit Opportunity Act and Regulation B, UDAAP, state home sales act requirements, and all applicable FTC rules.
10. All Purchased Loans will satisfy the terms and conditions of the Dealer Agreement.

All capitalized terms used herein not otherwise defined shall have the meaning ascribed in the Dealer Agreement or Stage Funding Addendum.

In the event you breach or violate any of the warranties described above or violate any term or condition of the Dealer Agreement, upon written notice from us, you agree to immediately repurchase all Purchased Loans related to or arising from the breach or violation (each, a **“Repurchased Loan”**). The repurchase price for a Repurchased Loan shall equal the then current outstanding balance, including any fees and charges, under the Purchased Loan. Additionally, you agree to indemnify and hold us harmless from and against any liability, loss, injury, expense, cost, or damage (including but not limited to attorneys’ fees and other related costs) related to or associated with your breach or violation.

This agreement shall be subject to and deemed part of the Dealer Agreement, all of which comprises the entire understanding between you and us in connection with the Program and Purchased Loan(s).

By signing below, you and we agree to be bound by this Blanket Retail Installment Contract Purchase and Sale Agreement as of the date of our signature below.

FIFTH THIRD BANK, N.A., DBA DIVIDEND

[INSTALLER NAME]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

DIGITAL SIGNATURE AUTHORIZATION FORM

To assist in the administration of the Program, you agree and specifically authorize the use of your digital signature, whether placed on documents by you or us, including but not limited to Invoices, Credit Applications, Loan Agreements, Initial Disclosures, assignment documents, lien releases, or other related documents.

By providing a sample of your digital signature, you confirm your agreement to the use of your digital signature as established in the Dealer Agreement and this authorization. We may use your signature, or a replication, image or facsimile of your signature, as provided in the Dealer Agreement and this authorization.

If you do not desire to use digital signatures in the Program, do not provide a sample of your signature.

We may adjust or modify the size and/or style of the above signature/image to fit required signature blocks.