[*Name of Dealership*]

Fair Credit Compliance Program

***[It is essential that dealers and their attorneys read the NADA Overview and Instructions that accompany this Program template before deciding whether and how to adopt it.]***

I. Scope

a. Persons Covered

This Program (which includes all appendices to this Program) applies to all employees, agents, and/or independent contractors of [*Name of Dealership*] who are involved in any aspect of the Dealership operations described in section I.b of this Program (“Dealership employees”). Failure to comply with any requirement in this Program may result in disciplinary action, including termination of employment and/ or the agency or independent contractor relationship.

b. Operations Covered

This Program carries out the [*Name of Dealership*] Fair Credit Policy at Appendix A of this Program, sets forth the fair credit requirements applicable to all Dealership activity related to the extension of credit, and prescribes in section IV the manner in which [*Name of Dealership*] determines the amount of its compensation when it engages in an indirect vehicle financing transaction. For purposes of this Program, an “indirect vehicle financing transaction” refers to a transaction in which –

1. [*Name of Dealership*] enters into a retail installment sale contract (“RISC”) with a customer for the purchase of a vehicle from [Name of Dealership];

2. [*Name of Dealership*] subsequently assigns the RISC to a third party finance source (“the Assignee”); and

3. [*Name of Dealership*] retains its right to receive a portion of the finance charge payable under the RISC, specifically the difference between the retail annual percentage rate (“APR”) and the wholesale interest rate at which the Assignee will buy the RISC from the dealer (“buy rate”) within the parameters established by the Assignee. This amount is referred to in this Program as “dealer participation.”

c. No Third Party Beneficiaries

Nothing in this Program, express or implied, is intended to or shall confer upon any person any right, benefit, or remedy of any nature whatsoever under or by reason of this Program or by reason of any federal, state, or local law. Notwithstanding this provision, this is a program of [*Name of Dealership*], and any violation of the Program by a Dealership employee can be the basis for disciplinary action, including termination of employment and/or the agency or independent contractor relationship.

II. Complying with the Equal Credit Opportunity Act and Regulation B

a. Prohibition Against Unlawful Credit Discrimination

As part of its fair credit commitment, [*Name of Dealership*] strictly prohibits discriminating against any credit applicant with respect to any aspect of the credit transaction –

1. on the basis of race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract);

2. because all or part of the applicant’s income derives from a public assistance program; or

3. because the applicant has in good faith exercised any right under the federal Consumer Credit Protection Act.

[*These are the “prohibited bases” set forth in the federal Equal Credit Opportunity Act. Add any additional prohibited bases that are identified by the law of your state and/or municipality and add the title of that law to the heading of this section*.]

This prohibition against credit discrimination extends to both disparate treatment (i.e., treating a credit

applicant differently than other credit applicants on one of the prohibited bases mentioned above) and disparate impact (i.e., applying a facially neutral policy in a manner that has an adverse impact on credit applicants who are members of a class protected against discrimination relative to similarly-situated credit applicants who are not members of that protected class).

b. Other Requirements

[*Name of Dealership*] also fully adheres to and will comply with other applicable requirements set forth in the Equal Credit Opportunity Act and Regulation B including, but not limited to, the adverse action and other notification requirements prescribed in 12 CFR § 202.9 and the records retention requirements prescribed in 12 CFR § 202.12.

[*Set forth or cross reference the Dealership’s specific procedures for complying with these requirements.]*

III. Appointment of Fair Credit Compliance Pro- gram Coordinator

Upon its adoption of this Program, the [*Name of Dealership*] Board of Directors will appoint (and, thereafter, replace as necessary or appropriate) a Fair Credit Compliance Program Coordinator who will administer the Program. The Program Coordinator will report directly to the Board of Directors.

IV. Guidelines for Establishing Dealer Participation

The dealer participation rate that [*Name of Dealership*] will include in a credit offer to a customer in an indirect vehicle financing transaction will be determined in accordance with the guidelines set forth in this section.

a. Pre-Set Standard Dealer Participation Rate

The Program Coordinator will establish a pre-set rate of dealer participation that will be included in all credit offers that the Dealership extends to customers (the “Standard Dealer Participation Rate”) except as provided in section IV.b of this Program. The Program Coordinator will set forth the Standard Dealer Participation Rate in writing on the form at Appendix B of this Program and provide it to all Dealership employees. The Program Coordinator may change the Standard Dealer Participation Rate prospectively on a periodic basis through a written declaration to all Dealership employees.

b. Pre-Determined Allowable Deviations

Dealership employees may include a lower dealer participation rate in a credit offer to a customer only for the good faith, competitive reasons listed below. (Immediately below each reason is how that reason appears on the Dealer Participation Certification Form at Appendix D of this Program, which is described in paragraph (c) of this section.) When this occurs, Dealership employees must include sufficient documentation in the deal jacket or other location specified by the Program Coordinator to support the Dealership employee’s application of that reason and to verify that the final dealer participation rate was determined in a manner that comports with the terms of this Program.

1. Lower Cap Imposed by Assignee

☐Dealer participation limited by finance source

If the Assignee has imposed a cap on the dealer participation that may be earned in the transaction that

is lower than the Standard Dealer Participation Rate, the credit offer may include a dealer participation rate that is reduced to the rate cap level.

2. Monthly Payment Constraint

☐Customer stated monthly payment constraint of $ per month

If the customer states a monthly payment constraint in a fixed dollar amount that would preclude the customer from accepting a credit offer made under this Program, the Standard Dealer Participation Rate may be reduced to the level that will allow the customer to satisfy the monthly payment constraint.

3. More Competitive Offer

☐ Customer stated competing offer by

 (name) of

 %

If the customer (i) states that he or she has access to a credit offer from another dealer or a lender that is lower than the credit offer from the Dealership made under this Program and (ii) identifies the terms and source of the competing credit offer, the Dealership’s credit offer may include a dealer participation rate that is reduced so as to [*select one of the following -- [meet the competing credit offer][beat the competing credit offer by a pre-determined number of basis points established by the Program Coordinator for all such scenarios*]].

4. Dealership Promotional Financing Campaign

☐ Customer qualified for Dealership Promotional Financing Campaign

If the Dealership extends a promotional credit offer to all customers on the same terms or to all purchasers of certain vehicles on the same terms, the credit offer may include a dealer participation rate that is reduced to the level necessary to extend the promotional credit offer.

5. Manufacturer Subvention Program

☐Customer qualified for subvened interest rate of % from

 (name)

If the customer qualifies for a manufacturer, finance source, or other third party interest rate subvention program, the credit offer may be made pursuant to the terms of that program without regard to the Standard Dealer Participation Rate.

6. Dealership Employee Incentive Program

[*Include only if applicable*]

☐ Customer qualified for Dealership Employee Incentive Program

If the customer qualifies for [*Name of Dealership*]’s Employee Incentive Program, the credit offer may include a dealer participation rate that is reduced pursuant to the terms of that program.

7. Dealership Inventory Reduction Considerations

☐Customer purchased a vehicle that satisfies the Dealership’s pre-deter- mined inventory reduction criteria (describe how vehicle satisfies the criteria)

If the Dealership extends a credit offer pertaining to a vehicle that satisfies inventory reduction criteria that have been pre-determined by the Program Coordinator, the credit offer may include a dealer participation rate that is reduced in order to secure the sale of the vehicle. In establishing the inventory reduction criteria, the Program Coordinator will (i) consult with the manager(s) responsible for vehicle sales and the Dealership’s floor plan line of credit, and (ii) identify in writing on the form at Appendix C of this Program and provide to Dealership employees the written inventory reduction criteria that a vehicle must satisfy in order to qualify for the reduction in the Standard Dealer Participation Rate. The written inventory reduction criteria should include relevant thresholds that the vehicle must satisfy such as the number of such vehicles in stock, the number of days the vehicle has been in inventory, and/or the declining value of the vehicle. The Program Coordinator may revise the

inventory reduction criteria on a prospective basis as warranted by the circumstances provided these requirements are satisfied.

c. Dealer Participation Certification Form

A Dealership employee who arranges a credit sale with a customer must fully complete, sign, and date the Dealer Participation Certification Form set forth at Appendix D of this Program for each such credit sale and place the form in the deal jacket. The Dealer Participation Certification Form will be retained for the same period of time that the Dealership retains other documents related to credit transactions as set forth in section II.b of this Program.

d. Dealer Participation Certification Form Review

The Program Coordinator, or his or her Designee, will review each Dealership credit sale within two (2) business days of the sale to ensure that the Dealership employee who arranged the transaction executed a Dealer Participation Certification Form and completed and retained it in a manner that is consistent with the terms of the Program. The person conducting this review may not have participated in the credit transaction under review. If the reviewer determines that the Form was executed in a manner that is inconsistent with the terms of the Program, the reviewer will note the defect on the Form and initiate appropriate corrective action. Such action will include (i) ensuring that the customer receives a reduced interest rate or a refund if the transaction should have resulted in a lower interest rate for the customer, (ii) ensuring that appropriate corrective action is taken with regard to the Dealership employee who improperly executed the Form, and (iii) if the reviewer is not the Program Coordinator, promptly notifying the Program Coordinator of the defect. The Program Coordinator will coordinate with the [*enter position title of appropriate employee(s)*] to ensure such corrective action was carried out. Upon completion of the review, the reviewer will complete, sign, and date the Form’s Reviewer Certification.

V. Training, Oversight, and Reporting

The Program Coordinator will complete the tasks listed below.

a. Ensure all current Dealership employees receive training on the [*Name of Dealership*] Fair Credit Policy and Fair Credit Compliance Program within 60 days of the Board of Director’s adoption of the Program.

b. Ensure all new Dealership employees re- ceive training on the [*Name of Dealership*] Fair Credit Policy and Fair Credit Compliance Program prior to engaging in any credit operation described in Section I.b of the Program.

c. Ensure all current Dealership employees receive recurring training on the [*Name of Dealership*] Fair Credit Policy and Fair Credit Compliance Program on a periodic basis, at least once per year, and more frequently if the Program is amended in a substantive manner or if the Program Coordinator determines that additional training is necessary.

d. Establish the Standard Dealer Participation Rate as set forth in section IV.a of this Pro- gram and provide to Dealership employees this and any other information that is neces- sary to carry out the terms of the Program, including the documentation that must be present to support a Dealership employee’s application of an allowable deviation to the Standard Dealer Participation Rate.

e. Complete or ensure the completion of the Dealer Participation Certification Form Review as described in section IV.d of this Program.

f. Randomly monitor Dealership credit offers and conduct periodic audits of Dealership credit sales to ensure the [Name of Dealer- ship] Fair Credit Compliance Program is being effectively implemented.

g. Submit a report to the Board of Directors, at least once per year, that sets forth (i) the Dealership’s level of compliance with the Fair Credit Compliance Program, and (ii) any recommended changes to the Program that may assist in carrying out its purpose.

h. Retain records documenting the completion of the training, oversight, and reporting tasks outlined in this section.

VI. Program Amendments

a. Except as provided for in section VI.b of this Program, amendments to the Program may only be made by the [*Name of Dealership*] Board of Directors.

b. After consulting with the Dealership’s legal counsel, the Program Coordinator may amend section IV.b of this Program in a manner that adds a good faith, competitive reason for an allowable deviation from the Standard Dealer Participation Rate that is consistent with [*Name of Dealership*]’s Fair Credit Policy and is capable of being uniformly applied by Dealership employees. Any such amendment must be ratified by the Board of Directors at its first meeting following such amendment.

Appointment and Policy & Program Approval

The following employee has been appointed as the [*Name of Dealership*] Fair Credit Compliance Program

Coordinator pursuant to section III of this Program:

[*Insert appropriate language indicating the Dealership’s approval of this Policy and Program, such as:*]

By signing below, the undersigned, constituting all of the members of the [*Name of Dealership*] Board of Directors, acknowledge the Board’s approval of the foregoing [*Name of Dealership*] Fair Credit Policy and Fair Credit Compliance Program and its appointment of the [*Name of Dealership*] Fair Credit Compliance Program Coordinator this day of , 201\_.

[*Name of Dealership*] Fair Credit Policy

[*Name of Dealership*] is fully committed to complying with the letter and spirit of federal, state, and local laws and regulations that are designed to protect its customers. This includes ensuring that all qualifying credit applicants have equal access to credit and are treated in a manner that is fair, professional, and consistent with the terms of the [*Name of Dealership*] Fair Credit Compliance Program. Engaging in any form of unlawful credit discrimination is destructive, morally repugnant, and will not be tolerated by [*Name of Dealership*].

[*Name of Dealership*] Standard Dealer Participation Rate

The [*Name of Dealership*] Pre-Set Dealer Participation Rate (“Standard Dealer Participation

Rate”) is %.

This rate applies to all indirect vehicle financing transactions beginning on (enter date) and is in effect until further written notice from the [*Name of Dealership*] Fair Credit Compliance Program Coordinator.

**[*Name of Dealership*] Fair Credit Compliance Program Coordinator:**

Signature

Printed Name

Appendix C

[*Name of Dealership*]

Inventory Reduction Criteria

In order for a Dealership employee to reduce the [*Name of Dealership*] Pre-Set Dealer Participation Rate (“Standard Dealer Participation Rate”) based on Inventory Reduction Considerations as set forth in section IV.b.7 of the [*Name of Dealership*] Fair Credit Compliance Program, the vehicle must meet or exceed the following threshold(s):

These inventory reduction criteria apply to all vehicle indirect financing transactions beginning on

 (enter date) and is in effect until further written notice from the [*Name of Dealership*] Fair

Credit Compliance Program Coordinator.

**[*Name of Dealership*] Fair Credit Compliance Program Coordinator:**

Signature

Printed Name

Dealer Participation Certification Form

Buyer(s) Name(s) Date

Assignee VIN

Standard Dealer Participation Rate % Final Dealer Participation Rate %

If the Final Dealer Participation Rate does not equal the Standard Dealer Participation Rate, check the allowable deviation box below and fill in the corresponding blanks.

☐Dealer participation limited by finance source

☐Customer stated monthly payment constraint of

$ per month

☐Customer stated competing offer by

 (name) of %

☐Customer qualified for Dealership Promotional

 Financing Campaign

☐Customer qualified for subvened interest rate of

 % from (name)

☐Customer qualified for Dealership Employee

Incentive Program

☐Customer purchased a vehicle that satisfies the

Reviewer Certification

I have reviewed the above information and supporting documentation and:

☐I certify that the Final Dealer Participation Rate complies with the [Name of Dealer- ship] Fair Credit Compliance Program, or

☐ I certify that I have initiated the corrective action noted below.

• Reduced the customer’s interest rate to % or provided a refund to the customer in the amount of $ .

• Taken the following employee corrective action (describe):

• Other (describe):

Signature

Date

Printed Name

Title

Dealership’s predetermined inventory reduction criteria (describe how vehicle satisfies the criteria)

**I certify that the information above is true and correct to the best of my knowledge and that any deviation from the Standard Dealer Participation Rate was made in good faith and in a manner that is consistent with the requirements of the [*Name*** ***of Dealership*] Fair Credit Compliance Program.**

Signature

Date

Printed Name

Title