

PURCHASE AGREEMENT

This PURCHASE AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 20____, by and between **PINNACLE FINANCIAL GROUP Inc.**, a Maryland corporation, with an address at 8311 Wisconsin Avenue, Bethesda, Maryland, 20814 ("Pinnacle"), and _____, a Maryland automobile dealer, with an address at _____ ("Seller").

WHEREAS, Seller is in the business of financing the sale of used motor vehicles sold retail in the state of Virginia; and

WHEREAS, Pinnacle is a finance company with its principal location in Bethesda, Maryland, and is in the business of purchasing and servicing automobile loans secured by a purchased automobile; and

WHEREAS, Seller desires to sell and assign to Pinnacle, and Pinnacle desires to purchase and accept, subject to its credit standards, certain automobile loans originated by Seller together with all of Seller's rights and interests in the motor vehicle securing such loans;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Definitions.** Whenever used herein, the following words and phrases shall have the following meanings:

"Amount Financed" means, with respect to a Contract, the amount advanced under such Contract toward the purchase price of the related Financed Vehicle and related costs, including but not limited to accessories, insurance premiums, service and warranty contracts and other items customarily financed in connection with the purchase of a vehicle.

"Application" means a prospective borrower's application to Seller for financing of a Financed Vehicle along with information customarily included with such an application.

"APR" of a Contract means, as of any time, the contractual rate of interest or annual percentage rate of finance charges being borne by such Contract.

"Business Day" means any day other than (a) a Saturday or Sunday, or (b) a day on which banking institutions in the State of Maryland are authorized or obligated by law or executive order to be closed.

"Contract" means a retail installment sale or conditional sale contract for the financing of a motor vehicle entered into on the form of a Retail Installment Sales Contract substantially in the same form as attached hereto as **Exhibit "A."**

"Contract File" means, as to each Contract, (a) the executed original of the Contract, (b) the original credit application, or a copy if the original is not available, fully executed by each related Obligor on customary forms, (c) the original Financed Vehicle Lien Certificate, certificate of title naming Pinnacle as first lien holder in the related Financed Vehicle, (d) documents evidencing or relating to any Insurance Policy, (e) any credit reports and verifications, (f) payment records, if applicable, and (g) any other information or documentation reasonable required by Pinnacle.

"Credit Policy" means Pinnacle's minimum requirements of income, residency, employment history, credit history, and/or other such considerations that Pinnacle uses to approve or deny an application for an automobile Contract as set forth on **Exhibit "B"** attached hereto.

“Discount” means funds withheld from Seller to pay any deficiency on a Contract, including the costs and expenses from the sale of the Financed Vehicle or the Contract and any associated collection costs, Administrative Expenses or Liquidation Fees.

“Financed Vehicle” means, with respect to a Contract, the related automobile, minivan or light duty truck, together with all accessions thereto, securing the related Obligor’s indebtedness under such Contract.

“Lien” means any security interest, lien, charge, pledge, equity or encumbrance of any kind that may attach to a Contract, Financed Vehicle or any property, as the context may require, by operation of law.

“Lien Certificate” with respect to a Financed Vehicle, means a certificate of lien or other notification issued by the appropriate agency of the applicable state to a secured party, which indicates that the Lien of the secured party in the Financed Vehicle is recorded and perfected.

“Liquidation Fees” means reimbursement for the costs and expenses for time and effort to sell or otherwise liquidate a Financed Vehicle after default and repossession.

“Obligor” means the purchaser or co-purchasers of the Financed Vehicle on a Contract purchased in part or in whole by the execution and delivery of such Contract or any other Person who owes or may be liable for payments under such Contract.

“Origination Date” means, with respect to any Contract, the date on which such Contract was executed by the related Obligor and the seller of the Financed Vehicle.

“Person” means any legal person, including any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

“Purchase Price” means the principal amount of a Contract, which Pinnacle has accepted for purchase from Seller, less any applicable discounts, fees, and reserves as outlined in **Exhibit “B”**.

“Repurchase Price” shall have the meaning assigned to it in **paragraph 5.B.** of this Agreement.

2. **Purchase and Sale of Contracts.**

A. From time to time Seller may offer for sale to Pinnacle Contracts originated by Seller and Pinnacle may purchase from Seller all of Seller’s rights, title and interest in and to such Contracts and which are in substance acceptable to Pinnacle and consistent with the Credit Policy. Neither this Agreement nor any past conduct between Pinnacle and Seller shall obligate Pinnacle to purchase any Contract from Seller or obligate Seller to offer any Contract for sale to Pinnacle.

B. When Seller desires to offer a Contract for sale to Pinnacle, or submit to Pinnacle an Application for consideration and approval, Seller will contact Pinnacle and provide Pinnacle with such information which Pinnacle determines it needs in order to decide whether to purchase the Contract or accept the Application. All Contracts and Applications submitted by Seller for Pinnacle’s consideration shall be in writing and submitted in accordance with the policies and procedures established by Pinnacle and Seller from time to time. Pinnacle will use its best efforts to communicate promptly to Seller its acceptance or rejection of a Contract offered for sale or Application presented for consideration, but in any case, Pinnacle will communicate its response to Seller within two (2) Business Days. Pinnacle’s issuance of an approval number shall not be deemed to be acceptance of a

contract for purchase. Acceptance of such contract shall occur only at such time as Pinnacle receives and approves the related Contract File.

C. Upon Pinnacle's acceptance of an offer to purchase a Contract, Seller shall within three (3) Business Days or less after Pinnacle's acceptance of such Contract, assign such Contract to Pinnacle, and deliver the Contract File to Pinnacle. Pinnacle and Seller acknowledge that the original Lien Certificate for the Financed Vehicle naming Pinnacle as first lien holder, and other documents to be included in the Contract File, may not always be available to deliver to Pinnacle within three (3) Business Days after Pinnacle agrees to purchase a Contract. Accordingly, if Seller does not have the original Lien Certificate naming Pinnacle as the first lien holder on the related Financed Vehicle, or other information in the Contract File to deliver to Pinnacle within three (3) Business Days after Pinnacle's acceptance of such Contract, Seller shall diligently take all reasonable and necessary efforts to obtain such missing Contract File information (including processing and filing all necessary documents to obtain the original Lien Certificate naming Pinnacle as the first lien holder on the related Financed Vehicle within twenty (20) days from the Origination Date of the related Contract), and shall deliver such information to Pinnacle as soon as reasonably possible, but in no event later than thirty (30) days from the date of origination of the related Contract, or within such other time period agreed to by Pinnacle.

D. In the event Pinnacle pays the Purchase Price on a Contract before Seller is able to deliver a complete Contract File to Pinnacle, Seller shall unconditionally and absolutely guarantee full payment of such Contract to Pinnacle at an amount up to the Repurchase Price of such Contract, until such time as all Contract File information is delivered to Pinnacle.

3. **Purchase Price and Means of Payments.** Pinnacle's acceptance of an offer to purchase a Contract will be effective as of the date of the respective accepted assignment of Contract. Within three (3) Business Days after Pinnacle's agreement to purchase a Contract from Seller and Seller's delivery to Pinnacle of the complete Contract File, Pinnacle shall pay to Seller the Purchase Price for such Contract by either mailing a Pinnacle draft or electronically transferring funds directly to Seller in an amount equal to the Purchase Price. Assignment to Pinnacle of the Contract and Seller's security interest in the Financed Vehicle will be effective upon Pinnacle's payment of the Purchase Price to Seller.

4. **Representations, Warranties and Covenants.**

A. **Representations and Warranties of Seller.** Seller represents and warrants to Pinnacle on the date hereof and as of the date of Pinnacle's purchase of any Contract:

(i) **Organization and Good Standing.** Seller is duly organized, validly existing and in good standing under the laws of the State of its organization and its status is active, with power and authority to own its properties and to conduct its business as such properties shall be currently owned and such business is presently conducted, and had at all relevant times, and shall have, power and authority to originate, acquire, own and sell Contracts to Pinnacle as contemplated in this Agreement.

(ii) **Due Qualification.** Seller is duly qualified to do business in all jurisdictions in which it conducts its business, and is licensed and in good standing as necessary to transact business, including the originating and selling of the Contracts.

(iii) **Power and Authority.** Seller has full power and authority to execute and deliver this Agreement and to hold and sell each Contract.

(iv) **Licenses and Approvals.** Seller has obtained, and at all relevant times shall have possessed and maintained, all necessary licenses and/or approvals (including, as applicable, sales finance company licenses, dealer licenses, and motor vehicle installment seller licenses) in all jurisdictions in which the ownership or lease of property or the conduct of their businesses (including the sale of Contracts to Pinnacle pursuant to this

Agreement) requires such licenses and/or approvals. Seller, also shall have filed with the appropriate administrative agency, in all jurisdictions in which the ownership or lease of property or the conduct of their businesses require such filings, all necessary notifications of their intentions, as applicable, to make consumer credit sales or to take assignments of consumer credit sale contracts and have paid all necessary notification and related fees to the appropriate administrative agency.

(v) No Violations. The consummation of the transactions contemplated by this Agreement and the fulfillment of the terms thereof shall not conflict with, result in any breach of any of the terms and provisions of, nor constitute (with or without notice or lapse of time) a default under the articles of organization or operating agreement of Seller, or conflict with or breach any of the material terms or provisions of, or constitute (with or without notice or lapse of time) a default under, any indenture, agreement or other instrument to which Seller is a party or by which it shall be bound; nor result in the creation or imposition of any Lien upon any of its properties pursuant to the terms of any such indenture, agreement or other instrument (other than this Agreement); nor violate any law or, to the best of Seller's knowledge, any order, rule or regulation applicable to Seller of any court or of any federal or state regulatory body, administrative agency or other governmental instrumentality having Jurisdiction over Seller or its properties, which breach, default, conflict, lien or violation would have a material adverse effect on the transactions contemplated by this Agreement.

(vi) Litigation. Except as otherwise furnished to Pinnacle in writing, no litigation or administrative proceeding of or before any court, tribunal or governmental body is currently pending or to the knowledge of Seller threatened, against Seller or any of its properties, including, without limitation, any Contracts, Financed Vehicles or any Insurance Policies, or with respect to this Agreement or which, if adversely determined, would have a material adverse effect on the transactions contemplated by this Agreement.

B. Representations and Warranties of Seller as to each Contract. With respect to each Contract offered for sale to Pinnacle under this Agreement, Seller hereby represents and warrants to Pinnacle as of the date of Pinnacle's purchase of each such Contract, as follows:

(i) Characteristics of Contracts. Each Contract (i) is a retail installment sale or conditional sale contract for purchase of a used Financed Vehicle that is either an automobile, minivan or light-duty truck in substantially the form of the Contract identified on Exhibit "A", (ii) reflects a cash sale price for the Financed Vehicle which is the price at which the seller of the Financed Vehicle offered to sell the Financed Vehicle to the retail buyer for cash, (iii) is secured by a Financed Vehicle that is either an automobile, minivan or light truck, (iv) has been fully and properly executed by the parties thereto, (v) is owned by Seller free and clear of any Lien (including liens for work, labor, materials or unpaid state or federal taxes relating to the related Financed Vehicle, and any rights of a dealer or any creditor of a dealer or of any creditor of Seller), (vi) is or will be within a commercially reasonable time not exceeding the time period permitted in Section 2.C. of this Agreement secured by a valid, subsisting, perfected and enforceable first priority security interest in favor of Pinnacle, (vii) contains customary and enforceable provisions such that the rights and remedies of the holder thereof are enforceable against the collateral to the benefits of the security and has not been satisfied, subordinated or rescinded and no provision of such Contract has been waived, altered or modified in any respect, (viii) provides for level monthly payments (provided that the payment in the first or last month in the life of such Contract may be minimally different from the level payment) which fully amortize the Amount Financed over the original term, (ix) provides for interest at the related APR calculated using the simple interest or actuarial method, (x) provides for, in the event the Contract is prepaid, a prepayment that fully repays the unpaid balance of the amount financed thereunder and includes accrued and unpaid interest at least through the date of prepayment in an amount equal to the related APR, (xi) does not provide for an original term to maturity in excess of 72 months, (xii) does not provide for the payment of any fee, charge or amount that the seller of the Financed Vehicle would not have charged if the retail installment sale had been a cash transaction other than amounts properly included in the finance charge disclosed in the Contract and amounts that have been lawfully excluded from the finance charge under the Federal Truth in Lending Act and its implementing Regulation Z and applicable state laws (including, without limitation, interest and usury laws and state Retail Installment Sales Acts, Consumer Credit Codes or other state laws regulating credit sales), (xiii) does not

provide for the payment of any fee, charge or amount not authorized or permitted by applicable state law (including, without limitation, interest and usury laws, state Retail Installment Sales Acts, Consumer Credit Codes or other state laws regulating credit sales); and (xiv) involves an Obligor who is a natural person and acquired the Financed Vehicle primarily for personal, family or household use.

(ii) Compliance with Law. The Contract, and the sale of the related Financed Vehicle, was originated in compliance with all requirements of applicable federal, state and local laws, rules and regulations, including interest and usury laws; the Federal Truth-in-Lending Act and Federal Reserve Board Regulation Z; the Equal Credit Opportunity Act and Federal Reserve Board Regulation B; the Fair Credit Reporting Act; the Fair Debt Collection Practices Act; the Federal Trade Commission Act; the FTC Credit Practices Trade Regulation Rule; the FTC Trade Regulation Rule Concerning the Preservation of Consumers' Claims and Defenses; the FTC Used Motor Vehicle Trade Regulation Rule; the Magnuson-Moss Warranty Act; state adaptations of, or analogies to, any title or chapter of the Federal Consumer Credit Protection Act; applicable state Retail Installment Sales Acts, Consumer Credit Codes or other state laws regulating credit sales; state laws proscribing unfair and/or deceptive acts or practices; state laws regulating consumer sales practices; Articles 2 and 9 of the UCC; state lemon laws; state co-signer laws, and any other applicable consumer credit, consumer protection and insurance laws, rules and regulations.

(i) Binding Obligation. The Contract constitutes the genuine, legal, valid and binding payment obligation in writing of the related Obligor, enforceable by the holder thereof in accordance with its terms.

(ii) No Default. No default, breach, violation or event permitting acceleration under the terms of the Contract exists, and no continuing condition that with notice or lapse of time, or both, would constitute a default, breach, violation or event permitting acceleration under the terms of the Contract has arisen, Seller has not waived any of the foregoing, and Seller has not commenced the exercise of any remedies. Seller has no reason to believe that Obligor has or is reasonably expected to file a voluntary petition in bankruptcy, or seek protection under any bankruptcy law or under any state or federal law affecting creditor's rights.

(iii) No Defenses. The Contract is not subject to any right of rescission, setoff, counterclaim or defense, including the defense of usury, and the operation of any of the terms of the Contract, or the exercise of any right thereunder, will not render the Contract unenforceable in whole, or in part as to the obligation of the related Obligor to pay the balance of the Contract, or subject to any right of rescission, setoff, counterclaim or defense, including the defense of usury.

(iv) No Liens. There are no Liens or claims, including liens for work, labor, materials or unpaid state or federal taxes relating to the Contract, the related Financed Vehicle, or Seller's business, that are or may be liens prior to, or equal to, the security interest in such Financial Vehicle granted by the Contract.

(v) Insurance. The related Financed Vehicle is covered by a comprehensive and collision insurance policy required to be obtained and maintained by the Obligor under the terms of the related Contract (a) in an amount at least equal to the lesser of (1) its maximum insurable value or (2) the principal amount due from the Obligor under the Contract, (b) naming Pinnacle as a loss payee (c) insuring against loss and damage due to fire, theft, transportation, collision and other risks generally covered by comprehensive and collision coverage, and (d) with a deductible not more than \$500.

(vi) Good Title. The Contract has not been sold, transferred, assigned or pledged by Seller to any Person other than Pinnacle, and no provision of the Contract shall have been waived. Immediately prior to the transfer and assignment herein contemplated, Seller had good and marketable title to the Contract free and clear of all Liens and rights of others and is not branded flood, salvage, mileage unknown or rebuilt title.. Seller has taken or has caused to be taken all actions necessary to apply for and obtain proper registration of the Financed Vehicle, showing the Obligor as registered owner and Pinnacle as first lien holder, free and clear of all Liens and rights of others, and the transfer and assignment herein contemplated has been perfected under the UCC. Pinnacle's interest

shall be noted on the title document and the original title document with such notation shall be delivered to Pinnacle or its designee within the timeframe required in Section 2.C.

(vii) Lawful Assignment. The Contract has not been originated in, and is not subject to the laws of, any jurisdiction under which the sale, transfer, and assignment of such Contract under this Agreement or pursuant to which transfers of the Contracts or of the related certificates of title are unlawful, void or voidable.

(viii) One Original. There is only one original executed Contract, which has been conveyed by Seller to Pinnacle.

(ix) Obligations, No Impairment. Seller has satisfactorily fulfilled all obligations on its part to be fulfilled under, or in connection with, the Contract in a timely manner, including, without limitation, payment in full of all taxes and other charges payable in connection with such Contract and has done nothing to impair the rights of Pinnacle in the Contract or the proceeds thereof.

(x) No Fraud. To the best of Seller's knowledge, the Contract was originated without any fraud or misrepresentation on the part of the Obligor, or the Seller of the related Financed Vehicle. Seller, after due inquiry, (a) acknowledges that all information set forth on the Obligor's credit application is true, correct and complete, (b) there is no information omitted such that it makes the application misleading, and (c) Seller has performed all necessary verifications required under this Agreement.

(xi) Contract File. The related Contract File and the contractual documents contained therein constitute the entire agreement with respect to the Contract between the Obligor and Seller, and there is no verbal understanding or modification, which would affect the terms thereof. The Contract File contained each of the documents listed on the Contract File.

(xii) Down Payment. The down payment described in the Contract was paid to the Seller of the Financed Vehicle in the manner stated in the Contract. Seller warrants that Obligor has executed a true and correct down payment affidavit and Seller has not agreed to purchase any item, transfer funds, include any post dated checks, rebates or installment notes from Obligor for use as down payment or for any other reason related to the purchase of the Financed Vehicle. Failure to disclose such information makes said Contract full recourse to Seller and requires immediate payment in full of said Contract.

(xiii) Delivery. Seller or the seller of the Financed Vehicle has fully performed its agreement with the Obligor with respect to the sale of the Financed Vehicle, including, without limitation, all work to be performed on the Financed Vehicle. The Financed Vehicle purchased by the Obligor pursuant to the Contract has been delivered to and accepted by the Obligor.

(xiv) Capacity. All parties to the Contract had the capacity to execute the Contract and legally bind the named Obligors and all signatures thereof are authentic.

(xv) No Amounts Owning. An amount equal to the Amount Financed of the Contract net of any premium or discount, was paid directly to the Seller of the Financed Vehicle on a timely basis. No amounts are owing to a broker in respect of the transfer of such Contract, by Seller to Pinnacle or otherwise.

(xvi) No Solicitation. Other than as may be related to trade-ins of Financed Vehicles towards the purchase of another vehicle from Seller, without Pinnacle's prior written consent, Seller agrees not to solicit or assist any other Person to solicit any Obligor for the purpose of causing the Obligor to prepay the Contract or otherwise refinance the Financed Vehicle.

(xvii) Continuation. It is understood and agreed that the representations and warranties set forth in subsection A and subsection B of this Section 3 shall survive the sale of the Contract to Pinnacle and any

assignment of the Contract by Pinnacle to any subsequent assignee and shall continue so long as any Contract shall remain outstanding.

C. Representations and Warranties of Pinnacle. Pinnacle hereby represents and warrants to Seller as of the date of this Agreement and as of the Closing Date as follows:

(i) Organization and Good Standing. Pinnacle is a Maryland based finance company duly organized, validly existing and in good standing under the laws of the United States, and holds all licenses and approvals necessary, with power and authority to own its properties and to conduct its business as such properties shall be currently owned and such business is presently conducted.

(ii) Power and Authority. Pinnacle shall have the corporate power and authority to execute and deliver this Agreement and to carry out its respective terms; and the execution, delivery and performance of this Agreement shall have been duly authorized by Pinnacle by all necessary corporate action.

(iii) Authorization, Binding Obligations. Pinnacle has the corporate power and authority to make, execute, deliver and perform this Agreement and perform all of the transactions contemplated to be performed by it under this Agreement, and has taken all necessary corporate action to authorize the execution, delivery and performance of this Agreement. When executed and delivered, this Agreement will constitute the legal, valid and binding obligation of Pinnacle enforceable against Pinnacle in accordance with its terms, except as enforcement of such terms may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by the availability of equitable remedies.

(iv) No Consent Required. Pinnacle is not required to obtain the consent of any other party or any consent, license, approval or authorization from, or to make any registration or declaration with, any governmental authority, bureau or agency in connection with Pinnacle's execution, delivery or performance of this Agreement, except such as have been obtained.

(v) No Violations. The execution, delivery and performance of this Agreement by Pinnacle will not violate any provision of any existing law or regulation or any order or decree of any court of competent jurisdiction applicable to Pinnacle or the charter or bylaws of Pinnacle, or constitute a material breach of any contract or other agreement to which Pinnacle is a party or by which Pinnacle may be bound; nor violate any law or, to the best of Pinnacle's knowledge, any order, rule or regulation applicable to Pinnacle of any court or of any federal or state regulatory body, administrative agency or other governmental instrumentality having jurisdiction over Pinnacle or its properties, which violation would have a material adverse effect on the transactions contemplated by this Agreement.

(vi) Litigation. No litigation or administrative proceeding of or before any court, tribunal or governmental body is currently pending or to the best of Pinnacle's knowledge threatened, against Pinnacle or any of its properties or with respect to this Agreement, which if adversely determined, would have a material adverse effect on the transactions contemplated by this Agreement.

5. Default and Repurchase.

A. Except in relation to the representations, warranties and covenants contained herein, the purchase of any Contract by Pinnacle from Seller is "*Without Recourse*," it being agreed between the parties that upon a purchase by Pinnacle of any Contract from Seller, Pinnacle bears the credit risk associated with the repayment of principal, interest and other charges due under the Loan subject to the Discounts withheld from Seller.

B. As to any Contract purchased by Pinnacle, if any of the below listed conditions shall exist or occur, Pinnacle shall notify Seller, who shall have ten (10) days to cure the condition(s). If Seller is unable to cure such condition, Seller shall repurchase, whether or not the vehicle has been repossessed, within five (5) days of

demand from Pinnacle, the affected Contract(s) and pay to Pinnacle an amount equal to (i) the unpaid balance of the Amount Financed under the Contract as of the date the Contract is repurchased, (ii) accrued, unpaid interest thereon and other reasonable amounts due under the Contract as of the date the Contract is repurchased, and (iii) all costs and expenses incurred by Pinnacle in connection with any default or other occurrence that gave rise to Seller's duty to repurchase the Contract (the "Repurchase Price"). Upon Seller's payment of the Repurchase Price, Pinnacle shall assign the affected Contract to Seller "***Without Recourse.***" Seller's obligation to repurchase is in addition to any other rights and remedies to which Pinnacle is legally entitled. In the event Pinnacle has repossessed or recovered the Financed Vehicle sold under any Contract, which is required to be repurchased by Seller, Pinnacle shall promptly deliver such Financed Vehicle to Seller upon repurchase of the Contract by Seller. The conditions contemplated above are as follows:

(i) Seller, and/or any of its employees or agents, knowingly falsified or misrepresented any material information on any document sent to Pinnacle, including but not limited to the amount of the down payment, the equipment of the vehicle, any borrower information, any physical and/or mechanical damage existing on the vehicle prior to delivery to the Obligor and said damage is known to Seller or should have been known to Seller and the damage is not disclosed to Lender prior to the funding by Pinnacle.;

(ii) Seller, and/or any of its employees or agents, fails to provide Pinnacle with the information in the Contract File within the time period allowed under Section 2.C. of this Agreement;

(iii) Seller, and/or any of its employees or agents, without Pinnacle's prior written consent, agrees to any waiver, modification or settlement with the Obligor(s); other than consistent with Section 6 hereof, accepts payments from Obligor(s) whether regularly scheduled installments or otherwise, after purchase of the Contract by Pinnacle; agrees to the sale, mortgage or transfer of the Obligor's interest in the Financed Vehicle(s); or takes any judicial or non-judicial action to obtain possession of the Financed Vehicle(s) or accepts surrender thereof without Pinnacle's consent;

(iv) Within the time period allowed under Section 2.C. of this Agreement, Seller failed to cause the motor vehicle(s) to be properly registered and/or titled in such manner as required under applicable law and regulations to perfect the first priority security interest of Pinnacle;

(v) There shall have occurred any fraud, fraudulent scheme, trick or device, including the forgery of signatures, by Obligor(s) of such Contract or Seller in connection with the Contract, the Financed Vehicle(s) or the sale of the Contract to Pinnacle.

C. As to any Contract purchased by Pinnacle, in the event that the vehicle is returned to Seller (unwound) within 60 days of delivery or the Obligor fails to make his/her first contractual payment to Pinnacle within 15 days of its due date, Seller shall unconditionally guarantee to repurchase the vehicle from Pinnacle at the wholesale value. The wholesale value shall be set at 90% of its value according to N.A.D.A. Eastern Edition Trade-In value (Left Side), not to exceed the unpaid balance of the Amount Financed under the Contract as of the date the Contract is repurchased. Pinnacle shall notify Seller, who shall have ten (10) days to cure the condition(s). If Seller is unable to cure such condition, Seller shall repurchase, within five (5) days of demand from Pinnacle, the affected Contract(s). Upon Seller's payment, Pinnacle shall assign the affected Contract to Seller "***Without Recourse.***" Seller's obligation to repurchase is in addition to any other rights and remedies to which Pinnacle is legally entitled. In the event Pinnacle has repossessed or recovered the Financed Vehicle sold under any Contract, which is required to be repurchased by Seller, Pinnacle shall promptly deliver such Financed Vehicle to Seller upon repurchase of the Contract by Seller.

6. **Additional Covenants.**

A. **Payment Received by Seller.** Pinnacle shall be entitled to all payments on any Contract received after the date Pinnacle purchased the Contract from Seller. All payments under a Contract which Seller receives

after a Contract has been sold to Pinnacle, will be held in trust for Pinnacle, shall not be commingled with Seller's own funds, and Seller shall promptly endorse such payments to "PAY TO THE ORDER OF PINNACLE FINANCIAL GROUP", and deliver such payments to Pinnacle by overnight courier without depositing such payments in Seller's account. If any Financed Vehicle covered by any Contract sold to Pinnacle comes into the possession of Seller while the Obligor is indebted to Pinnacle for such Financed Vehicle, Seller will promptly notify Pinnacle, hold the Financed Vehicle in trust for Pinnacle, and will deliver the Financed Vehicle to Pinnacle on demand.

B. **Unearned Insurance Premiums.** If Pinnacle suffers any loss on any Contract as a result of a repossession, bankruptcy, default, or total loss of a Financed Vehicle, Seller agrees to obtain and to pay to Pinnacle all unearned insurance premiums Seller may be entitled to receive on a Financed Vehicle for a Contract purchased by Pinnacle, including but not limited to warranty insurance, credit life, and disability insurance.

C. **Further Assurances.** Each party to this Agreement shall execute and deliver all such further instruments and documents as may be reasonably necessary or requested by the other party in order to fully carry out the transactions contemplated by this Agreement.

D. **Administration Expense.** Seller agrees to reimburse Pinnacle, on demand for all Administrative Expenses incurred by Pinnacle in connection with (i) protecting Pinnacle's interest in the Contract and the Finance Vehicle; and (ii) enforcement of the provisions of this Agreement, including, without limitation, (a) to commence, defend or intervene in any litigation or to file a petition, complaint, motion, answer, or other pleadings; and (b) to take any other action in or with respect to any suit or proceeding, including, without limitation, any bankruptcy proceeding.

E. **Inquiries.** Seller agrees to forward to Pinnacle promptly all inquiries, communications and remittances received by Seller with respect to any Contract purchased by Pinnacle, and to reimburse Pinnacle upon written demand for any and all losses Pinnacle may reasonably suffer as a result of Seller's failure to do so.

F. **Inspection.** Pinnacle shall have the right to review the books and records of Seller related to the Contracts and all documents, printouts, magnetic tapes, software or other relevant papers or records necessary or useful to the determination of the Purchase Price for any Contract or Financed Vehicle. After the date a Contract is purchased by Pinnacle, Pinnacle, after prior reasonable notice to Seller and during normal business hours, shall have the right to enter the premises of Seller for such purpose and Seller will cooperate with and provide reasonable assistance to Pinnacle. Any errors in the Purchase Price shall be corrected by payment of the difference between the correct amount and the amount paid.

G. **Assignment.** It is understood and agreed that all obligations set forth herein shall survive the sale of the Contract to Pinnacle and any assignment or sale of the Contract by Pinnacle to any subsequent assignee and shall continue so long as any Contract shall remain outstanding. Seller acknowledges that Pinnacle may assign all its rights, title, and interest in and to any Contract and its rights to exercise the remedies created herein to a subsequent assignee and agrees that, upon such assignment, any subsequent assignee may enforce directly, without joinder of Pinnacle, the obligations of Seller set forth in this Agreement or any subsequent assignment agreement.

H. **Realization Upon Repossession.** At the discretion of Pinnacle, Pinnacle shall use reasonable efforts to repossess or otherwise convert the ownership of the Financed Vehicle securing any defaulting Contract. If Seller does not repurchase the Contract, Pinnacle will sell or otherwise liquidate the Financed Vehicle and shall be entitled to retain a liquidation fee to compensate for such services. In exercising reasonable efforts to sell or otherwise liquidate the Financed Vehicle, Pinnacle shall follow such practices and procedures as it deems necessary or advisable which may include selling the Financed Vehicle at public or private sale.

I. **Merger or Consolidation.** Any Corporation (i) into which Pinnacle may be merged or consolidated, (ii) which may result from any merger, conversion, or consolidation to which Pinnacle shall be a party

or (iii) which may succeed to the business of Pinnacle, shall be the successor to this Agreement without any further act on the part of any of the parties to this Agreement.

7. **Limited Power of Attorney.**

A. Upon the purchase of a Contract by Pinnacle hereunder, Pinnacle herewith grants Seller a limited power of attorney appointing Seller as Pinnacle's attorney-in-fact for the limited purpose of executing on behalf of Pinnacle such documents as are necessary for Seller to perfect the Lien in favor of Pinnacle on the certificate of title of such motor vehicle(s) securing the Contract so purchased if Seller's assistance is required for perfection of the lien.

B. Seller grants Pinnacle a limited power of attorney appointing Pinnacle as Seller's attorney-in-fact for the limited purpose of giving notice on behalf of Seller of Pinnacle's purchase of the Contract.

C. Pinnacle shall not be treated or considered Seller's agent for any purpose and no joint venture exists between the parties, except for the purposes set forth in the limited power of attorney executed above in connection herewith.

D. Seller agrees to execute and sign the form Limited Power of Attorney attached hereto as **Exhibit "C"** upon request from Pinnacle.

8. **Indemnification.**

A. Seller shall indemnify and hold harmless Pinnacle from and against any and all suits, costs, damages, losses, fees or claims, including, without limitation reasonable attorney's fees, incurred by Pinnacle as a result of any (i) breach by Seller of any of the representations and warranties contained in this Agreement; and (ii) any negligence, fraud or a material omission on the part of Seller in connection with any Contract purchased by Pinnacle. Seller's obligation to Pinnacle in this regard shall remain effective after Pinnacle's purchase of the Contract if the item for which indemnity is sought arose prior to purchase but was undetected at the time of purchase.

B. Seller acknowledges that the Contracts will contain a notice required by the Federal Trade Commission Trade Regulation Rule concerning preservation of consumer's claims and defenses (16 C.F.R., Part 433) (the "FTC Rule"). In addition, Seller hereby agrees to indemnify Pinnacle against any and all liability, loss, cost or expense, which Pinnacle may incur at any time or suffer directly or indirectly as a result of the FTC Rule notice on the Contract.

C. Pinnacle shall hold Seller harmless and shall indemnify Seller from and against any and all suits, costs, damages, losses, fees or claims, including, without limitation reasonable attorney's fees, arising out of or in connection with any breach by Pinnacle of its obligations under this Agreement or any claim attributable to any error or omission of Pinnacle in connection with Pinnacle's administration of the Contract on or after the date of purchase.

9. **Right of Set-Off.** Pinnacle shall, at any time and at its option, have the right to set off any amounts owed to Pinnacle hereunder or otherwise by Seller against any and all amounts owed to Seller by Pinnacle. To the extent Pinnacle has a good faith belief that it is insecure, Pinnacle shall have the right to hold in reserve any and all funds which would otherwise be payable to Seller until such time as Pinnacle is confident that the risk is no longer present. Pinnacle shall have the right pursuant this Section to set off its losses out of this reserve.

10. **Termination of Agreement.** This Agreement may be terminated by either party at any time upon fifteen (15) days written notice of termination to the other party. Termination shall not affect any provision of this Agreement with respect to Contracts purchased prior to termination.

11. **Miscellaneous.**

A. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws without giving effect to the conflict of laws principles thereof.

B. **Delivery of Notice.** Any notice to be given, or other documents to be delivered, by any party may be delivered in person to such party, or may be deposited in the United States mail, duly certified and addressed to the party for whom intended at the address shown at the beginning of this Agreement. Any party, may from time to time by written notice to the other, designate a different address which shall be substituted for the one above.

C. **Waiver of Jury Trial.** Seller, after consulting or having had the opportunity to consult with counsel, knowingly, voluntarily and intentionally waives any right it may have to a trial by jury in any litigation based upon or arising out of this Agreement or any course of conduct, dealing, statements (whether oral or written), or action of Seller or Pinnacle. Seller shall not seek to consolidate, by counterclaim or otherwise, any such action in which a jury trial cannot be or has not been waived.

D. **Enforcement Costs.** If any party hereto shall bring suit or other proceeding against the other as a result of any alleged breach or failure by the other party to fulfill or perform any covenants or obligations under this Agreement, then the prevailing party obtaining final judgment in such action shall be entitled to receive from the non-prevailing party reasonable attorneys' fees incurred by reason of such action and all costs of suit and preparation thereof at both trial and appellate levels.

E. **Successors and Assigns.** This Agreement is binding upon and shall inure to the benefit of the respective successors and assigns of both parties hereto. However, Seller may not delegate or assign its rights or duties under this Agreement absent written consent from Pinnacle.

F. **Severability.** In the event that any provision of this Agreement shall be held unenforceable, such provision shall be severable from the remaining provisions of this Agreement.

G. **Confidentiality.** Except to the extent otherwise required by applicable law or unless Pinnacle shall otherwise consent in writing, Seller and Pinnacle agree to maintain the confidentiality of the original or any copy of all or any part of this Agreement (and all drafts hereof and documents ancillary thereto) in its communications with third parties and otherwise and agrees not to disclose, deliver or otherwise make available to any third party (other than on a need to know basis, its directors, officers, employees, accountants, bankers or counsel) the foregoing.

H. **No Remedy Exclusive.** No remedy under this Agreement is exclusive of any other available remedy, but each remedy shall be cumulative and shall be in addition to other remedies given under this Agreement or existing at law or in equity. Any forbearance by a party to this Agreement in exercising any right or remedy under this Agreement or otherwise afforded by applicable law shall not be a waiver or preclude the exercise of that or any other right or remedy.

I. **Entire Agreement.** This Agreement is the sole mutual understanding regarding the subject matter hereof; no provision shall be modified or altered except in a writing signed by the parties, which specifically refers to this Agreement.

J. **Headings.** The headings contained in this Agreement are for convenience only, and shall not be used in the construction or enforcement of this Agreement.

K. **Time of the Essence.** Time is of the essence hereunder.

THIS AGREEMENT IS ACCEPTED AND AGREED TO BY EACH OF THE UNDERSIGNED, AFTER EACH OF THE UNDERSIGNED HAS CONSULTED WITH LEGAL COUNSEL, AND EACH OF THE UNDERSIGNED HAS CAREFULLY READ AND UNDERSTANDS ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT.

IN WITNESS WHEREOF, this Agreement is hereby executed by and through the duly authorized representatives of the respective parties as of the date first written above.

SELLER:

By: _____

Print Name: _____

Its: _____

PINNACLE:

Pinnacle Finance Group, Inc.

By: _____

Its: _____

EXHIBITS:

- A - Retail Installment Sales Contract
- B - Credit Policy
- C - Limited Power of Attorney

ATTACHMENTS:

Personal Guarantee