

DEALER BUSINESS INFORMATION		
Dealer Name		Federal Taxpayer Identification Number
<b>Business Type</b> <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other: _____		
Street Address		
City	State	Zip Code

DEALER AUTHORIZED SIGNATORY INFORMATION		
First Name	Last Name	Telephone Number
Title		Email Address

This Dealer Agreement (the “**Agreement**”) is executed by and between Foundation Finance Company LLC (“**Foundation**”) and the dealer identified above (“**Dealer**”). Foundation offers credit products (“**Credit Products**”) to consumers (“**Consumers**”) through its consumer financing program (the “**Program**”). Credit Products include, without limitation, direct and indirect consumer credit products. Dealer desires to participate in the Program in order to introduce one or more Credit Products to Consumers.

By executing this Agreement, Dealer agrees to comply with the Dealer Agreement Terms and Conditions, as updated by Foundation from time to time (the “**Terms and Conditions**”), which are hereby incorporated into this Agreement. By participating in the Program, Dealer agrees to comply with and be subject to the then-current version of such Terms and Conditions, including any addenda thereto, and any documents referenced therein. Dealer may cease its participation in the Program at any time and Foundation may terminate Dealer’s participation in the Program at any time. However, at all times while participating in the Program, Dealer agrees to satisfy all Program requirements and remain in good standing with the Program and Foundation.

This Agreement, inclusive of the Terms and Conditions, any applicable addenda thereto, and any documents referenced therein, represents the entire and integrated agreement between Dealer and Foundation regarding the subject matter of this Agreement, and terminates, supersedes, and replaces any and all prior negotiations, understandings, representations, discussions, and agreements, whether written or oral, express or implied, that relate in any way to the subject matter of this Agreement.

Only an individual with at least twenty-five percent (25%) ownership interest in Dealer, or a duly appointed corporate officer of Dealer, may execute this Agreement on behalf of Dealer. Such individual must be authorized to act on behalf of Dealer, and responsible for the actions of Dealer. By signing this agreement, the individual signing on behalf of Dealer affirms that such individual is duly authorized to execute this Agreement on behalf of Dealer and that such individual’s signature commits Dealer to be bound to this Agreement, including the Terms and Conditions, any applicable addenda thereto, and any documents referenced therein.

This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. This Agreement and any counterparts may be signed and delivered digitally, by facsimile, or by other electronic means.

### Dealer Authorized Signatory

Print Name	Sign Name	Date
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### Foundation Finance Company Authorized Signatory

Print Name	Sign Name	Date
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## **Terms and Conditions**

These Dealer Agreement Terms and Conditions (these “**Terms and Conditions**”) apply to each and every home improvement contractor and retailer seller who participates in the consumer financing program (the “**Program**”) administered by Foundation Finance Company LLC (“**Foundation**”), and each and every party identified as a “**Dealer**” under an executed Dealer Agreement by and between such party and Foundation (“**Dealer Agreement**”). Each such home improvement contractor, retail seller, or party to the Dealer Agreement is referred to herein as a “**Dealer**,” and all such parties are referred to herein collectively as “**Dealers**.”

Upon approval by Foundation to participate in the Program, Dealer will be granted access to the electronic financing platform maintained by Foundation (the “**Platform**”). Dealer will be assigned an account through which to access the Platform (a “**Dealer Platform Account**”), and will be permitted to introduce consumers (“**Consumers**”) to one or more consumer credit products offered by Foundation (each, a “**Credit Product**”).

To the extent these Terms and Conditions are expressly incorporated into the Dealer Agreement by and between Dealer and Foundation, such Dealer Agreement is hereby incorporated into these Terms and Conditions, and the term “Terms and Conditions,” as used herein, expressly includes such Dealer Agreement. By participating in the Program, Dealer agrees to comply with and be subject to the then-current version of these Terms and Conditions, including any applicable addenda thereto, and any documents referenced therein.

### **Section 1.      Credit Products.**

Foundation offers Credit Products that enable Consumers to finance the purchase of goods and services (“**Improvements**”) from Dealers. Under these Terms and Conditions, each transaction through which Foundation extends credit to one or more Consumers (a “**Credit Transaction**”) is intended to correspond to an underlying transaction (or series thereof) through which one or more Consumers purchase Improvements from Dealer (a “**Purchase Transaction**”). Foundation is not obligated to offer Consumers any particular Credit Product, or to permit Dealer to access any particular Credit Product. A particular Credit Product may only be available in certain jurisdictions, at certain terms, or under certain conditions. Foundation may modify, terminate, or introduce Credit Products at any time without notice to Dealer.

With respect to each credit application and prequalification request submitted to Foundation (“**Credit Application**”), if Foundation issues an approval of the Credit Application (“**Credit Approval**”), Foundation will inform Dealer as to which Credit Product is available, and which terms are available for such Credit Product. Once the Credit Product terms have been selected, Foundation will inform Dealer of the net amount that Foundation will agree to disburse to Dealer in connection with the respective Credit Transaction (the “**Net Disbursement Amount**”), based on the anticipated amount financed by the Credit Product (the anticipated “**Amount Financed**”).

The retail installment contracts (each, a “**RIC**”), promissory notes (each, a “**Promissory Note**”), credit applications, right-to-cancel acknowledgments, completion certificates (“**Completion Certificates**”), consumer disclosure documents, sales contracts, invoices, change orders, powers of attorney or other legal authorizations, and all other documents relating to a Purchase Transaction or Credit Transaction are referred to herein collectively as “**Transaction Documents**.” For each Credit Transaction, once all Improvements have been provided by Dealer, as determined by Foundation (“**Improvement Completion**”), and all applicable Transaction Documents have been submitted to Foundation by Dealer, as determined by Foundation, Foundation will review such Transaction Documents and determine whether to issue an approval to disburse the Net Disbursement Amount to Dealer (the “**Disbursement Approval**”). Foundation is not obligated to issue a Disbursement Approval or otherwise disburse funds to Dealer under these Terms and Conditions.

#### **1.1      Indirect Credit Product.**

Foundation offers a closed-end indirect Credit Product (the “**Indirect Credit Product**”). The Indirect Credit Product enables Consumers to finance the purchase of Improvements from Dealer through the execution of a RIC by and between each Consumer and Dealer. This Section 1.1 only applies to Dealer if Dealer is authorized by Foundation to access the Indirect Credit Product.

##### **1.1.1      Purchase of RICs.**

- 1.1.1.1      Subject to the provisions of these Terms and Conditions, Foundation will purchase executed RICs from Dealer. All purchases of RICs are made on a non-recourse basis, except as specifically provided in these Terms and Conditions.

1.1.1.2 Foundation and Dealer acknowledge and agree that the sale, assignment, transfer and/or negotiation of any RIC shall not become effective until the expiration of any time period prescribed by the federal Cooling-Off Rule (16 C.F.R. Part 429), or any other applicable federal, state, or local laws, regulations, ordinances, or other requirements, during which a Consumer has the right to rescind or cancel the Purchase Transaction or Credit Transaction. Upon Foundation's purchase of a RIC, Dealer will enter into its books and records evidence of the sale of such RIC.

1.1.1.3 Foundation is not obligated to purchase any RICs from Dealer.

#### 1.1.2 Repurchase of RICs.

1.1.2.1 In the event that Foundation determines that Dealer has breached or may breach any representation or warranty set forth in Section 4 of these Terms and Conditions with respect to one or more RICs purchased by Foundation, Dealer will repurchase each such RIC from Foundation within ten (10) calendar days after receiving a request from Foundation to repurchase one or more RICs (a "**Repurchase Request**").

1.1.2.2 For each RIC subject to repurchase, Dealer will pay to Foundation the Net Disbursement Amount, plus any related expenses and costs borne by Foundation, less any amounts paid to Foundation by Consumers (the "**RIC Repurchase Price**").

1.1.2.3 Dealer acknowledges and agrees that it will not raise any defense or excuse whatsoever for failing to repurchase a RIC after receiving a Repurchase Request, including any defense or excuse relating in any way to Dealer's operational, financial, or licensing status.

#### 1.2 Direct Credit Product.

Foundation offers a closed-end direct Credit Product (the "**Direct Credit Product**"). The Direct Credit Product enables Consumers to finance the purchase of Improvements from Dealer by obtaining a purchase money loan from Foundation ("**Loan**") through the execution of a Promissory Note by the Consumer in favor of Foundation. This Section 1.2 only applies to Dealer if Dealer is authorized by Foundation to access the Direct Credit Product.

##### 1.2.1 Origination of Loans.

1.2.1.1 Subject to the provisions of these Terms and Conditions, Foundation will originate Loans to Consumers and remit on their behalf the proceeds of such Loans to Dealer.

1.2.1.2 Foundation and Dealer acknowledge and agree that no Loan shall become effective until the expiration of any time period prescribed by the federal Cooling-Off Rule, or any other applicable federal, state, or local laws, regulations, ordinances, or other requirements, during which a Consumer has the right to rescind or cancel the Purchase Transaction or Credit Transaction. Upon Foundation's origination of a Loan, Dealer will enter into its books and records evidence of Foundation's origination of such Loan.

1.2.1.3 Foundation is not obligated to originate any Loans or remit the proceeds of any Loans to Dealer.

##### 1.2.2 Refund of Loan Proceeds.

1.2.2.1 In the event that Foundation determines that Dealer has breached or may breach any representation or warranty set forth in Section 4 of these Terms and Conditions with respect to one or more Loans originated by Foundation, Dealer will refund to Foundation the proceeds of each such Loan within ten (10) calendar days after receiving a request from Foundation to refund the proceeds of one or more Loans (a "**Refund Request**").

1.2.2.2 For each Loan subject to a refund of proceeds, Dealer will pay to Foundation the amount Foundation disbursed to Dealer in connection with the initial Loan origination, plus any related expenses and costs borne by Foundation, less any amounts paid to Foundation by Consumers (the "**Loan Refund Price**").

- 1.2.2.3 Dealer acknowledges and agrees that it will not raise any defense or excuse whatsoever for failing to refund Loan proceeds after receiving a Refund Request, including any defense or excuse relating in any way to Dealer's operational, financial, or licensing status.

## **Section 2. Program Terms.**

### **2.1 Program Documentation.**

The Program, the Platform, and all Credit Products are subject to these Terms and Conditions as well as all terms and conditions reflected in any of the following documents, in each case to the extent such documents (collectively, "**Program Documentation**") are officially authorized by Foundation and applicable to Dealer: (1) the "Program Terms and Promotions" document (or the effective equivalent thereof); (2) any other rate or term sheet; (3) any document reflecting Disbursement Approval Terms, as such term is defined in Section 2.6.3 of these Terms and Conditions (or the effective equivalent thereof); (4) training materials; (5) any other agreements by and between Foundation and Dealer; and (6) any other documents containing descriptions or requirements of the Program, the Platform, or any Credit Product. All Program Documentation may be modified by Foundation at any time.

### **2.2 Program Participation.**

Foundation is under no obligation to permit any person or entity to participate in the Program or any aspect thereof. Foundation may suspend, terminate, restrict, or modify in any way the terms of, any person's participation in the Program at any time for any or no reason.

### **2.3 Credit Approvals.**

- 2.3.1 All credit decisions are subject to Foundation's proprietary underwriting criteria, which are updated from time to time. Foundation may impose one or more underwriting stipulations as a condition of issuing a Credit Approval ("**Underwriting Stipulations**"), including but not limited to verifying aspects of the Purchase Transaction or Credit Transaction and requiring additional documentation or information from Dealer or Consumers to establish proof of income, homeownership, or identity.
- 2.3.2 Upon issuing a Credit Approval, Foundation will typically provide to Dealer a written notice containing information related to the Credit Approval and the Disbursement Approval ("**Approval Notice**"). All Credit Approvals are valid through the credit approval expiration date shown in the Approval Notice ("**Credit Approval Expiration Date**"). If for any reason an Approval Notice is not provided to Dealer, the Credit Approval Expiration Date will equal 180 days after the Credit Approval is issued, with the exception of Purchase Transactions that are limited to the sale and installation of water treatment products, in which case the Credit Approval Expiration date will equal 45 days after the Credit Approval is issued.
- 2.3.3 If Foundation does not issue a Disbursement Approval prior to the Credit Approval Expiration Date, Foundation may elect to cancel the Credit Transaction or apply additional approval conditions, including but not limited to re-underwriting the Credit Application or imposing Underwriting Stipulations. For the avoidance of doubt, Foundation may cancel any pending Credit Transaction upon the death of a Consumer.

### **2.4 Discounts.**

Foundation may adjust the amount to be disbursed to Dealer in connection with the purchase of a RIC, or the origination of a Loan, by applying one or more discounts to the Amount Financed (each, a "**Discount**"). Foundation and Dealer agree that Discounts are intended to enable the Consumer to obtain an interest rate (and Annual Percentage Rate) that is lower than what would have otherwise been available to the Consumer based on the Consumer's creditworthiness and risk of default. Dealer agrees to pay for such Discounts by contributing seller's points to Foundation at the time of disbursement, and agrees that such seller's points may be deducted from the amount disbursed to Dealer, and thereby reflected in the Net Disbursement Amount. Certain standard Discounts applied by Foundation are set forth below. Foundation may apply other Discounts pursuant to any agreement or arrangement between Foundation and Dealer.

#### **2.4.1 Promotion Discounts.**

In some cases, Foundation may provide Dealer with the option to reduce (or 'buy down') the interest rate charged to the Consumer, which will be reflected in a lower Net Disbursement Amount. Dealer will be able to determine how much to buy down the interest rate by selecting a corresponding "**Promotion Discount**" that will be applied

at the time funds are disbursed to Dealer. Promotion Discounts vary based on Credit Approval Tier and whether the Credit Product is subject to a Promotional Plan.

#### 2.4.2 Risk Discounts.

In some cases, Foundation may require Dealer to compensate Foundation for the risk that one or more Consumers will default on their payment obligations, which will be reflected in a lower Net Disbursement Amount. In such cases, where the interest rate made available to the Consumer is disproportionately lower than the rate that would otherwise correspond to the risk of credit default, Foundation will establish a “**Risk Discount**” that will be applied at the time funds are disbursed to Dealer. Risk Discounts vary based on Credit Approval Tier.

#### 2.5 Credit Approval Tiers.

Foundation assigns each approved application to a credit approval tier that is based on the creditworthiness of the applicant (“**Credit Approval Tier**”). The Credit Approval Tier determines the interest rates and Promotional Plans available to the applicant, as well as any Promotion Discounts that may be available. It also determines whether and to what extent Risk Discounts will be applied to the Credit Product.

#### 2.6 Disbursement.

- 2.6.1 For each Credit Transaction, Foundation will disburse a Net Disbursement Amount to Dealer in an amount equal to the Amount Financed less any applicable Promotion Discounts, Risk Discounts, other Discounts or fees set forth under the then-current Program Documentation, and any other amounts owed to Foundation, including amounts owed to Foundation in connection with any other Purchase Transactions or Credit Transactions.
- 2.6.2 Foundation will use commercially reasonable efforts to disburse funds to Dealer in connection with each Disbursement Approval within one (1) business day after receiving all applicable Transaction Documents from Dealer and issuing a Disbursement Approval. Unless otherwise determined by Foundation, Foundation will issue a Disbursement Approval no earlier than the date upon which substantial Improvement Completion occurs (the “**Improvement Completion Date**”), and only after receiving a valid Completion Certificate signed by a Consumer (indicating that all services are substantially complete, and the Consumers are satisfied with all Improvements). The date upon which Foundation disburses funds to Dealer in connection with a Disbursement Approval is referred to herein as the “**Disbursement Date**.”
- 2.6.3 Foundation will disburse funds in accordance with the terms and conditions of all applicable Program Documentation, including but not limited to any disbursement approval terms and conditions that are identified in each Approval Notice provided to Dealer (“**Disbursement Approval Terms**”), or that are otherwise expressly identified as “Disbursement Approval Terms.” A representative example of Disbursement Approval Terms is attached hereto for illustrative purposes only as Exhibit A.
- 2.6.4 Disbursement Approval is subject to Foundation’s due diligence procedures (“**Due Diligence Procedures**”), which include without limitation confirming the accuracy and completeness of all Transaction Documents received from Dealer, completing any Verification Communications deemed necessary by Foundation, confirming that any and all Underwriting Stipulations have been satisfied, and completing any other diligence activities deemed necessary by Foundation with respect to the Purchase Transaction and Credit Transaction.
- 2.6.5 If the terms of any Transaction Document are inconsistent with the terms of any other Transaction Document or the information provided to Foundation at the time of Credit Approval, or if any Transaction Document does not meet the specified terms agreed to by Dealer and Foundation, or if Foundation suspects that Dealer has not complied with any provision of these Terms and Conditions, Foundation may reject the Credit Transaction or establish additional conditions for issuing Disbursement Approval, including but not limited to re-underwriting the Credit Application, imposing one or more Underwriting Stipulations, completing additional due diligence activities, and applying or increasing a Risk Discount.
- 2.6.6 Foundation may disburse funds to Dealer directly or through a third-party intermediary, as determined by Foundation.

#### 2.7 Promotional Plans.

Foundation offers various promotional financing plans (“**Promotional Plans**”) to better address the needs of Consumers. A representative list of Promotional Plans is set forth below. Promotional Plans may be modified, terminated, or introduced at any time by Foundation.

- *Reduced Interest Rates*: a reduced interest rate is applied to the Credit Product for the entire term.
- *Same-As-Cash with Monthly Payments (SAC)*: Interest begins accruing upon substantial project completion, but is waived if the Amount Financed is paid in full before the end of the applicable promotional period. Monthly payments are not deferred.
- *Same-As-Cash with Deferred Monthly Payments (DEFSAC)*: Interest begins accruing upon substantial project completion, but is waived if the Amount Financed is paid in full before the end of the applicable promotional period. Monthly payments are deferred during the promotional period.
- *Deferred Payments (DEFPMT)*: Interest begins accruing upon substantial project completion, and is not waived. Monthly payments are deferred during the promotional period.
- *Equal Payments (EQLPMT)*: No interest accrues for the entire contract term. Monthly payments are not deferred.
- *No Payments-No Interest (NOP)*: Interest does not begin to accrue until after the applicable promotional period. Monthly payments are deferred during the promotional period.

## 2.8 Electronic Funds Transfer.

- 2.8.1 Dealer authorizes Foundation to make electronic funds transfers to and from Dealer’s designated deposit account by initiating credit and debit entries to such deposit account via the Automated Clearing House (ACH) network at such times determined by Foundation. Dealer authorizes Foundation to initiate credit entries for amounts due to Dealer under these Terms and Conditions. Dealer authorizes Foundation to initiate debit entries for any amounts disbursed to Dealer in error, and for any amounts owed by Dealer under these Terms and Conditions, including without limitation any and all amounts subject to RIC Repurchase Requests or Loan Refund Requests.
- 2.8.2 If Foundation is unable to successfully complete any ACH debit to Dealer’s designated deposit account, Dealer will be required to immediately make payment to Foundation for the full amount owed to Foundation, and Foundation will be entitled to pursue any and all remedies available under these Terms and Conditions to recover the full amount due to Foundation.

## 2.9 Electronic Documents and Signatures.

- 2.9.1 Foundation may permit Dealer to submit electronic copies of Transaction Documents and/or submit Transaction Documents that have been signed electronically. Foundation may grant or revoke such permission at any time.
- 2.9.2 If Dealer electronically submits scanned, copied, or faxed Transaction Documents to Foundation, Dealer must submit the original, signed Transaction Documents to Foundation within five (5) calendar days of the Disbursement Date. If the original Transaction Documents are not received within that timeframe, or if the original Transaction Documents differ in any way from the electronic versions upon which Foundation granted Disbursement Approval, or if Foundation has any other reason to suspect fraud or misrepresentation in connection with any Credit Transaction or Purchase Transaction, then Dealer agrees to repurchase the corresponding RIC or refund the corresponding Loan, as applicable, within five (5) calendar days of receiving a RIC Repurchase Request or Loan Refund Request, as applicable.
- 2.9.3 Transaction Documents submitted to Foundation by or on behalf of Dealer that are signed digitally or electronically, or otherwise signed through DocuSign or similar digital or electronic service accepted by Foundation, will have the same force and effect as if physically signed. Foundation has no duty to investigate the validity or due authorization of any digitally or electronically signed Transaction Document submitted by or on behalf of Dealer. All Transaction Documents submitted in any format other than paper by Dealer to Foundation shall have the same force and effect as the signed original.

## 2.10 Verification Communications.

In connection with each Credit Transaction, Foundation reserves the right to contact the Consumer via any communication method (including without limitation recorded telephone call, text message, push notification, email, postal mail, or courier service) to verify relevant information, including but not limited to the Consumer's personal information, the terms of the Credit Product, and the Consumer's satisfaction with the Improvements, the Purchase Transaction, and the Credit Transaction. All Disbursement Approvals are subject to Foundation engaging in and completing one or more such communications (each, a "**Verification Communication**") and receiving a response from the Consumer that it deems satisfactory.

#### 2.11 Program Restrictions.

The list of restrictions set forth in this Section 2.11 are referred to herein collectively as "**Program Restrictions.**" If Foundation determines that Dealer has not complied with these Program Restrictions, Foundation may reject the respective Credit Transaction or establish additional conditions for issuing Disbursement Approval, including but not limited to re-underwriting the Credit Application, imposing one or more Underwriting Stipulations, completing additional due diligence activities, and applying or increasing a Risk Discount.

- 2.11.1 Dealer is prohibited from submitting to Foundation any Credit Application for any Consumer who is an owner, principal, or employee of Dealer, or an immediate family member thereof.
- 2.11.2 Dealer is prohibited from enabling a Consumer to finance a Purchase Transaction through Foundation and one or more additional creditors to whom Dealer has submitted the Consumer's Credit Application (a so-called 'split ticket'), unless Dealer informs Foundation at the time of application of the intent to create a split ticket.
- 2.11.3 Dealer is prohibited from enabling a Consumer to reflect household income on a Credit Application without also including as a co-applicant the other household member responsible for contributing to such household income, unless Dealer informs Foundation at the time of application of the intent to reflect household income on the Credit Application while not including such other household member.
- 2.11.4 Dealer and all Affiliated Individuals are prohibited from being in the close proximity of any Consumer who is engaging in any Verification Communication, and from preparing Consumers for, participating in, monitoring, recording, or otherwise interfering with any Verification Communication.
- 2.11.5 Dealer is prohibited from creating an email account or email address for any Consumer, or providing any Consumer with access to an existing email account or email address, or gaining access to an existing email account or email address belonging to any Consumer, or obtaining the login credentials for an email account or email address belonging to any Consumer.
- 2.11.6 Dealer is prohibited from allowing any Consumer to obtain a Credit Product unless such Consumer will receive a tangible benefit from the Credit Product as either a buyer, borrower, co-buyer, or co-borrower.
- 2.11.7 Dealer will not accept any RIC payment or Loan payment in connection with a Credit Transaction for which Foundation has provided Disbursement Approval. If Dealer receives any such payment, Dealer will forward such payment to Foundation within three (3) business days of receipt.

### **Section 3. Dealer Obligations.**

Dealer covenants to satisfy at all times the obligations set forth in this Section 3.

#### 3.1 Dealer Registration.

- 3.1.1 Dealer will complete Foundation's Program registration process prior to accessing the Program, the Platform, or any Credit Product. Once the registration process is complete, Foundation will assign Dealer a Dealer Platform Account. In order to complete the Program registration process, Dealer must provide all information requested by Foundation related to Dealer's business, owners, principals, and officers, as well as any other relevant information requested by Foundation, including without limitation proof of insurance, proof of licensure, and all personally identifying information sufficient for Foundation to verify the identity of the owners, principals, and officers, and to perform background checks and obtain credit reports on the same. Such personally identifying information includes without limitation full name, date of birth, current and previous residential addresses, and Social Security Number. All information provided by Dealer as part of the registration process must be accurate, current, and complete.

- 3.1.2 If required by the state, city, county, or other municipality where Dealer is doing business or is located, Dealer must maintain a contractor's license or retail seller's license ("**Trade License**") that is active, valid, and in good standing. As part of the Program registration process, Dealer must provide Foundation with information sufficient to identify each Trade License held by Dealer, and the status thereof.
- 3.1.3 If required by the state, city, county, or other municipality where Dealer is doing business or is located, Dealer must maintain a license, registration, or notification required to execute RICs with Consumers or introduce Loans to Consumers ("**Financing License**"), as applicable, that is active, valid, and in good standing. As part of the Program registration process, Dealer must provide Foundation with information sufficient to identify each Financing License held by Dealer, and the status thereof.
- 3.1.4 If required by the state, city, county, or other municipality where Dealer is doing business or is located, Dealer must maintain a registration, qualification, or certification to transact business ("**Business Registration**") that is active, valid, and in good standing. As part of the Program registration process, Dealer must provide Foundation with information sufficient to identify each Business Registration held by Dealer, and the status thereof.
- 3.1.5 Dealer must maintain in good standing its registration with the Program, including by maintaining and promptly updating all information provided by Dealer as part of the Program registration process, and by providing any other relevant information to Foundation upon request.
- 3.1.6 Dealer is fully responsible for all acts and omissions of all employees, independent contractors, partners, owners, principals, officers, third party agents, and all other persons who act on behalf of Dealer (each, an "**Affiliated Individual**"). Prior to accessing the Program, the Platform, or any Credit Product, each Affiliated Individual must receive express authorization from Dealer to do so.

### 3.2 Authorization of Affiliated Individuals.

- 3.2.1 Prior to authorizing an Affiliated Individual to access the Program, the Platform, or any Credit Product, Dealer must first determine that such access is reasonably required by such Affiliated Individual in connection with the Affiliated Individual's professional responsibilities. Only Affiliated Individuals who have received express authorization from Dealer (each, an "**Authorized Individual**") may access the Program, the Platform, or any Credit Product. Only Authorized Individuals may access the Dealer Platform Account or any individual user account on the Platform (a "**User Platform Account**").
- 3.2.2 At any time, Foundation may request information related to any Authorized Individual, which may include personally identifying information sufficient for Foundation to verify the Authorized Individual's identity and to perform background checks and obtain credit reports on the Authorized Individual. Such personally identifying information includes without limitation full name, date of birth, current and previous residential addresses, and Social Security Number. All information provided by each Authorized Individual at any time must be accurate, current, and complete.
- 3.2.3 To the extent applicable, each Authorized Individual must hold all Trade Licenses, Financing Licenses, and Business Registrations (collectively, "**Licenses**") that are required by any state, city, county, or other municipality, and all such Licenses must be active, valid, and in good standing.
- 3.2.4 Foundation reserves the express and unilateral right to deny access to any Affiliated Individual whose identity it cannot verify or who has committed fraud, been convicted of any felony or any financial crime, has an open warrant for arrest, has not registered with the applicable licensing agency where required, is a debtor in an active bankruptcy proceeding, or has engaged in any other conduct that Foundation determines to be inconsistent with Program expectations.
- 3.2.5 Dealer is responsible for ensuring at all times that only Authorized Individuals are able to access the Program, the Platform, or any Credit Product, and any failure to satisfy this requirement at any time shall constitute a material breach of these Terms and Conditions by Dealer.

### 3.3 Information Maintenance and Security.

#### 3.3.1 Dealer Information.

- 3.3.1.1 Dealer will maintain and promptly update all information contained in the Dealer Platform Account, as well as any other information provided by Dealer to Foundation in connection



with establishing or maintaining the Dealer Platform Account, in order to ensure that all information is current, accurate, and complete.

- 3.3.1.2 Dealer will maintain all User Platform Accounts, which includes without limitation maintaining accurate phone numbers, email addresses, and other contact information. Dealer will promptly delete User Platform Accounts that are no longer associated with Dealer.
- 3.3.1.3 Dealer will maintain the security of the Dealer Platform Account and all User Platform Accounts (collectively, “**Platform Accounts**”), which includes without limitation securing all login credentials associated with all Platform Accounts. Dealer will ensure that all Authorized Individuals maintain the security of all Platform Accounts to which they have access.
- 3.3.1.4 Dealer is responsible for all use of its Platform Accounts and for any actions that take place using its Platform Accounts.
- 3.3.1.5 Dealer will comply with all terms and conditions governing the use of the Platform, its functionality, and its content.
- 3.3.1.6 Dealer will maintain accurate electronic payment instructions and deposit account information and immediately update the same as needed to ensure accurate payment processing. For the avoidance of doubt, any failure to satisfy this requirement could subject Dealer to immediate suspension or termination from the Program.
- 3.3.1.7 Dealer will inform Foundation of any change to the status of any of its Licenses within five (5) business days of such change.

### 3.3.2 Nonpublic Personal Information of Consumers.

- 3.3.2.1 Dealer will comply with any and all applicable data protection, privacy, or similar laws, regulations, and orders anywhere in the world, including but not limited to the federal Gramm-Leach-Bliley Act of 1999, as amended, and its implementing regulations (the “**GLBA**”), and all other laws, regulations, and orders that apply to the personal information of individuals (regardless of whether characterized as consumers, customers, employees, or any other designation), as any such laws, statutes, regulations, and orders may be amended from time to time (collectively, “**Data Protection Laws**”).
- 3.3.2.2 Dealer will maintain the privacy and confidentiality of “nonpublic personal information,” as such term is defined by the GLBA, of all Consumers who apply for or obtain a Credit Product (“**Program NPI**”). For the avoidance of doubt, Program NPI includes, without limitation: (1) any information a Consumer provides to Dealer or Foundation in connection with applying for or obtaining a Credit Product, (2) any information about a Consumer resulting from any transaction involving a Credit Product, (3) any information otherwise obtained about a Consumer in connection with a Credit Product being provided to the Consumer, and (4) any list, description, or other grouping of Consumers derived using any such information that is not publicly available.
- 3.3.2.3 Dealer will develop, implement, and maintain an information security program in accordance with the federal Safeguards Rule (16 C.F.R. Part 314) that includes physical, electronic, and administrative controls and safeguards to protect the privacy and confidentiality of Program NPI.
- 3.3.2.4 Dealer will use any and all Program NPI solely for the purpose of performing its duties and obligations under these Terms and Conditions and only in accordance with applicable law, including the federal Privacy Rule (12 C.F.R. Part 1016). Dealer will not use any Program NPI for marketing or cross-selling, and will not permit any disclosure, use, dissemination, or duplication of Program NPI to or by any other person or entity unless authorized in advance by Foundation in writing.
- 3.3.2.5 Dealer will limit access at all times to Program NPI to Authorized Individuals only.
- 3.3.2.6 Dealer will render such assistance and cooperation to Foundation as is reasonably necessary or requested by Foundation to ensure compliance with Data Protection Laws.

### 3.4 Improvements.

#### 3.4.1 Product and Service Quality.

- 3.4.1.1 Dealer will provide the Consumer with high-quality, high-value products and materials for market prices that are within industry standard guidelines and best suited to the Consumer's requests and needs.
- 3.4.1.2 Dealer will ensure that all products are carefully and properly assembled, installed, inspected, and adjusted to the appropriate specifications.
- 3.4.1.3 Dealer will provide the Consumer with high-quality, high-value services that are performed in a professional and workmanlike manner by knowledgeable, trained, and qualified personnel.
- 3.4.1.4 Dealer will ensure that all services are performed in compliance with all applicable laws, regulations, building codes, industry standards, and best practices.
- 3.4.1.5 Dealer will ensure that all necessary permits and authorizations are obtained and maintained in connection with providing the Improvements.

#### 3.4.2 Product and Service Warranty.

- 3.4.2.1 Dealer will furnish and install products and materials that are new and, where consistent with industry standards, include a manufacturer's warranty. Dealer will install all products and materials in accordance with the manufacturer's specifications to maintain warranty validity, and will provide the Consumer with all relevant warranty documentation.
- 3.4.2.2 Dealer will, at no cost to the Consumer, warrant to the Consumer that all services will be free from any defects in workmanship for a period of time that is consistent with industry standards.

#### 3.4.3 Site Inspections.

Foundation reserves the right to perform, or to engage a third party to perform, on-site inspections of any Improvements at any time for any reason. Dealer agrees to cooperate with such inspections, and to assist Foundation in scheduling and coordinating such inspections with Consumers, if requested by Foundation.

### 3.5 Advertising.

- 3.5.1 Dealer will comply at all times – and ensure that all Authorized Individuals comply at all times – with all terms, conditions, and requirements of Foundation's Dealer Advertising Guide (the "**Dealer Advertising Guide**"), as updated from time to time, which is hereby incorporated into these Terms and Conditions. A current copy of the Dealer Advertising Guide can be found at <http://www.foundationfinance.com/advertising-guide>.
- 3.5.2 Dealer will ensure that all Authorized Individuals, when discussing any aspect of the Program or any Credit Product with a Consumer, (1) clearly identify themselves and Dealer by name, (2) distinguish Dealer from Foundation and other financing providers, and (3) explain the distinction between the company providing goods and services and the company providing financing.
- 3.5.3 Dealer will not – and will ensure that all Authorized Individuals do not – misrepresent the contractual relationship between Foundation and Dealer, or claim or imply that Foundation and Dealer are commonly owned, controlled, or managed.
- 3.5.4 Dealer will obtain Foundation's approval prior to disseminating any written advertisements that refer to any aspect of the Program or any Credit Product, with the exception of pre-approved written advertisement templates made available by Foundation that Dealer does not modify.
- 3.5.5 Dealer will not use Foundation's name, logo, trademarks, or trade names, or refer to Foundation directly or indirectly, in any advertising or marketing materials, press release, or other publication, without the

prior written consent of Foundation. In the event that Foundation has granted such written consent, Dealer will comply with all requirements and limitations set forth by Foundation.

### 3.6 Training.

- 3.6.1 Dealer will comply at all times – and ensure that all Authorized Individuals comply at all times – with all terms, conditions, and requirements of Foundation’s Dealer Compliance Training Manual (the “**Dealer Compliance Training Manual**”), as updated from time to time, which is hereby incorporated into these Terms and Conditions. A current copy of the Dealer Compliance Training Manual can be found at <http://www.foundationfinance.com/compliance-manual>.
- 3.6.2 Dealer will periodically administer training to all Authorized Individuals that addresses compliance with laws, regulations, industry standards, and best practices with respect to the products and services Dealer provides to Consumers.
- 3.6.3 Dealer will periodically administer training to all Authorized Individuals that addresses compliance with all federal and state nondiscrimination laws applicable to Purchase Transactions and Credit Transactions, including without limitation the federal Equal Credit Opportunity Act (collectively, “**Nondiscrimination Laws**”).
- 3.6.4 Dealer will periodically administer training to all Authorized Individuals that addresses Foundation’s prohibition of transferring costs borne by Dealer in connection with the Consumer obtaining the Credit Product, including any costs related to Discounts or fees assessed by Foundation or any other party.
- 3.6.5 Dealer will periodically administer training to all Authorized Individuals that addresses best practices in handling Consumer complaints, including but not limited to promptly acknowledging complaints, obtaining sufficient complaint information, adequately documenting complaints, diligently investigating complaints, escalating complaints where appropriate, and timely resolving complaints.

### 3.7 Complaint Resolution.

- 3.7.1 Dealer will maintain written procedures for handling Consumer complaints, which will address, at a minimum, acknowledging, documenting, investigating, escalating, and resolving complaints.
- 3.7.2 Dealer will promptly notify Foundation of each Consumer complaint received by Dealer that is related to any Purchase Transaction (including any Improvement subject thereto) or Credit Transaction, regardless of whether such complaint is received from a Consumer or through any other party. If such complaint addresses any aspect of a Credit Transaction and is made in writing, Dealer will provide Foundation with a copy of any such written complaint within three (3) business days of receipt.
- 3.7.3 Dealer will promptly resolve all Consumer complaints related to any Purchase Transaction (including any Improvement subject thereto), regardless of whether such complaint is received from a Consumer or through any third party, including Foundation. For any complaint that addresses any aspect of a Credit Transaction, Dealer will cooperate with Foundation to reasonably assist in promptly resolving such part of the complaint that relates to the Credit Transaction.

### 3.8 Compliance.

Dealer will comply at all times with the letter and intent of all applicable federal, state, and local laws, regulations, ordinances, and other requirements. The compliance requirements below supplement and provide specificity with respect to this general obligation, but do not in any way replace or supersede it.

#### 3.8.1 Nondiscrimination.

- 3.8.1.1 Dealer will comply with – and ensure that all Affiliated Individuals comply with – all applicable Nondiscrimination Laws.
- 3.8.1.2 Dealer will not – and will ensure that all Affiliated Individuals do not – discriminate against any Consumers based upon race, color, religion, national origin, sex, sexual orientation, gender identity, military status, marital status, familial status, parental leave status, genetic information, age (provided the Consumer has the capacity to enter into a binding contract), income source, the fact that all or part of the Consumer’s income derives from any public

assistance program, the fact that the Consumer has in good faith exercised any right under the federal Consumer Credit Protection Act, or another basis prohibited by applicable law (each, a “**Prohibited Basis**”) when introducing any Credit Product or Promotional Plan to Consumers.

- 3.8.1.3 Dealer will take prompt and appropriate action to mitigate and remediate the effects of any violation of any Nondiscrimination Law by Dealer or any Affiliated Individual, and will promptly implement measures in response to any such violation to prevent future violations.
- 3.8.1.4 Dealer will promptly notify Foundation of any actual or alleged violation of any Nondiscrimination Law by Dealer or any Affiliated Individual.
- 3.8.1.5 Dealer will provide Foundation with all available information that Foundation requests related to marketing, advertising, and facilitating Purchase Transactions and Credit Transactions in order to assist Foundation in satisfying its compliance obligations related to Nondiscrimination Laws.

### 3.8.2 Cancellation Rights.

Dealer will comply with – and ensure that all Affiliated Individuals comply with – all applicable federal, state, and local laws, regulations, ordinances, and other requirements that provide Consumers with the right to cancel or rescind a Purchase Transaction or Credit Transaction (including but not limited to the federal Cooling-Off Rule), including without limitation by timely providing Consumers with all required cancellation notices and by honoring any good faith attempts to cancel or rescind a Purchase Transaction or Credit Transaction within the applicable timeframe.

### 3.8.3 Identity Theft Prevention.

Dealer will develop, implement, and maintain an identity theft prevention program that includes reasonable policies and procedures for detecting, preventing, and mitigating identity theft in accordance with the federal Red Flags Rule (16 C.F.R. Part 681). Dealer will immediately inform Foundation of any instance of suspected identity theft related to the Program.

### 3.8.4 No Cosigners.

Dealer will comply with – and ensure that all Affiliated Individuals comply with – the federal Credit Practices Rule (16 C.F.R. Part 444), including without limitation by ensuring that all Consumers who obtain a Credit Product receive a tangible benefit from the Credit Product as either a buyer, borrower, co-buyer, or co-borrower, and do not otherwise qualify as a “cosigner” as such term is defined under the Credit Practices Rule.

## 3.9 No Cost or Savings Transfer.

- 3.9.1 Dealer will not – and will ensure that all Authorized Individuals do not – increase the price of any Purchase Transaction, or the Amount Financed under any Credit Transaction, to account for any costs borne by Dealer in connection with the Consumer obtaining the Credit Product, including any costs related to Discounts or fees assessed by Foundation or any other party. Dealer will not – and will ensure that all Authorized Individuals do not – represent to any Consumer that any such costs borne by Dealer are included in the price of the Purchase Transaction or the Amount Financed under the Credit Transaction.
- 3.9.2 Dealer will not – and will ensure that all Authorized Individuals do not – communicate or otherwise reflect a lower price of any Purchase Transaction than the actual amount payable to Dealer, or a lower Amount Financed under any Credit Transaction than the actual Amount Financed under the Credit Transaction, for any reason, including but not limited to any assumption regarding savings attributable to tax benefits, manufacturer’s rebates, or modified energy consumption or production.

## 3.10 No Mechanic’s Liens or Other Encumbrances.

- 3.10.1 Dealer will not file, and will not communicate to the Consumer (either implicitly or explicitly) an intention to file, a mechanic’s lien, materialman’s lien, or laborer’s lien, or the effective equivalent (collectively, a “Mechanic’s Lien”) against the real property of a Consumer in connection with a Purchase Transaction or Credit Transaction.

- 3.10.2 Dealer will take all actions necessary to ensure that its suppliers, materialmen, subcontractors, and laborers do not file, record, serve (or cause to be filed, recorded, or served) a Mechanic's Lien against the real property of any Consumer in connection with a Purchase Transaction or Credit Transaction. Such actions include without limitation making timely payment to all suppliers, materialmen, subcontractors, and laborers for all goods, services, and labor furnished in connection with the Purchase Transaction or Credit Transaction, prior to the Disbursement Date.
- 3.10.3 If any Mechanic's Lien is filed by any party in connection with a Purchase Transaction or Credit Transaction, Dealer will immediately take steps to cause the extinguishment of such Mechanic's Lien, including by making any necessary payments. If Dealer fails to promptly take such action, Foundation reserves the right to take action to cause the extinguishment of the Mechanic's Lien, in which case Dealer will immediately reimburse Foundation for any payments made by Foundation in furtherance of extinguishing the Mechanic's Lien.
- 3.10.4 Dealer will not create or permit the creation of any other encumbrance that may adversely affect Foundation or any Consumer, including without limitation any lien, charge, financing statement, or security interest that attaches to any Improvement or any amounts disbursed (or intended to be disbursed) in connection with any Credit Transaction. Dealer is prohibited from engaging in any factoring arrangement (or the effective equivalent thereof) that results in the filing of a financing statement against any Improvement or any Disbursement proceeds.

### 3.11 Down Payments.

- 3.11.1 Dealer will only accept down payments made by cash, check, or electronic funds transfer, and will ensure that all down payments comply with all limitations imposed by state or federal law. Dealer will properly disclose all down payments in each respective Transaction Document, and will ensure that no down payment includes any manufacturer's rebate or any direct or indirect loan from Dealer or a manufacturer to a Consumer.
- 3.11.2 Although some jurisdictions may distinguish between down payments and progress payments in the context of home improvement sales or retail sales, the down payment reflected in the Truth-in-Lending disclosures of each RIC or Promissory Note must include all progress payments to be made by the Consumer in connection with the Credit Transaction.
- 3.11.3 If insurance proceeds are applied to a Purchase Transaction prior to consummation, and if the proceeds are disbursed by the insurance provider to the Consumer and thereafter paid to Dealer by the Consumer, Dealer will disclose such payment from the Consumer as a down payment in the respective RIC or Promissory Note. However, if such proceeds are disbursed by the insurance provider directly to Dealer, Dealer will not disclose such disbursement as a down payment in the respective RIC or Promissory Note.
- 3.11.4 Except for any down payment made by credit card, Dealer will not make any agreement with Consumer to separately finance any portion of the Purchase Transaction or to make any payments on behalf of a Consumer.

### 3.12 Insurance.

- 3.12.1 Dealer will maintain at all times the following insurance policies: (1) Commercial General Liability; (2) Business Automobile Liability; (3) Workers' Compensation; and (4) Employers' Liability.
- 3.12.2 If Dealer provides professional design, engineering, or other professional services (including design-build), Dealer will maintain at all times a Professional Liability/Errors and Omissions insurance policy that applies to such services.
- 3.12.3 Minimum coverage levels with respect to the insurance policies set forth above are as follows: (1) Commercial General Liability: \$2,000,000 in aggregate and \$1,000,000 per occurrence; (2) Business Automobile Liability: \$1,000,000; (3) Workers' Compensation: \$1,000,000; (4) Employers' Liability: \$1,000,000; and (5) Professional Liability/Errors and Omissions: \$1,000,000. Foundation may request proof of insurance for one or more of the policies identified above, and Dealer will provide satisfactory proof of insurance upon Foundation's request.

## **Section 4. Dealer Representations and Warranties.**

With respect to (1) each and every RIC sold or requested to be sold to Foundation, (2) each and every Loan originated by or requested to be originated by Foundation, and (3) each and every Purchase Transaction related thereto, Dealer represents and warrants that:

- 4.1 The Transaction Documents represent *bona fide* transactions in the ordinary course of Dealer's business that were consummated by each Consumer identified in such Transaction Documents.
- 4.2 All Transaction Documents are genuine, valid, and enforceable with respect to each party identified therein, including without limitation Dealer, Foundation, and each Consumer.
- 4.3 Dealer has good title to all applicable Transaction Documents, and has the right and authority to sell, assign, and transfer such Transaction Documents. Each Consumer has good title to the Improvements described in the Transaction Documents and Foundation will have a valid and perfected first priority security interest in such Improvements.
- 4.4 All Transaction Documents not prepared by Foundation contain all terms, disclosures, and notices required by applicable laws and regulations, and such Transaction Documents have been provided to each Consumer in the manner and form required by applicable laws and regulations.
- 4.5 All Transaction Documents signed by or on behalf of Dealer have been signed by an employee, owner, officer, agent, or other representative of Dealer who is authorized to bind Dealer to the respective Transaction Documents.
- 4.6 All signatures on the Transaction Documents are genuine and were made voluntarily, without any duress, undue influence, or coercion, and no signatures were made by any individual in the name of another individual.
- 4.7 Each individual who signed a Transaction Document was an adult and otherwise had the legal capacity to contract at the time of signing such Transaction Document. If any individual signed a Transaction Document on behalf of a Consumer, such individual was acting under a valid and enforceable power of attorney, guardianship, conservatorship, or other legally recognized authority that expressly or reasonably included the power to incur debt, enter into credit agreements, or otherwise financially obligate the Consumer.
- 4.8 No Transaction Document was altered after having been fully completed, and all Transaction Documents were fully completed at the time the Consumer signed them (including without limitation all dates, dollar amounts, numbers, and descriptions of goods and services).
- 4.9 Each Consumer received fully completed copies of all Transaction Documents in a timely manner, before and after the Transaction Documents were executed.
- 4.10 Dealer has submitted to Foundation fully completed copies of all Transaction Documents required or requested by Foundation in order to issue a Disbursement Approval (including without limitation a Completion Certificate signed by a Consumer that indicates that all services are substantially complete and the Consumers are satisfied with all Improvements), and the Transaction Documents have been duly signed by Dealer and Consumers.
- 4.11 If Dealer electronically submits scanned, copied, or faxed Transaction Documents to Foundation, Dealer will submit the original, signed Transaction Documents to Foundation within five (5) calendar days of the Disbursement Date, and there will be no difference in any way between the original Transaction Documents and the electronic versions.
- 4.12 There are no misrepresentations in the Transaction Documents and the facts, numbers, and other information set forth in the Transaction Documents are true, accurate, and complete. Dealer has no knowledge of any facts, falsehoods, inaccuracies, errors, or omissions not disclosed to Foundation that may impair any Consumer's creditworthiness or that would otherwise affect Foundation's credit decision.
- 4.13 The Purchase Transaction has been consummated – and all Transaction Documents have been executed – in compliance with all federal, state, and local laws, regulations, ordinances, and other requirements, and Dealer did not engage in any false, misleading, unfair, deceptive, or abusive acts or practices in connection with the Purchase Transaction or any Transaction Document.
- 4.14 Dealer reviewed a valid government-issued photo identification for each Consumer and confirmed that (1) the photograph on the identification reasonably resembled the respective Consumer, and (2) the signature on the

identification was substantially similar to the handwritten signatures of the respective Consumer on the Transaction Documents, if any.

- 4.15 Any down payment was made by cash, check, or electronic funds transfer, was properly disclosed in each respective Transaction Document, complied with all limitations imposed by state or federal law, and did not include any manufacturer's rebate or any direct or indirect loan from Dealer or a manufacturer to a Consumer.
- 4.16 If insurance proceeds were applied to the Purchase Transaction prior to consummation, and if the proceeds were disbursed by the insurance provider to the Consumer and thereafter paid to Dealer by the Consumer, Dealer disclosed such payment from the Consumer as a down payment in the respective RIC or Promissory Note. However, if such proceeds were disbursed by the insurance provider directly to Dealer, Dealer did not disclose such disbursement as a down payment in the respective RIC or Promissory Note.
- 4.17 Except for any down payment made by credit card, Dealer has not made and will not make any agreement with Consumer to separately finance any portion of the Purchase Transaction or to make any payments on behalf of a Consumer.
- 4.18 Dealer has not increased the price of the Purchase Transaction, or the Amount Financed under the Credit Transaction, to account for any costs borne by Dealer in connection with the Consumer obtaining the Credit Product, including any costs related to Discounts or fees assessed by Foundation or any other party. Dealer has not represented to any Consumer that any such costs borne by Dealer are included in the price of the Purchase Transaction or the Amount Financed under the Credit Transaction.
- 4.19 There is no fact, claim, counterclaim, or setoff related to the Purchase Transaction or Credit Transaction that would impair the validity, enforceability, or collectability of any obligation set forth in any Transaction Document.
- 4.20 There have been no representations or warranties made to any Consumer that are not contained in the Transaction Documents, other than a manufacturer's or Dealer's standard warranties, and in the event a manufacturer or Dealer breaches a standard warranty, Dealer will cure the breach within 15 days of notice of the breach.
- 4.21 Dealer and its Affiliated Individuals have complied with all Nondiscrimination Laws, including without limitation the federal Equal Credit Opportunity Act, and have not discriminated against any Consumers based upon a Prohibited Basis when introducing any Credit Product or Promotional Plan to Consumers.
- 4.22 All Improvements were provided by Dealer in accordance with one or more written sales contracts, and all Improvements were provided by Dealer for personal, family, or household purposes, not any business or commercial purpose.
- 4.23 The products and materials furnished by Dealer were carefully and properly assembled, installed, inspected, and adjusted to the appropriate specifications, and the services rendered by Dealer were performed in compliance with all applicable laws, regulations, ordinances, building codes, industry standards, and best practices.
- 4.24 At all relevant times, Dealer maintained all Trade Licenses, bonding, insurance, and permits required to provide the Improvements.
- 4.25 At all relevant times, Dealer maintained all Financing Licenses required to execute RICs with Consumers or introduce Loans to Consumers, as applicable.
- 4.26 All Improvements were accepted by each Consumer and no rescission or cancellation rights were exercised by any Consumer at any time.
- 4.27 No Consumer disputes any terms of the Purchase Transaction or Credit Transaction, or refuses to make any payments related thereto.
- 4.28 Dealer had full authority to sell the Improvements at the time of the Purchase Transaction.
- 4.29 The Improvements described in the Transaction Documents are free of all liens or other encumbrances, except for the security interest created by such Transaction Documents. Each Consumer has good title to the Improvements, and Foundation will have a valid and perfected first priority security interest in the Improvements.

- 4.30 Dealer has paid or will immediately pay all subcontractor and supplier invoices, and has taken all other actions necessary to ensure that its suppliers, materialmen, subcontractors, and laborers will not file, record, serve (or cause to be filed, recorded or served) a Mechanic's Lien against the real property of the Consumer in connection with the Purchase Transaction or Credit Transaction.
- 4.31 No Program Restrictions have been violated.

## **Section 5. Code of Conduct.**

This Section 5 (the "**Code of Conduct**") applies to Dealer and all Authorized Individuals, and Dealer covenants to satisfy at all times the obligations set forth in this Code of Conduct. Dealer will ensure that all Authorized Individuals (1) agree to comply with this Code of Conduct at all times and (2) comply with this Code of Conduct at all times. Under this Code of Conduct, Authorized Individuals will:

- 5.1 Comply with all terms, conditions, and requirements of the Dealer Compliance Training Manual and Dealer Advertising Guide, each as updated from time to time.
- 5.2 Conduct business with Foundation and Consumers on a legal, ethical, professional, fair, and equitable basis.
- 5.3 Maintain the security of all Platform Accounts to which they have access (including but not limited to securing all login credentials associated with such Platform Accounts) and comply with all terms and conditions governing the use of the Platform, its functionality, and its content.
- 5.4 Maintain the privacy and confidentiality of all Program NPI.
- 5.5 Hold all Licenses required by any state, city, county, or other municipality, and ensure that all such Licenses are at all times active, valid, and in good standing.
- 5.6 Ensure that all necessary permits and authorizations are obtained and maintained in connection with providing all Improvements.
- 5.7 Ensure that Consumers are provided with high-quality, high-value products and materials for market prices that are within industry standard guidelines and best suited to their requests and needs.
- 5.8 Ensure that all products are carefully and properly assembled, installed, inspected, and adjusted to the appropriate specifications.
- 5.9 Ensure that Consumers are provided with high-quality, high-value services that are performed in a professional and workmanlike manner by knowledgeable, trained, and qualified personnel.
- 5.10 Ensure that all services are performed in compliance with all applicable laws, regulations, building codes, industry standards, and best practices.
- 5.11 Ensure that fully completed copies of all Transaction Documents are provided to Consumers in a timely manner, before and after execution.
- 5.12 Ensure that fully completed copies of all Transaction Documents required or requested by Foundation are submitted to Foundation in a timely manner.
- 5.13 Ensure that no Transaction Document is altered after having been fully completed, and that all Transaction Documents are fully completed at the time the Consumer signs them.
- 5.14 Ensure that all signatures on the Transaction Documents are genuine and are made voluntarily, without any duress, undue influence, or coercion, and that no signatures are made by any individual in the name of another individual.
- 5.15 Ensure that Completion Certificates are presented to Consumers only after all services are substantially complete and the Consumers are satisfied with all Improvements.
- 5.16 Ensure that each Consumer is introduced to all Credit Products and Promotional Plans that Dealer customarily makes available to all other Consumers, and that each Consumer who receives a Credit Approval is presented



with all financing terms and options that Dealer customarily makes available to all other Consumers who receive a Credit Approval.

- 5.17 Ensure that all Consumer complaints are promptly and professionally resolved, and that Foundation is promptly notified of any Consumer complaint that addresses any aspect of a Credit Transaction.
- 5.18 NOT make any misrepresentation or engage in any acts or practices that could be construed as false, misleading, unfair, deceptive, or abusive with respect to Foundation or Consumers.
- 5.19 NOT create an email account or email address for any Consumer, or provide any Consumer with access to an existing email account or email address, or gain access to an existing email account or email address belonging to any Consumer, or obtain the login credentials for an email account or email address belonging to any Consumer.
- 5.20 NOT increase the price of any Purchase Transaction, or the Amount Financed under any Credit Transaction, to account for any costs borne by Dealer in connection with the Consumer obtaining the Credit Product, including any costs related to Discounts or fees assessed by Foundation or any other party.
- 5.21 NOT contradict any terms of the Program, the Platform, any Credit Product, any Credit Approval, or any Promotional Plan when communicating with Consumers.
- 5.22 NOT communicate or otherwise reflect a lower price of any Purchase Transaction than the actual amount payable to Dealer, or a lower Amount Financed under any Credit Transaction than the actual Amount Financed under the Credit Transaction, for any reason, including but not limited to any assumption regarding savings attributable to tax benefits, manufacturer's rebates, or modified energy consumption or production.
- 5.23 NOT discriminate against any Consumers based upon a Prohibited Basis when introducing any Credit Product or Promotional Plan to Consumers, and otherwise comply at all times with all applicable Nondiscrimination Laws.
- 5.24 NOT engage in any conduct that could be construed as a form of exploitation or abuse of any elderly individuals, and otherwise comply at all times with all laws concerning the protection of elderly individuals.
- 5.25 Comply at all times with all Program Restrictions.
- 5.26 Comply at all times with the letter and intent of all applicable federal, state, and local laws, regulations, ordinances, and other requirements.
- 5.27 Comply at all times with all provisions of these Terms and Conditions that refer to, require, infer, or imply compliance by Affiliated Individuals.

## **Section 6. Remedies.**

### **6.1 Remedies Generally.**

The remedies set forth in this Section 6.1 apply to any breach of these Terms and Conditions by Dealer. They are cumulative and not in the alternative, and do not in any way limit other rights or remedies that may be available to Foundation under these Terms and Conditions or in law or equity. Upon determining that Dealer has breached or may breach any provision of these Terms and Conditions, Foundation may take any of the following actions set forth below.

- 6.1.1 Foundation may limit Dealer's access to the Program, the Platform, any Credit Product, any Promotional Plan, or any other program or product offered by Foundation.
- 6.1.2 Foundation may require Dealer to satisfy additional or more stringent requirements as a condition of retaining access to the Program, the Platform, any Credit Product, or any Promotional Plan.
- 6.1.3 Foundation may apply additional requirements or restrictions to Credit Transactions involving Dealer, including without limitation by engaging in more frequent and extensive information verification, by requesting more documentation, and by performing site inspections.
- 6.1.4 Foundation may subject Dealer's activity under the Program to additional or enhanced due diligence and monitoring processes.

- 6.1.5 Foundation may temporarily suspend Dealer's access to the Program and condition reinstatement on the satisfaction of various requirements.
- 6.1.6 Foundation may permanently terminate Dealer's access to the Program.
- 6.1.7 Foundation may temporarily or permanently halt any or all disbursements of funds to Dealer.
- 6.1.8 Foundation has the right to set off any liability or amount owed to Foundation by Dealer against any liability or amount owed to Dealer by Foundation, without prior notice to Dealer. Foundation's right of setoff may be exercised at any time and as often as necessary, whether or not the respective liabilities or amounts are due and payable. For the avoidance of doubt, under this right of setoff, Foundation may hold back all or any part of any amount otherwise intended to be disbursed to Dealer, including without limitation the entire Net Disbursement Amount for one or more Credit Transactions, to the extent and as long as Dealer is indebted to Foundation under these Terms or Conditions, any other agreement between Dealer and Foundation, or otherwise.
- 6.1.9 Foundation may pursue any and all legal remedies available to Foundation in law or equity, including by taking legal action against Dealer, and in such event Dealer will pay all actual attorneys' fees, court costs, and other reasonable expenses incurred by Foundation in connection with pursuing such legal remedies.
- 6.1.10 Foundation and Dealer acknowledge and agree that Dealer's breach of these Terms and Conditions could cause irreparable harm to Foundation for which monetary damages may be an inadequate remedy or difficult to ascertain. Foundation and Dealer therefore agree that Foundation has the right to seek injunctive relief for any violation of these Terms and Conditions, in addition to all other rights and remedies, and in such event Dealer will pay all actual attorneys' fees, court costs, and other reasonable expenses incurred by Foundation in connection with seeking such injunctive relief.
- 6.1.11 Dealer agrees to waive any and all claims for damages against Foundation, including but not limited to the loss of anticipated profits, resulting from any action taken by Foundation to enforce its rights and remedies under these Terms and Conditions.

## 6.2 Breach of Representation or Warranty.

The remedies set forth in this Section 6.2 apply to any breach by Dealer of any representation or warranty made under Section 4 of these Terms and Conditions. They are cumulative and not in the alternative, and do not in any way limit other rights or remedies that may be available to Foundation under these Terms and Conditions or in law or equity. Upon determining that Dealer has breached or may breach Section 4 of these Terms and Conditions, Foundation may take any of the following actions set forth below.

- 6.2.1 If the breach has occurred or may occur prior to Foundation's purchase of a RIC or origination of a Loan, Foundation may reject or otherwise modify the terms of the Credit Transaction without notice.
- 6.2.2 If the breach has occurred or may occur after Foundation's purchase of a RIC or origination of a Loan, Foundation may require Dealer to repurchase the RIC or refund to Foundation the proceeds of the Loan, as applicable. If the breach relates to suspected fraud or misrepresentation, or otherwise relates to a breach of Section 4.11, Dealer will have five (5) calendar days after receiving the corresponding Repurchase Request or Refund Request to repurchase the RIC or refund the Loan proceeds to Foundation, unless Foundation expressly permits a longer period of time in connection with such breach. For any breach that does not relate to suspected fraud or misrepresentation, Dealer will have ten (10) calendar days after receiving the corresponding Repurchase Request or Refund Request to repurchase the RIC or refund the Loan proceeds to Foundation, unless Foundation expressly permits a longer period of time in connection with such breach.
- 6.2.3 Foundation may provide Dealer with the ability to cure any breach of Section 4 in order to avoid the rejection of a Credit Transaction, the repurchase of a RIC, or the refund of Loan proceeds. In such event, Foundation will expressly communicate the terms upon which Dealer may cure the breach, including the period of time allotted to Dealer to effectuate such cure.
- 6.2.4 Dealer consents to the entry of a stipulated judgment in favor of Foundation in the amount of the RIC Repurchase Price or Loan Refund Price, as applicable, if Dealer fails to satisfy its obligation to repurchase any RIC or to refund the proceeds of any Loan. For the avoidance of doubt, the costs and expenses included in the RIC Repurchase Price and Loan Refund Price will include actual attorneys'

fees, court costs, and other reasonable expenses incurred by Foundation in connection with pursuing the entry of the stipulated judgment. Foundation and Dealer acknowledge and agree that this provision does not serve as a penalty and is intended to facilitate an expedited resolution of a breach of these Terms and Conditions and to reduce the costs associated with litigation. Once entered, the stipulated judgment will be final and binding upon Dealer, and not subject to appeal.

## **Section 7. Indemnification.**

Dealer will be liable to and will indemnify and hold harmless Foundation, its successors and assigns, and each of their respective officers, directors, agents, and employees (the “**Indemnified Parties**”) from and against any loss, cost, damage and expense (including attorneys’ fees) arising out of or resulting from (1) any action by Foundation to enforce the provisions of this Agreement; (2) the breach of any of Dealer’s representations, warranties, or covenants under these Terms and Conditions; (3) a Consumer’s cancellation of or attempt to cancel a Credit Transaction; (4) any claim by any Consumer against Foundation that a Consumer may have against Dealer as a defense, counterclaim, setoff, recoupment, or otherwise; (5) any direct claim by any Consumer against Foundation, by suit or otherwise, which could be or could have been asserted against Dealer; (6) any claim resulting from Dealer’s failure to comply with the Cooling-Off Rule, Safeguards Rule, Privacy Rule, Red Flags Rule, or Credit Practices Rule; (7) the Transaction Documents, including but not limited to any documents pertaining to warranties or service agreements. Dealer’s liability and indemnity obligations for Transaction Documents do not apply to the form of any Transaction Document provided by Foundation, but do apply to any acts or omissions of Dealer or its officers, employees, or agents related to the use or completion of any such Transaction Document, including but not limited to (a) Dealer’s failure to properly complete any such Transaction Document or deliver copies thereof to Consumers, (b) the inaccuracy or incompleteness of any information contained in any Credit Application, (c) the failure by Dealer to provide Improvements in accordance with the terms contained in the Transaction Document, and (d) any product liability or warranty claims relating to any Improvements. In addition, Dealer will be liable to and will indemnify and hold harmless the Indemnified Parties from any and all claims, defenses, counterclaims, cross claims, and right to setoff of demands that allege facts that would constitute a breach of any of the representations or warranties in Section 4 of these Terms and Conditions.

## **Section 8. Modification.**

These Terms and Conditions may be modified at any time by Foundation. A copy of the revised Terms and Conditions will be made available to Dealer upon revision. In the event that Dealer does not agree to the modified Terms and Conditions, Dealer or Foundation may terminate the Dealer Agreement and these Terms and Conditions as either party deems necessary. By continuing to participate in the Program after the Terms and Conditions have been modified, Dealer agrees to comply with and be subject to the then-current version of such Terms and Conditions, including any addenda thereto, and any documents referenced therein. Any modification to these Terms and Conditions does not affect Credit Transactions that were completed prior to the modification. These Terms and Conditions terminate, supersede, and replace any and all prior negotiations, understandings, representations, discussions, and agreements, whether written or oral, express or implied, that relate in any way to the subject matter of these Terms and Conditions.

## **Section 9. Waiver.**

Dealer acknowledges and agrees that Foundation may grant extensions of time or make compromises with Consumers obligated under Credit Transactions without affecting Dealer’s liabilities hereunder. Dealer waives all notices, protests, and demands to which Dealer may otherwise be entitled to by law with respect to any Credit Transaction. The failure of Foundation or Dealer to exercise any right under these Terms and Conditions does not operate as a waiver of any right, and all rights and remedies under these Terms and Conditions are cumulative and not in the alternative.

## **Section 10. Governing Law and Venue.**

These Terms and Conditions between Foundation and Dealer are governed by and shall be construed according to the internal laws of the State of Wisconsin. This contract is made in Marathon County, Wisconsin. Unless precluded by statute or other law, any legal action deemed necessary by any party will be brought in the Circuit Court in and for Marathon County, Wisconsin, and Foundation and Dealer consent to the personal jurisdiction of that court. If Dealer is brought in as a third party in a legal action by Foundation against a Consumer, Dealer consents to the jurisdiction of the court where the legal action is brought, or such other appropriate venue as determined by Foundation.

## **Section 11. Assignment.**

Dealer may not assign the Dealer Agreement or these Terms and Conditions without the prior written consent of Foundation, and any purported assignment without such consent shall be null and void. Foundation may assign the Dealer Agreement, these Terms and Conditions, and any of the rights or obligations thereunder at any time. In the event

of any such assignment, the assignee shall have the same rights and remedies as Foundation under these Terms and Conditions. Otherwise, these Terms and Conditions are binding upon the parties, and inure and bind their respective successors and assigns, including without limitation any company associated with Dealer which may transact business hereunder.

## **Section 12. Term and Termination.**

The Dealer Agreement and these Terms and Conditions become effective on the date Foundation approves Dealer's participation in the Program, and remain effective until either party gives the other party written notice of its decision to terminate the Dealer Agreement or these Terms and Conditions. Either party may terminate the Dealer Agreement and these Terms and Conditions immediately by giving written notice to the other party. Termination of the Dealer Agreement and these Terms and Conditions will not affect the rights or obligations of either party with respect to any acts or omissions that occurred prior to such termination, or with respect to any provisions that by their nature survive termination.

## **Section 13. Notices.**

All demands and notices hereunder must be in writing and may be delivered via U.S. mail, overnight courier service, or email. Notices will be deemed to have been duly given three (3) business days from the date of mailing by U.S. mail, one (1) business day from the date of mailing by an overnight courier service, and the same business day on which notice is sent via email. Notices to Foundation may be sent to the address set forth below or to such other address or email address as Foundation may provide to Dealer for such purpose. Notices to Dealer may be sent to any address or e-mail address associated with Dealer that Foundation has on file. Dealer will notify Foundation of any change in trade name, place of business, or ownership at least thirty (30) days in advance of such change.

If to Foundation:                      Foundation Finance Company  
  10101 Market Street, Suite B100  
  Rothschild, WI 54474  
  Attention: Legal Department

## **Section 14. Dealer Communication.**

Dealer agrees to receive transactional and marketing communications, as well as Program updates, from Foundation via e-mail, fax, text message, U.S. mail, or phone. Dealer acknowledges and agrees that any calls between Foundation and Dealer may be recorded for quality assurance and other legitimate business purposes.

## **Section 15. Independent Contractors.**

Foundation and Dealer are independent contractors, and nothing in these Terms and Conditions shall be construed to establish a partnership, joint venture, employer-employee relationship, or agency relationship, or other form of business association between Foundation and Dealer. Neither party has the authority to speak for, commit, or bind the other party.

## **Section 16. Miscellaneous.**

The headings, titles, and captions provided in these Terms and Conditions are included for convenience only and shall not affect the meaning or interpretation of this Agreement. Unless expressly stated otherwise in these Terms and Conditions, any determination, approval, decision, election, modification, or other action that Foundation is permitted or required to make under these Terms and Conditions may be made in Foundation's sole discretion. Dealer's obligations hereunder are binding upon each of Dealer's affiliates, subsidiaries, franchisees, or other related entities under Dealer's control or within its corporate network that receive the benefit of, or participate in, the activities contemplated under these Terms and Conditions. Such obligations are enforceable against each such entity as if such entity were a direct party to these Terms and Conditions. If any provision of these Terms and Conditions is found to be illegal, invalid, or unenforceable by any court of competent jurisdiction, the remaining provisions of these Terms and Conditions shall continue in full force and effect. Where at all possible, the ineffective provision shall be modified to the extent necessary to render it valid and enforceable while preserving the intent of the parties.

## **Exhibit A**

### **Disbursement Approval Terms**

These Disbursement Approval Terms are applicable to each Disbursement Approval, unless otherwise specified by Foundation. If Dealer fails to comply with any of these Disbursement Approval Terms, Foundation may reject the Credit Transaction or establish additional conditions for issuing Disbursement Approval, including but not limited to re-underwriting the Credit Application, imposing one or more Underwriting Stipulations, completing additional due diligence activities, and applying or increasing a Risk Discount. Capitalized terms used herein have the meaning assigned to them in the Dealer Agreement Terms and Conditions.

- 1) **Expiration of Credit Approval:** The Credit Approval is only valid through the Credit Approval Expiration Date. Dealer must obtain Disbursement Approval from Foundation prior to the Credit Approval Expiration Date.
- 2) **Licenses, Permits, and Insurance:** Dealer must obtain and maintain all Trade Licenses, Financing Licenses, bonding, insurance, and permits required to provide the Improvements and facilitate the Credit Transaction.
- 3) **Bid Percentage and Discounts:** The “Bid %” refers to the Net Disbursement Amount (reflected as a percentage of the Amount Financed) that Foundation will disburse to Dealer upon substantial project completion. Dealer is prohibited from increasing the price of the Purchase Transaction, or the Amount Financed under the Credit Transaction, to account for any costs related to Discounts or fees assessed by Foundation or any other party. If Dealer has selected a Promotional Plan that is subject to a Promotion Discount, the Promotion Discount will be applied IN ADDITION to any applicable Risk Discount.
- 4) **Due Diligence Procedures:** All Disbursement Approvals are subject to Foundation's Due Diligence Procedures, which include Verification Communications between Foundation and the Consumer. All information provided by Dealer to Foundation must be accurate, including all information contained in the Credit Application and all other Transaction Documents. Foundation may require Dealer to provide copies of any Transaction Documents at any time.
- 5) **Split Tickets:** Dealer is prohibited from submitting split ticket Credit Applications to Foundation unless Dealer informs Foundation at the time of application of the intent to create a split ticket.
- 6) **Household Income:** Dealer is prohibited from submitting a Credit Application to Foundation that reflects household income but does not also include as a co-applicant the other household member responsible for contributing to such household income, unless Dealer informs Foundation at the time of application of the intent to reflect household income on the Credit Application while not including such other household member.