

Preferred Dealer Agreement

myAutoloan.com

This Preferred Dealer Agreement ("Agreement") is made and entered into effective this _____ day of _____, _____ (the "Effective Date"), by and between myAutoloan.com ("MAL"), a Texas Limited Liability Company with its principal place of business at 5005 W Royal Lane, Suite 209 Irving TX 75063 and _____, a _____ corporation with its principal place of business at _____ ("Dealer").

Recitals

Whereas, MAL and Dealer desire to enter into an arrangement whereby MAL will provide Preferred Dealer Leads as more fully described herein;

Whereas, Dealer desires to receive such Leads;

Now, therefore, in consideration of the mutual benefits to be derived from this arrangement, the promises, agreements, representations, warranties and covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, MAL and Dealer hereby agree as follows:

Section 1: Definitions

As used in this Agreement and in any Addenda to this Agreement, the following Terms have the identified meanings, whether used in the singular or plural:

1.1 Approved Lead. A Lead for which the financing has been prearranged through MAL for the purchase of an automobile or light duty truck.

1.2 Duplicate Lead. A Lead that MAL has previously supplied to the Dealer within the preceding 30 days.

1.3 Flipped Lead. An Approved Lead who arrives at the Dealer's place of business with financing prearranged through MAL and who is offered, or accepts, alternative financing offered or suggested by the Dealer to replace the financing prearranged through MAL.

1.4 Invalid Lead. A Lead that is a Duplicate Lead or one that contains falsified or fictitious information.

1.5 Law(s). All federal, state and local laws, rules, and regulations that are in effect at the time of this Agreement that become effective during the Term of this Agreement including without limitation, all consumer protection laws, the federal Truth-in-Lending Act ("TILA"), the Equal Credit Opportunity Act ("ECOA"), the Fair Credit Reporting Act ("FCRA"), the Fair Debt Collection Practices Act ("FDCPA") and the Gramm-Leach-Bliley Act ("GLBA") and each of their respective implementing regulations.

1.6 Lead. A potential customer inquiry obtained by, or made available through, MAL or its website(s) relating to the purchase of an automobile or light duty truck that meets the following requirements: (i) the inquiry must have been made by the potential customer on his or her own behalf; (ii) the Lead is provided as an exclusive lead to Dealer based on the zip code range selected by the Dealer under the terms of this Agreement; and (iii) the Lead is not a Duplicate Lead.

1.7 Month. A calendar month.

1.8 Party or Parties. MAL and/or Dealer.

1.9 Preferred Dealer. A Dealer who has executed the Agreement in order to receive the Preferred Dealer Leads.

1.10 Non-Approved Lead. A Lead made available to Dealer by MAL where MAL has not prearranged for financing.

Section 2: Products

2.1 Preferred Dealer Product. A Preferred Dealer shall receive a potential customer's contact information and Approved Leads and Non-Approved Leads as set forth in the Preferred Agreement and Order Form. As a Preferred Dealer, Dealer agrees to: (i) treat all customers with respect and in a professional and courteous manner; (ii) personally contact all leads within 4 business hours; (iii) comply with all Laws; (iv) not Flip or attempt to Flip, Approved Leads; and (v) report immediately to MAL any customer issues arising from Approved Leads and Non-Approved Leads provided to Preferred Dealer that may negatively affect Preferred Dealer or MAL.

Section 3: Method of Delivery

MAL may, in their sole discretion, provide potential customer contact information to Preferred Dealers or application information to Dealers via (i) MAL's Preferred Dealer User Interface ("PDP UI") tool, (ii) Dealers email, or (iii) another CRM tool of Dealer's choosing, provided that: (i) Dealer's systems are capable of receiving and maintaining such information in a password-protected medium; and (ii) Dealer's systems are capable of receiving information in the format provided by MAL without modification by MAL. To the extent Dealer chooses to receive and manage potential customer contact information via a CRM tool other than MAL's PDP UI, Dealer agrees to notify MAL immediately of any changes to such CRM tool that may impact a Dealer's ability to receive or manage such information.

Section 4: Representations and Warranties

4.1 Compliance with Law(s). Each Party shall comply with all Laws and regulations applicable to the transactions contemplated by this Agreement.

4.2 Qualification and Authority. Each Party is duly organized, validly existing, qualified and authorized to transact business in, and is in good standing under the Laws of the jurisdiction of its organization and each jurisdiction in which it performs or will perform its obligations under this Agreement. Each Party has the power, authority and legal right to execute, deliver, and perform this Agreement and the transactions contemplated hereunder.

4.3 Dealer Equipment. Dealer shall cooperate in good faith in the administration of this Agreement, including making appropriate personnel available to MAL and maintaining online, at all times, adequate and compatible telephone, facsimile, computer and peripheral equipment.

4.4 Dealer Information. Dealer shall have sole responsibility for providing MAL with any and all information necessary for the provision of Products hereunder, including but not limited to notifying MAL in writing in the event that there is a change of name, ownership, address and/or all other circumstances that would affect the terms of this Agreement.

4.5 Dealer Warranties. Dealer hereby represents and warrants that: (i) it has the contractual and legal right to provide the information provided under this Agreement to MAL; (ii) such information is true and correct in all respects; (iii) its provision of such information to MAL does not violate or infringe any third party proprietary or personal rights; and (iv) with respect to any communication Dealer has with customers and potential customers as a result of the activities contemplated in this Agreement, Dealer will convey only accurate information to such customers and potential customers and will, at no time, represent that Dealer acts for, or on behalf of, MAL.

4.6 MAL Warranties. MAL represents and warrants as follows: (i) it will provide the Products in a professional manner; (ii) it will transmit all information obtained from, or about, Leads in as accurate and complete a manner as it has received such Leads, and will not misrepresent or falsify any information obtained from Leads to the best of its knowledge; and (iii) it has in place, and will continue to maintain, a commercially reasonable level of physical, electronic, and procedural safeguards that, at a minimum, comply with federal regulations, to guard any nonpublic personal information in MAL's possession.

Section 5: Privacy and Data Security

5.1 Privacy. Each Party represents that it will adopt and maintain a comprehensive privacy policy with respect to its handling of consumer information received or submitted under this Agreement. The Parties each agree to comply with all privacy and data protection Laws, rules and regulations as applicable now and in the future. Without limiting the generality of the preceding sentence, the Parties each agree to implement and maintain appropriate safeguards to protect nonpublic personal information that the Parties receive pursuant to the terms of this Agreement and that they will not use or disclose to any other party any nonpublic personal information so received except as permitted by applicable law. For purposes of this Agreement, the terms "nonpublic personal information" and "financial institution" shall have the meanings set forth in Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. Section 6809) and implementing regulations thereof. The provisions contained in this Agreement shall survive the termination or expiration of the Agreement, by the expiration of time, by operation of law, or otherwise

5.2 Information Security Program. Each Party represents that it has developed, implemented and will maintain effective information security policies and procedures that include administrative, technical and physical safeguards designed to: (i) ensure the security and confidentiality of information received or submitted as part of a Lead; (ii) protect against anticipated threats or hazards to the security or integrity of such information; and (iii) protect against unauthorized access or use of such information. All personnel handling such information will be trained in the implementation of each Party's information security policies and procedures. Each Party regularly audits and reviews its information security policies and procedures to ensure their continued effectiveness and determines whether adjustments are necessary in light of circumstances including, without limitation, changes in technology, customer information systems or threats or hazards to stored information.

5.3 Password Protection. To permit Dealer access to information through MAL's systems, MAL may, upon Dealer's request, make system passwords available to Dealer. Dealer understands and agrees that: (i) Dealer shall have the sole responsibility of securing the passwords; (ii) Dealer shall immediately notify MAL upon the resignation or termination of any employee to whom a password has been made available; and (iii) Dealer assumes all responsibility, including liability for any financial or other damage to MAL, and any individual or business that is caused by the misuse of a password by Dealer or a Dealer employee or agent.

Section 6: Confidentiality

6.1 Proprietary Information. During the term of this Agreement, the Parties may provide each other with information, whether in writing or verbally, concerning each Party or its related entities that is proprietary to such Party, including, but not limited to, past, current or possible future products, services, projects, business operations, marketing ideas, objectives, methodology, strategy, financial data and results, competitive advantages and disadvantages, processes, technology, specifications, and trade secrets ("Proprietary Information").

6.2 Non-Disclosure of Propriety Information. Except as otherwise provided in this Agreement, each Party agrees it will not, without the other Party's prior written consent: (i) disclose the specific terms of this Agreement, except that either Party may make such disclosures as appropriate to its related entities, prospective investors, auditors, consultants, or regulatory agencies, or as compelled by Law; or (ii) disclose to any third-party any Proprietary Information of the other Party, except as required by law, or to perform its obligations under this Agreement, or with the express written consent of the other Party. Each Party also agrees, upon the request of the other Party, to return or destroy any such Proprietary Information upon expiration or termination of this Agreement.

Section 7: Payment Terms

7.1 Pricing. Dealer shall pay MAL all fees and charges (“Fees”) for the Products in the amounts set forth in this Agreement and Addendum A. Dealer understands that Dealer’s payment obligation shall apply even to those Leads that MAL provides or attempts to provide to Dealer through a CRM tool other than the MAL PDP UI tool but which Dealer is unable to access in such other CRM tool for any reason whatsoever, provided such Leads are accessible through the MAL PDP UI tool.

7.2 Payment. Except as provided herein, all Fees are non-refundable and shall be payable in accordance with the payment terms of this Agreement. MAL shall transmit Invoices to Dealer on a periodic basis (either weekly or monthly in MAL’s sole discretion). Payment shall be due and payable no later than 10 days after the date of the Invoice. Dealer shall make all payments due hereunder by check, electronic or debit authorization in immediately available funds to the account(s) designated by MAL. If Dealer believes that the Invoiced amount includes charges for Duplicate Leads or Invalid Leads, Dealer may suspend payment for the Fees attributable to such Disputed Leads **only if** Dealer disputes the Invoiced amount to MAL, in writing, before the due date for payment of the Invoice. Dealer understands and agrees that, in order for the Dealer’s payment obligation to be suspended, the dispute must: (i) be in writing; (ii) specifically identify the disputed amount; and (iii) specifically identify the Leads that Dealer believes to be Duplicate Leads and/or Invalid Leads. Prior to the end of the next payment period, MAL shall investigate the dispute and report the results of such investigation to Dealer. Dealer and MAL shall work cooperatively to resolve such dispute. If the dispute cannot be resolved by the Parties on a cooperative basis, it shall be resolved in the manner provided for in this Agreement. Any amounts not paid when due shall be assessed interest at a monthly rate equal to the lesser of one and one half percent (1.5%) or the maximum rate allowed by law from the date the payment was due. Dealer authorizes MAL to electronically debit Dealer’s account for any amounts that are 30 days past due; such debits shall include any unpaid accrued interest resulting from Dealer’s nonpayment. All electronic debits shall be processed through the Automated Clearing House program. MAL’s automatic debit rights under this section shall survive the termination of this Agreement. MAL may, in its sole discretion, suspend services to Dealer if payments are more than 10 days past due, and may convert such accounts into a pay-in-advance billing status. If AML commences legal proceedings to collect any payment due it under this Agreement, Dealer agrees to pay all costs and attorneys’ fees incurred by MAL in any successful action for the recovery of such amounts.

7.3 Dealer Costs. Dealer shall have the sole responsibility for the costs, expenses and deployment of any interconnection, installation and testing necessary to utilize the Leads provided herein. In no event will the untimely installation or faulty non-operation of Dealer’s equipment relieve Dealer of its obligation to pay any amounts due for any Leads.

7.4 Deposit. MAL reserves the right, in its sole discretion, to require a deposit, letter of credit or similar surety as a condition of the initial provision of any services hereunder or, in the event MAL has suspended services for nonpayment, for the resumption of such services. MAL may also require a deposit, letter of credit or similar surety as a condition of continued provision of services if: (i) Dealer’s payments are repeatedly overdue; or (ii) there is, in the sole discretion of MAL, a material and adverse change to Dealer’s financial condition or business prospects.

7.5 Audit and Inspection. MAL shall have the right, upon reasonable notice and during normal business hours, to audit Dealer’s records, systems and procedures relating to the handling of Leads and the compensation due under this Agreement. Dealer shall reasonably cooperate with the other during such audit.

Section 8: MAL Disclaimers

8.1 Leads. MAL MAKE NO REPRESENTATIONS OR WARRANTIES AS TO THE NUMBER, ACCURACY OR COMPLETENESS OF LEADS, THE PERCENTAGE OF LEADS THAT WILL RESULT IN THE SALE OF A MOTOR VEHICLE, THE CREDITWORTHINESS OR QUALIFICATION OF LEADS OR THAT A LEAD CAN OR WILL QUALIFY FOR FINANCING TOWARD THE PURCHASE OF ANY MOTOR VEHICLE.

8.2 Software. ANY SOFTWARE, PRODUCTS, OR SERVICES PROVIDED UNDER THIS AGREEMENT ARE PROVIDED “AS IS” AND “AS AVAILABLE”, AND, EXCEPT AS PROVIDED ABOVE, NONE OF MAL’S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR ASSIGNS MAKE ANY WARRANTIES TO DEALER OR TO ANY OTHER THIRD PARTY, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BY WAY OF EXAMPLE AND NOT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT RELATING TO ANYTHING PROVIDED OR USED UNDER THIS AGREEMENT OR DESCRIBED HEREIN.

Section 9: Limitation of Liability

9.1 Force Majeure. MAL shall not incur any liability to Dealer on account of any loss or damage resulting from any delay, default or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of MAL in the performance of their obligations under this Agreement.

9.2 Excluded Liability. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL MAL’S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR ASSIGNS BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR INDIRECT DAMAGES, INCLUDING, BY WAY OF EXAMPLE AND NOT LIMITATION, LOSS OF BUSINESS, PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE, WHETHER SUCH CLAIM IS CHOATE OR INCHOATE, WHETHER BY STATUTE, IN TORT, OR IN CONTRACT, EVEN IF MAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Section 10: Indemnification

10.1 Dealer’s Indemnification. Dealer shall, at its expense, indemnify, defend and hold harmless MAL, as well as MAL’s respective officers, directors, employees, managers, contractors, agents, successors, and assigns, from any and all liabilities, damages and related costs and expenses, including fines, levies, assessments, reasonable attorney’s fees, allocable costs of in-house counsel, and disbursements and costs of investigations, litigation, settlement, judgment, interest and penalties (collectively “Losses”) and threatened Losses, arising from, relating to, incurred in connection with: (i) the Leads provided hereunder; (ii) Dealer’s relationship, negotiations or

transaction with any Lead; and (iii) Dealer's breach of warranty under this Agreement or violation of applicable law.

10.2 MAL's Indemnification. MAL shall indemnify, defend and hold Dealer as well as Dealer's officers, directors, employees, managers, contractors, agents, successors, and assigns, harmless from any and all liabilities, damages, and related cost and expenses, including fines, levies, assessments, reasonable legal fees, allocable cost of in-house counsel, and disbursements and cost of investigations, litigation, settlement, judgment, interest and penalties (collectively "Losses") and threatened Losses, arising from, related to, or incurred in connection with MAL's breach of warranty under this Agreement or violation of applicable law.

Section 11: Termination

This Agreement shall commence on the date set forth above and shall continue until the end of the term stated on Addendum A unless terminated earlier in accordance herewith. The term shall automatically renew unless 30 days notice of termination is provided by one Party to the other. MAL may immediately terminate this Agreement: (i) in the event that Dealer fails to make any payment when due, or breaches its obligations under sections 2.1 and 4.5 herein; (ii) upon 30 days notice for any reason; (iii) if Dealer experiences a material adverse change in financial condition or status (e.g., cessation of business, bankruptcy petition filing, or liquidation) which may reasonably be expected to affect its ability to perform hereunder. Termination of this Agreement refers to the termination of the Parties' respective commitments and obligations from and after the date of termination, but does not relieve Dealer of its payment and other obligations incurred prior to the date of termination.

Section 12: Miscellaneous

12.1 Independent Contractor Relationship. The relationship between MAL and Dealer is that of independent contractors and shall not be construed as a joint venture, partnership or principal-agent relationship, and under no circumstances shall any of the employees of one Party be deemed to be employees of the other Party for any purpose. This Agreement shall not be construed as authority for either Party to act for the other in any agency or any other capacity or to make commitments of any kind for the account of or on behalf of the other, except as expressly set forth in this Agreement.

12.2 Entire Agreement. This Agreement, including any Exhibits, Addenda, Amendments, Appendices or Attachments constitutes the entire agreement between the Parties relating to the subject matter. This Agreement may be amended from time to time in writing by MAL.

12.3 Governing Law and Choice of Forum. For any claim or action arising out of or in any way connected with the provision this Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas without regard to any conflicts of law principles or choice of law rules which would require the application of the laws of another jurisdiction. Any action brought by MAL or Dealer against the other relating to the provision of Approved Leads or Non-Approved Leads shall be commenced in a court of competent jurisdiction in Dallas County, Texas. Dealer hereby expressly consents to the jurisdiction of such court.

12.4 Waivers; Remedies are Cumulative. No failure or delay by a Party to insist upon the strict performance of any term or condition under this Agreement or to exercise any right or remedy available under this Agreement at law or in equity, and no course of dealing between the Parties, shall imply or otherwise constitute a waiver of such right or remedy, and no single or partial exercise of any right or remedy by any Party will preclude any other or further exercise thereof.

12.5 Third Party Beneficiaries. Except as otherwise provided in this Agreement, nothing in this Agreement is intended to or shall be construed to create any rights in, or confer any benefits upon, any person or entity other than the Parties to this Agreement and MAL.

12.6 Record Retention. The Parties shall maintain data, information, records and documents required to be maintained by applicable Laws for such time as is required by law, but in no event for a period less than 25 months. Each Party shall, to the extent permitted by applicable Laws, provide to the other, upon request and at the requesting Party's expense, copies of information, data, documents and records relating to any Lead residing on the custodian Party's databases or otherwise in its possession.

12.7 Assignment. Dealer may not assign this Agreement or delegate its obligations hereunder, in whole or in part, without the prior written consent of MAL.

IN WITNESS WHEREOF, the Parties have executed this Agreement through their respective duly authorized officers as of the Effective Date. **DEALER HEREBY REPRESENTS AND WARRANTS THAT THE INDIVIDUAL SIGNING BELOW ON BEHALF OF DEALER IS A PRINCIPAL, GENERAL MANAGER, COMPTROLLER OR OTHER CORPORATE OFFICER DULY AUTHORIZED TO SIGN THIS AGREEMENT ON BEHALF OF DEALER.**

Acknowledged and Agreed:

myAutoloan.com.

By: _____

Print Name: _____

Title: _____

Date: _____

Dealer: _____

By: _____

Print Name: _____

Title: _____

Date: _____

Addendum A

Dealer Set-up Page

GENERAL INFORMATION - All Information is required in order to set up your dealership in the MAL **PDP UI** System

Dealership: _____ Phone: _____
Physical Address: _____
City: _____ State: _____ Zip: _____
Billing Address: *Same* _____
City: _____ State: _____ Zip: _____
Dealership Name *(As it appears on DealerTrack Contract)*: _____

CONTACT INFORMATION

Special Finance Manager/Internet Manager

Name: _____
Direct Phone: _____
Cell Phone: _____
Fax: _____
Email: _____

Accounts Payables

Name: _____
Direct Phone: _____
Alt. Phone: _____
Fax: _____
Email: _____

General Manager

Name: _____
Direct Phone: _____
Cell Phone: _____
Fax: _____
Email: _____

Dealer Principal

Name: _____
Direct Phone: _____
Alt. Phone: _____
Fax: _____
Email: _____

Additional Person(s) authorized to access leads

Name: _____ Title: _____ Phone: _____
Name: _____ Title: _____ Phone: _____
Name: _____ Title: _____ Phone: _____

New Lead Notification: Yes No **Notification Method:** Text Message: # _____ Carrier _____ (or)

Email: _____

Associated Franchise(s): _____, _____, _____, _____

Dealer Group Affiliation: _____

For Internal Use:

DLDS Login Information: Dealer Code: _____ Password: _____

Sales Representative: _____ ADF Address: _____

