



**GUARANTEED AUTOMOBILE PROTECTION
LENDER AGREEMENT**

Effective Date:			Dealer Number:		
BETWEEN:			AND:		
ERJ Insurance Group, Inc. d/b/a AMERICAN HERITAGE INSURANCE SERVICES (“AHIS”)			(“LENDER”)		
State of Incorporation: Florida			State of Incorporation:		
Address: 701 Waterford Way, Ste. 490			Address:		
City	State	Zip	City	State	Zip
Miami	FL	33126-4669			

WHEREAS, ERJ Insurance Group, Inc. d/b/a American Heritage Insurance Services (AHIS) provides, as outlined herein, certain Guaranteed Auto Protection Waiver Programs (“Programs”), and whereas, AHIS desires to contract with the Lender to enable the Lender to offer its borrowers a Waiver of certain liabilities as outlined in the Guaranteed Auto Protection Waiver Agreement(s) (“Waivers”), attached hereto, and whereas, Lender desires to appoint AHIS or the agent of record as its agent in obtaining insurance to cover the waiver of certain liabilities with its borrowers, the Parties hereto agree as follows:

1. LENDER OBLIGATIONS

- a. **AGREEMENT PERIOD.** This Agreement begins on the date indicated above and shall remain in effect until terminated as provided herein.
- b. **AUTHORIZATION.** The Lender certifies that it is licensed by state regulatory authorities to make auto installment sales and is authorized to offer loan agreement Waivers to its borrowers and to alter the prepayment provisions, as provided in certain waivers of liability to its borrowers, subject to any and all applicable laws. The Lender shall offer said Waivers only to customers who originate their loans through the Lender, only at the time the loan is transacted and only on the attached forms. The Lender is authorized to collect amounts due for said Waivers and shall hold amounts due AHIS in a fiduciary capacity as trustee for AHIS until remitted to and received by AHIS.
- c. **INELIGIBILITY.** The Lender shall not offer the Program to purchasers of Recreational Vehicles, ATVs, trailers, Daewoos, or other types of loans or collateral designated as ineligible by AHIS.
- d. **PROGRAM COSTS AND FEES.** The Program Cost and Fees are shown on the attached Remittance Schedule. AHIS may change the Program Cost and the Fees by providing thirty days written notice to the Lender.
- e. **PAYMENT OF MANAGEMENT FEES.** The Lender hereby authorizes AHIS to pay portions of the remittance amount for each Waiver as a Management Fee directly to individuals or entities as provided for in the Remittance Schedule of this Agreement.
- f. **REMITTANCE TO AHIS.** The Lender shall send AHIS a copy of each Waiver issued with its payment for the amount due shown in the Remittance Schedule attached hereto within 15 days after the end of each month in which the Waiver was issued. Failure to remit a Waiver within 60 days of its date of issue shall relieve the insurer and AHIS from any liability for amounts due the Lender under said Waiver, unless such late Waivers have been resubmitted in accordance with the Dealer Procedural Manual. All remittances must be made payable to AHIS.
- g. **REFUNDS.** Upon the occurrence of Program Cost refunds for any reason, AHIS shall pay the Lender the unearned portion of the Program Cost AHIS received, and the Lender shall add to that amount the unearned portion of any fees, allowances, or commissions originally paid to any party, and Lender shall credit the full refund to the Borrower’s account. Termination of this Agreement shall not eliminate this responsibility.
- h. **OFFSET.** AHIS reserves the right to offset any amounts due to or from the Lender under this or any other Agreements the Lender may have from time to time with AHIS or affiliated companies.
- i. **KEEPING OF RECORDS.** The Lender agrees to maintain accurate and complete records relating to its participation in the Program and to make such records available for inspection by AHIS or its representatives at any time during the normal business hours. The Lender shall assist AHIS in resolving any discrepancies or errors which may occur.
- j. **INDEMNIFICATION.** The Lender agrees to comply with all applicable laws and regulations and agrees to indemnify and hold AHIS harmless from all demands, claims, liabilities, damages, losses, judgments, and expenses (including attorney’s fees), arising out of or caused by the Lender’s (including its employees or its assignees) failure to comply with all applicable laws and regulations or acts or

omissions with respect to the offering or administration of the Program, including but not limited to the failure of the Lender to follow AHIS' procedures and instructions or to comply with the terms of this Agreement.

2. DUTIES OF THE PARTIES.

- a. AHIS agrees to consult with the Lender regarding the operation of the Program and to provide Waiver forms, brochures and other marketing materials, as AHIS deems reasonably necessary to assist the Lender in the operation of the Program. Lender shall not create, distribute, or use any marketing, sales, or administrative materials, regarding AHIS' products or use AHIS' name or the name of any of its affiliates without prior written approval of AHIS.
- b. Lender agrees to use diligence in its performance of its duties hereunder and to abide by all rules, regulations and procedures relating to the Program as provided from time to time by AHIS in any form of written communication, including but not limited to, letters, memoranda, bulletins, faxes, or emails.
- c. Lender shall not at any time alter, amend, or waive any terms or conditions of the Waivers issued to its borrowers.
- d. Lender is responsible for obtaining the necessary funding approvals from any regulatory authorities for lending institutions to which Lender intends to assign the loan agreement for which a Waiver has been issued.
- e. AHIS, as agent for and on behalf of the Lender, shall obtain insurance to cover certain losses that may occur from a waiver of liability as provided in the Waivers. The Lender shall be named as the insured under the insurance policy or contract of insurance. Benefits under such insurance shall extend to any lending institution assuming a loan for which a Waiver was issued.
- f. Lender shall promptly provide to AHIS information and records concerning any inquiry from a state regulatory agency and shall respond to such inquiry only if granted permission to do so by AHIS.

3. PROCEDURES IN THE EVENT OF LOSS.

- a. Lender shall report to AHIS all requests for reimbursement for which a Waiver was issued within 30 days after the Lender first has notice of the loss. The Lender shall provide all information necessary to determine the amount of reimbursement due under the terms of the Waiver issued.
- b. AHIS shall, upon receipt of all required documents outlined in the waiver and listed in the GAP Reimbursement Information Form, process the claim under the Lender's insurance coverage pursuant to paragraph 2. (e) of this Agreement. AHIS and/or the insurer shall not be responsible for any claim for loss not covered under the Waiver(s), not reported to AHIS as provided herein, for any Waiver for which AHIS has not received payment as provided herein, or for waivers that do not comply with any procedure, rule, or regulation relating to the Program.
- c. In the event the Lender assigns any loan for which there is a Waiver issued, the Lender shall cause the assignee to assume the Lender's responsibilities under the Waiver and any such insurance proceeds under the Program for such Waiver shall be paid directly to the assignee.
- d. If the Lender offers the Additional Benefit Option, the Lender agrees to provide a signed bill of sale indicating the Additional Benefit credit given to the borrower, and AHIS will reimburse the Lender for the credit given to the borrower as provided for in the borrower's Waiver.

4. TERMINATION

- a. This Agreement may be terminated at any time by either party with 30 days written notice to the other.
- b. AHIS may terminate this Agreement immediately without written notice upon Lender's act of fraud, malfeasance, misappropriation, withholding of funds, or willful neglect of any duty or obligation hereunder, including non-conformance with AHIS' eligibility requirements.
- c. This Agreement shall automatically terminate without prior notice, upon (i) the dissolution of the Lender's partnership, LLC, or corporation, as the case may be, (ii) the Lender's invoking, or having invoked against it, any form of federal bankruptcy jurisdiction or state jurisdiction for receivership, liquidation, or conservatorship, or (iii) the Lender becomes or is declared insolvent according to any law.
- d. Termination shall not affect the rights or duties of either party with respect to the Waivers issued prior to the termination date of this Agreement.

5. MISCELLANEOUS

- a. **NOTICES.** Any notice or other communication required shall be in writing and sent United States Postal Service registered, certified mail, or by a nationally recognized delivery service and addressed to the party to be notified at its address specified herein.
- b. **ASSIGNMENT.** The Lender shall not assign or transfer any rights or benefit under this Agreement, either in whole or in part, without the prior written consent of AHIS. It is understood that the assignment of an individual loan or loans in the normal course of business as provided for in paragraph 3.(c) of this Agreement shall not constitute an assignment. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of and shall be enforceable by the heirs, legal representatives, successors and assignees of the parties hereto.
- c. **SEVERABILITY.** If any term or condition of this Agreement, or the application of such term or condition shall be found by a court of competent jurisdiction to be, to any extent, invalid or unenforceable, the remainder of this Agreement and the application of all other terms and conditions shall be valid to the fullest extent permitted by law.
- d. **GOVERNING LAW.** This Agreement shall be governed and construed in accordance with the laws of the state of Florida without regard to any otherwise applicable principals or conflict of laws. Venue is hereby conferred by mutual consent in the city of Miami, Florida.
- e. **WAIVER OR MODIFICATION.** The failure of AHIS to enforce or require strict compliance with any term and/or condition of this Agreement, or to exercise any right of termination hereunder, shall not constitute a waiver of any such term, condition or right, nor shall it constitute a waiver of any other term, condition or right. No waiver, amendment or modification of this Agreement shall be valid unless made in a written instrument executed by both parties and attached hereto.
- f. **ENTIRE AGREEMENT/AMENDMENT.** This Agreement shall constitute the entire Agreement by, of and between the parties hereto, and all previous contracts, Agreements, and understandings between the parties hereto, whether oral or written, shall be of no further force and effect.

6. ARBITRATION

Any dispute arising in respect of the terms, conditions or effects of this Agreement shall be settled by arbitration as the sole remedy available to both Parties hereto. In the event of any such dispute, either Party hereto may make a written demand for arbitration. Upon such demand, each Party hereto shall select an arbitrator. The two arbitrators will then select a third arbitrator. If the two cannot agree upon a third arbitrator within thirty (30) days following the appointment of the second arbitrator, each arbitrator shall name a candidate for the third arbitrator and the third arbitrator shall be selected by drawing lots between such candidates. If either Party fails to select an arbitrator within thirty (30) days following the written demand for arbitration, the demanding Party may select both arbitrators and such arbitrators shall select the third arbitrator as aforesaid. Each Party shall present its case to the three arbitrators within sixty (60) days following appointment of the third arbitrator, unless the arbitrators permit otherwise. The arbitrators shall render their decision as to the dispute within ninety (90) days following such presentations, unless the Parties hereto mutually agree otherwise. A decision agreed to by two of the arbitrators will be final and binding upon both Parties hereto. Each Party shall pay the expense of the arbitrator it selected and the Parties hereto shall bear the expenses of the third arbitrator equally. In the event the two arbitrators are chosen by the demanding Party as provided above, the two Parties shall bear the total combined expense of all arbitrators equally. Arbitration shall take place in Miami, Florida, or such other places as the Parties hereto may mutually agree upon. The commercial arbitration rules of the American Arbitration Association will apply. The provisions of this paragraph shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of this ____ day of _____, _____.

**ERJ Insurance Group, Inc. d/b/a
AMERICAN HERITAGE INSURANCE SERVICES**

LENDER

SIGNATURE

PRINT NAME

TITLE

WITNESS

SIGNATURE

PRINT NAME

TITLE

WITNESS

SIGNATURES

REMITTANCE SCHEDULE

ERJ Insurance Group, Inc. d/b/a AMERICAN HERITAGE INSURANCE SERVICES (AHIS) and _____ (“Lender”) have executed a Lender Agreement with respect to the AHIS, Guaranteed Auto Protection Program (“Program”) and hereby agree to attach thereto this schedule for the calculation of remittance amount due per Waiver. The Lender further agrees to make all remittances payable to AHIS.

A. PROGRAM CHOICES (Please check the program(s) being utilized)

- 120% Program**
(Available for use in franchise and non-franchise dealers, credit unions, banks, and finance companies)
- 150% Program**
(Available for use in franchise dealers, credit unions and banks only)
- 150% Plus Program**
(Available for use in franchise dealers, credit unions and banks only)

B. ACCOUNT TYPE

- Franchise Dealer (new) Non-Franchise Dealer (used) Bank Credit Union Finance Company

C. REMITTANCE COMPONENTS – Please write legibly.

		1-60 Months	61-72 Months	73-84 Months
AHIS GAP Program Cost (includes Administration and Claims Fee)		\$	\$	\$
Management Fees - The Lender authorizes AHIS to pay all Management Fees as follows:		Only one amount may be paid for each Management Fee listed below.		
Name: Address: City State Zip SS# / Tax ID #:	Form W-9 <input type="checkbox"/>	\$		
Name: Address: City State Zip SS# / Tax ID #:	Form W-9 <input type="checkbox"/>	\$		
Name: Address: City State Zip SS# / Tax ID #:	Form W-9 <input type="checkbox"/>	\$		
Total Remittance Amount Per Addendum		\$	\$	\$

* **Note:** If the W-9 Form is not provided for management fees listed above, a 28% withholding tax will be applied. (Form W-9 is required for the Lender and any Management representative(s) listed above.)

This Remittance Schedule is effective as of _____ and supercedes all previously issued schedules.

IN WITNESS WHEREOF, the parties have executed this Schedule on the dates listed below.

ERJ Insurance Group, Inc. d/b/a AMERICAN HERITAGE INSURANCE SERVICES

LENDER (Authorized Representative)

SIGNATURE

PRINT NAME AND TITLE (CORPORATE OFFICER)

DATE: _____

SIGNATURE

PRINT NAME AND TITLE

DATE: _____

SIGNATURES



AMERICAN HERITAGE INSURANCE SERVICES (AHIS)

QUESTIONNAIRE FOR GAP INSURANCE

Please read all questions carefully before answering. Please attach any additional information where required and any details inherent to your business that would have a bearing on the requested coverage.

A. COMPANY INFORMATION

1 [] BANK [] DEALER [] CREDIT UNION [] FINANCIAL INSTITUTION
2 APPLICANT: 7 TAX ID #:
3 ADDRESS:
4 TELEPHONE: 8 FAX:
5 PERSON 9 *FORM W-9 [] YES [] NO
HANDLING: ATTACHED:
6 OFFICE 10 F&I MANAGER:
MANAGER:

* Note: If the W-9 Form is not provided a 28% withholding tax will be applied.

B. LIST LENDERS YOU ARE CURRENTLY USING:

Three horizontal lines for listing lenders.

I declare that the statements and answers are made and given after due inquiry and are true to the best of my knowledge. I certify this Lender has not previously been cancelled by AHIS unless noted below. I also certify that this Lender does not transact self-financed loans. Self-financed means a loan/lease that is arranged and self funded by the Lender.

I appoint _____ as my agent of record for the above referenced account.
REFERRING AGENT

TO BE COMPLETED BY PERSON COMPLETING THE QUESTIONNAIRE



NAME TITLE
SIGNATURE DATE