

Space Above This Line for Recorder's Use

Prepared by and Return to:

McCullough Payne & Haan, LLC
171 17th Street, NW
Suite 975
Atlanta, Georgia 30363-1032

STATE OF ALABAMA

COUNTY OF SHELBY

**CROSS-DEFAULT, CROSS-COLLATERALIZATION AND
CROSS-GUARANTY AGREEMENT**

I. Parties

This Cross-Default, Cross-Collateralization and Cross-Guaranty Agreement ("Agreement") is made by and between **GMAC BANK**, a Utah corporation ("GMAC Bank"), and **LWELLEN REALTY, LLC**, an Alabama limited liability company ("Borrower"), and **EDWARDS CHEVROLET-280, INC.**, an Alabama corporation ("Obligor") (Borrower and Obligor hereinafter sometimes collectively "Obligors"):

II. Recitals

- A. GMAC Bank has this day loaned to Borrower the sum of \$8,287,000.00 secured by certain real property of Borrower located in Shelby County, Alabama and has provided or may provide wholesale floorplan financing and other loans and credit accommodations to Obligor ("collectively Credit Accommodations").
- B. Obligor and Borrower are affiliated and share a close business nexus.
- C. To induce GMAC Bank to extend or continue to provide Credit Accommodations to Borrower, Obligor and Borrower agree to provide GMAC Bank additional security by entering this Agreement.
- D. GMAC Bank and Obligors intend that any and all property of each individual Obligor in which GMAC Bank now has or later obtains a security or lienor's interest ("Collateral"), secures payment and performance due under any and all present and future Credit Accommodations provided by GMAC Bank to each Obligor.

- E. GMAC Bank and Obligors intend that any default by Obligor in the payment or performance of any Obligation (defined below), or under any Security Agreement (defined below), or with respect to any Credit Accommodation, will, at GMAC Bank's election, constitute a default under all Obligations and all Security Agreements and with respect to all Credit Accommodations.

III. Agreement

In consideration of the above premises, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GMAC Bank and Obligors agree as follows:

A. Definitions: As used in this Agreement:

1. "Obligation" means any liability, indebtedness, or obligation owed by either Obligor to GMAC Bank of every kind and nature, now existing or later arising, whether created directly, indirectly, or acquired by assignment, whether matured or unmatured, and any cost or expense, including without limitation, reasonable attorney fees, incurred by GMAC Bank in the collection or enforcement of any such Obligation and administration and enforcement of any and all Security Agreements and Credit Accommodations.
2. "Security Agreement" means any existing or future agreement between either Obligor and GMAC Bank that creates or provides for a security interest in, or lien or other encumbrance on, any of the assets or property (tangible or intangible, real or personal) of either Obligor, including, without limitation, security agreements, deeds of trust, mortgages, and agreements evidencing any and all Credit Accommodations.

B. Cross Default: In addition to, and not in substitution for, the provisions in any Security Agreement related to an Obligation, any default or breach by either Obligor in the payment or performance under any Obligation, Security Agreement, or Credit Accommodation will, at GMAC Bank's option, constitute a default under all Obligations and Security Agreements and with respect to all Credit Accommodations.

C. Cross Collateralization: All Collateral secures payment and performance of any and all Obligations, Security Agreements, and Credit Accommodations. GMAC Bank may apply proceeds of any Collateral to any Obligation in its sole, absolute discretion, subject to applicable law.

D. Guaranty: Each Obligor absolutely, unconditionally, continuously, and without any limitation, guarantees the performance and payment of all Obligations owed by the other Obligor to GMAC Bank under all Security Agreements, Credit Accommodations, and this Agreement in accordance with the following terms and conditions:

1. In its capacity as guarantor, each Obligor waives and dispenses with:
 - a. Notice of:
 - i. Acceptance of this guaranty;
 - ii. Non-payment or non-performance by the other Obligor as to any Obligation, or under any Security Agreement, Credit Accommodation, or this Agreement;
 - iii. Notice of the other Obligor's amount of indebtedness to GMAC Bank outstanding at any time;
 - b. Protests, demands, and prosecution of collection, foreclosure and possessory remedies;
 - c. Any and all rights of subrogation, reimbursement, or indemnity, and recourse to, or with respect to, the other Obligor's assets or property;
 - d. Any right to require GMAC Bank to:
 - i. Proceed against other persons or other Obligor as to any Obligation, or under any Security Agreement, Credit Accommodation, or this Agreement;

- ii. Advise it of the results of any collateral checks or examinations of the other Obligor;
 - iii. Require the other Obligor to comply with agreements with GMAC Bank;
 - iv. Proceed against or exhaust any security.
- 2. This is a continuing guaranty and remains in effect as to each Obligor; however:
 - a. Either Obligor may terminate its own guaranty, with no impact on the other Obligor's guaranty, by sending written notice of termination to GMAC Bank at its office designated below;
 - b. Termination is effective forty-eight hours after GMAC Bank receives the written termination notice.
- E. Effect On Other Agreements: This Agreement:
 - 1. Constitutes an amendment of, and supplement to, each and every Security Agreements now existing or later executed;
 - 2. Augments and is in addition to, and not in substitution for, any provisions of any Security Agreement or Obligation;
 - 3. Does not otherwise limit or affect the rights and remedies of GMAC Bank under any Security Agreement or with respect to any Obligation or Credit Accommodation.
- F. Future Credit Accommodations: GMAC Bank may, in its sole, absolute discretion, provide additional Credit Accommodations to either Obligor, any and all of which will be subject to the terms of this Agreement. Notwithstanding anything to the contrary, any future change in the terms of either Obligor's indebtedness to GMAC Bank requires GMAC Bank's prior written consent.
- G. **WAIVER OF RIGHT TO TRIAL BY JURY: EACH OBLIGOR WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING UNDER OR RELATED TO THIS AGREEMENT, ANY AND ALL SECURITY AGREEMENTS, ANY AND ALL OBLIGATIONS, AND ANY AND ALL CREDIT ACCOMMODATIONS.**
- H. Notices: Any notices or other communications required or permitted to be given by this Agreement must be in writing and:
 - 1. Must be personally delivered; mailed by prepaid certified, registered, or first class mail; or delivered by a nationally recognized overnight courier to GMAC Bank or to the Obligor to whom such notice or communication is directed at the address set forth in this document;
 - 2. Will be deemed to have been given (whether actually received or not) on the day it is personally delivered; or, if mailed, on the third day after it is mailed as indicated above; or if delivered by overnight courier, on the next business day after it has been given to the courier for delivery.

GMAC Bank and either Obligor may change its address for purposes of this Paragraph II.G by giving ten days prior written notice of such change to the others pursuant to the terms of this Paragraph II.G.
- I. No Other Understanding: GMAC Bank has made no promises to induce execution of this Agreement and no other agreements or understandings, either oral or in writing, exist that affect this Agreement.
- J. No Waiver of Rights: Nothing in this Agreement, nor any forbearance or delay by GMAC Bank in exercising any of its rights and remedies under this Agreement, any Security Agreement, or any Credit Accommodations, constitutes a waiver by GMAC Bank of any existing or future default by either Obligor under any Security Agreement or with respect to any Obligation or Credit Accommodations.
- K. Amendment: Except as provided otherwise in this Agreement, amendment to, or modification of, this Agreement must be in writing signed by both GMAC Bank and Obligors.

L. Governing Law: This Agreement will be governed by and construed according to the laws of Alabama. If GMAC Bank brings any action in any court of record in Alabama or the United States of America, each Obligor:

1. Consents to and confers upon such court personal jurisdiction over itself by said court;
2. Agrees that service of process may be made on it by mailing a copy of the summons to it.

M. Survival: If any part of this Agreement is held invalid or unenforceable under applicable law, the remainder of the Agreement remains valid and enforceable.

N. Joint and Several Liability: Each Obligor's liability under this Agreement is joint and several.

O. Successors And Assigns: This Agreement binds and inures to the benefit of the successors and assigns of GMAC Bank and each Obligor.

GMAC BANK

Anthony Zimmer
(Signature)

By: Anthony Zimmer
(Print Name)

Title: Assistant Secretary

Date: 6/20/07

LWELLEN REALTY, LLC

By: Leon W. Edwards, Jr.
Leon W. Edwards, Jr., Manager

EDWARDS CHEVROLET-280, INC

By: Leon W. Edwards, Sr.
Leon W. Edwards, Sr., President

Date: June 15, 07

ACKNOWLEDGEMENTS

20070627000303270 5/5 \$23.00
Shelby Cnty Judge of Probate, AL
06/27/2007 03:15:51PM FILED/CERT

STATE OF ALABAMA)
)
COUNTY OF SHELBY) SS.

On this day personally appeared before me Leon W. Edwards, Jr., to me known to be the Manager of Lwellen Realty, LLC, the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the same instrument.

GIVEN under my hand and official seal this 15 day of June, 2007.

BT i l l
Notary Public in and for the State of Alabama,
My Commission Expires: 6-13-11

STATE OF ALABAMA)
)
COUNTY OF SHELBY) SS.

On this day personally appeared before me Leon W. Edwards, Sr., to me known to be the President of Edwards Chevrolet-280, Inc., the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the same instrument.

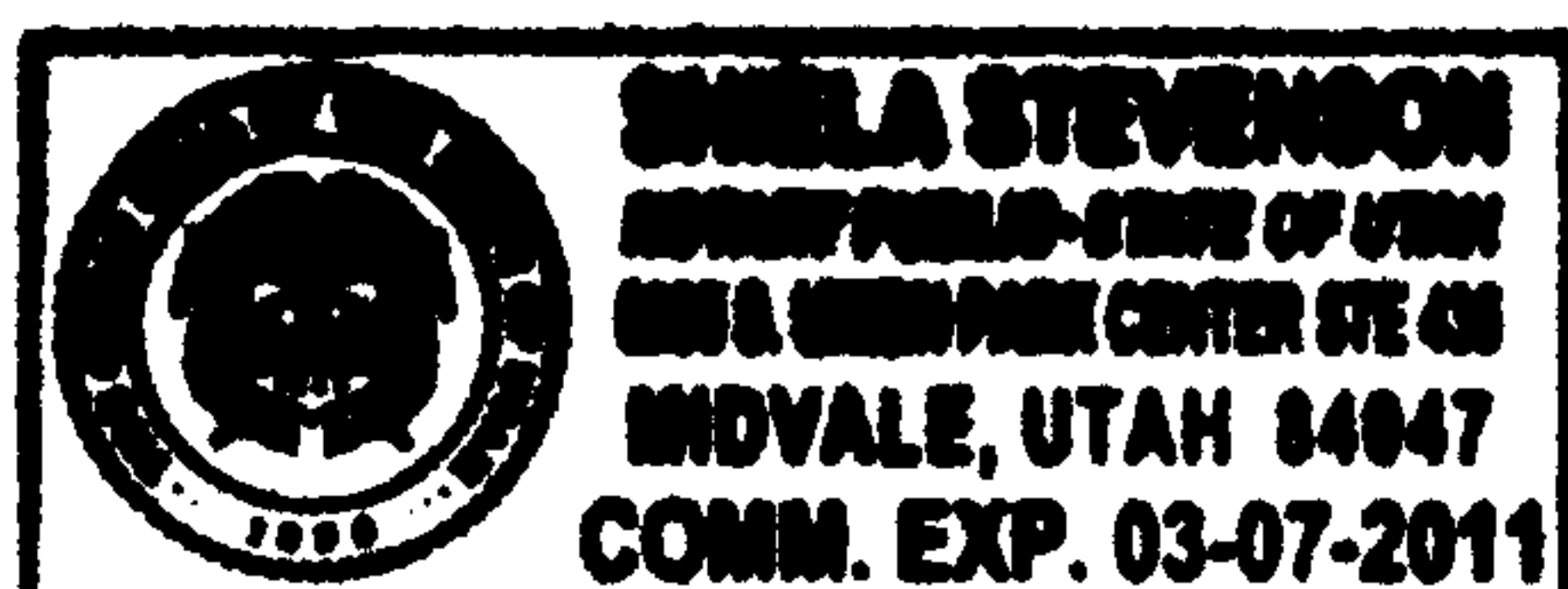
GIVEN under my hand and official seal this 15 day of June, 2007.

BT i l l
Notary Public in and for the State of Alabama,
My Commission Expires: 6-13-11

STATE OF UTAH)
)
COUNTY OF Salt Lake) SS.

On this day personally appeared before me Anthony Zimmer, to me known to be the Assistant Secretary of GMAC Bank, the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the same instrument.

GIVEN under my hand and official seal this 20 day of June, 2007.



Sheila Stevenson
Notary Public in and for the State of Utah,
My Commission Expires: 03-07-2011