

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Settlement Agreement") is made this ____ day of August, 2007, by and between Frances Gecker (the "Trustee"), not individually, but as Chapter 11 trustee of Automotive Professionals, Inc. (the "Debtor" or "API"), and Dealers' Financial Services, LLC ("DFS," and together with the Trustee, the "Parties").

WHEREAS, on April 13, 2007 (the "Petition Date"), API filed its voluntary Chapter 11 bankruptcy petition in the United States Bankruptcy Court for the Northern District of Illinois (the "Bankruptcy Court") initiating the bankruptcy case captioned *In re Automotive Professionals, Inc.* and docketed as Case No. 07 B 06720 (the "Bankruptcy Case"). On June 12, 2007, on the motion of the United States Trustee for the Northern District of Illinois (the "U.S. Trustee"), the Bankruptcy Court appointed the Trustee as the Chapter 11 trustee of the Debtor's estate.

WHEREAS, prior to the Petition Date, on May 1, 2002 (and amended from time to time thereafter), DFS and API entered into a certain Dealer Agreement (the "API/DFS Agreement") pursuant to which, among other things, API agreed to serve as claims administrator and obligor under vehicle service contracts (the "VSCs") that were sold through the program known as the MILES Program ("API/DFS MILES Program"), which is administered by DFS. As of December 31, 2006, there were 15,634 unexpired VSCs in the API/DFS MILES Program.

WHEREAS, in connection with the API/DFS MILES Program, and pursuant to the API/DFS Agreement, API and certain of its affiliates established claim reserve accounts at JP Morgan (the "Reserve Accounts"), including the following:

1. Account No. 30002579, which was maintained in connection with all VSCs sold under the API/DFS MILES Program, other than those issued to consumers in Florida and the State of Washington. According to an Investor Report provided by JP Morgan Asset Management, the outstanding balance of funds on deposit in Account No. 30002579 as of December 29, 2006 was \$3,608,749.13.
2. Account No. 30002573, which was maintained in connection with all VSCs sold under the API/DFS Miles Program issued to consumers in the State of Washington. According to and Investor Report provided by JP Morgan Asset Management, the outstanding balance of funds on deposit in Account No. 30002573 as of December 29, 2006 was \$291,219.34.
3. Account No. 30002649, which was maintained in connection with all VSCs sold under the API/DFS MILES issued to consumers in Florida (the "Florida Account"). According to and Investor Report provided by JP Morgan Asset Management, the outstanding balance of funds on deposit in Account No. 30002649 as of December 29, 2006 was \$123,760.32.

WHEREAS, on February 15, 2007, API executed an assignment for the benefit of creditors, and transferred its assets to the API Creditors' Trust, administered by Michael Kayman as Assignee (the "Assignee"). Subsequently, API ceased processing claims in connection with the API/DFS MILES Program. In addition, the Assignee transferred the funds in Account No. 30002573 and Account No. 30002579 (the "Settlement Accounts") to an account (the "LaSalle Account") at LaSalle Bank National Association ("LaSalle"). Accounting of the LaSalle Account allows the specific allocation of the funds deposited therein from the Settlement Accounts. Despite DFS's investigation of the relevant records, which included discussions with API's bankruptcy counsel and the Assignee, the Parties have thus far been unable to conclusively ascertain the disposition of the funds that were held in the Florida Account.

WHEREAS, the Trustee and LaSalle have entered into a settlement agreement in connection with their respective claims and defenses against each other, including their respective claims and defenses relating to the funds in the LaSalle Account (the "LaSalle Agreement"). Pursuant to the LaSalle Agreement, among other things, LaSalle has agreed to transfer and assign whatever rights, claims and interest it held in the funds that were in the LaSalle Account to the Trustee.

WHEREAS, the Bankruptcy Court, on July 25, 2007, entered an order approving the LaSalle Agreement.

WHEREAS, to preserve the integrity of the MILES Program, and to otherwise facilitate and serve the interests of consumers who purchased VSCs under the API/DFS MILES Program, since February 12, 2007, DFS has established a servicing arrangement with Capital Administrative Resources, Inc. ("CAR"), as an administrative agent, to process claims administration in connection with the API/DFS MILES Program.

WHEREAS, since February 12, 2007, DFS has not had access to the funds in the Reserve Accounts, which, under the API/DFS Agreement, were to be used to pay repair, replacement and cancellation costs associated with claims made by consumers participating in the API/DFS MILES Program.

WHEREAS, since February 12, 2007 through July 31, 2007, DFS has expended over \$350,000 (excluding legal costs) of its own funds in connection with the payment and processing of claims tendered by participants in the MILES Program, will pay approximately \$100,000 in order to procure an appropriate reinsurance coverage package for the outstanding API VSCs, and incurred significant administrative costs associated with the implementation of the arrangement with CAR.

WHEREAS, in an effort to minimize any further disruptions and inconveniences to consumers holding contracts issued under the API/DFS MILES Program, and to resolve any issues regarding the disposition of the Reserve Accounts, the Parties have engaged in good faith, arms-length discussions with respect to resolving all of the respective rights, obligations, claims and defenses of DFS, the Trustee, API and API's bankruptcy estate in connection with the API/DFS Agreement and the subject matter thereof. In order to fully resolve all such rights,

obligations, claims and defenses, and to protect the rights of the consumer purchasers of the VSCs, including the ongoing administration of the API/DFS MILES Program, the Parties have elected to enter into this Settlement Agreement as being in the best interests of API's estate and DFS, respectively.

NOW THEREFORE, in consideration of the mutual releases and additional consideration set forth herein, which each of the Parties agrees is good and valuable consideration for the various covenants and understandings set forth in this Settlement Agreement, it is hereby agreed by the Parties as follows:

1. Effective Date. This Agreement will become effective on the later of (a) the date that an order approving this Settlement Agreement becomes final and non-appealable, and (b) the date that an order approving the LaSalle Agreement becomes final and non-appealable (such later date to be deemed the "Effective Date").

2. Reserve Accounts. Within five days (5) of the Effective Date, the Trustee will transfer to DFS the sum of \$3,599,968.47 (the "Reserve Account Transfer"), which the Parties acknowledge consists of the total outstanding balance of Account No. 30002579 and Account No. 30002649, as of February 12, 2007, that was transferred by the Assignee to the LaSalle Account less the sum of \$300,000.00, which will be held by the Trustee as an asset of API's bankruptcy estate. The Trustee also will retain the accrued interest earned on the Reserve Account Transfer as an asset of API's bankruptcy estate. (The aggregate amount of funds transferred to DFS is referred to herein as the "Transferred Funds.")

3. Florida Account. The Trustee will investigate the disposition of the funds deposited into the Florida Account and if, in accordance with her business judgment, she deems it appropriate, seek the recovery of the transfer of such funds for the benefit of API's estate and its creditors. In the event that the Trustee is successful in recovering any of such funds, whether through judgment, settlement or otherwise, the Trustee will, within five days (5) of the recovery, pay an amount equal to one half (1/2) of such recovery to DFS, and retain one-half (1/2) of such recovery as an asset of API's bankruptcy estate.

4. Use of Transferred Funds and Periodic Reporting. Upon execution of the Reserve Account Transfer, DFS will place the Transferred Funds into an escrow account or accounts established for the benefit of consumers who purchased VSCs in connection with the API/DFS MILES Program. Funds will be drawn by DFS from the escrow account or accounts as follows: (a) payment of an administrative fee of \$25 per claim; (b) payment of all valid claims in accordance with industry custom and practice; (c) payment of any reimbursements for cancelled contracts; (d) reimbursement of DFS for costs incurred in paying claims between February 12, 2007 and the Effective Date, including loss expenses, insurance, cancellations, repair and replacement costs; and the administrative fees charged by CAR; and (e) upon expiration of the last API vehicle service contract sold under the API/DFS MILES Program, any remaining funds will be remitted to DFS per the terms of the API/DFS Agreement.

Commencing on the tenth (10th) day of the second month following the Effective Date, and continuing on the tenth (10th) day of each succeeding month, until such time as the Trustee

determines in her sole discretion, DFS will provide the Trustee, or her designated agent, with a report detailing all payments and claims processed under API/DFS MILES Program during the prior month.

5. Representations and Warranties by DFS. DFS hereby represents and warrants that it is currently administering the API/DFS MILES Program in compliance with all applicable federal, state and local laws and regulations relating to the sale and administration of vehicle service contracts, including maintaining insurance and/or cash reserves as necessary and/or required by law in connection therewith. In addition, DFS hereby represents and warrants that, until the expiration of all VSCs administered under the API/DFS MILES Program, DFS will:

- A. provide the Trustee with no less than 60 days' prior written notice of the employment of any administrative agent other than CAR to administer claims under the API/DFS MILES Program; and
- B. provide the Trustee with proof of insurance in connection with the administration of the API/DFS MILES Program; and
- C. use commercially reasonable efforts to insure that CAR (or any subsequently appointed and approved claims administrator) will comply with all applicable federal, state and local laws and regulations in connection with the administration of the API/DFS MILES Program.

6. Mutual Release. Effective upon the Effective Date, other than claims relating to the enforcement of this Settlement Agreement and as set forth herein, the Trustee, on behalf of the Trustee, any of the Trustee's successors and/or assigns, and API's bankruptcy estate, and DFS, on behalf of itself, and any of its successors and/or assigns, each hereby releases, remises and discharges the other, and any and all of such Party's successors and/or assigns, officers, directors, principals, employees, attorneys, other professionals, agents and/or any other representatives from any and all claims and causes of action, known or unknown, from the beginning of time up through and including the Effective Date, including but not limited to all claims, counterclaims, defenses and affirmative defenses relating to the API/DFS Agreement, the API/DFS MILES Program, the VSCs, the Reserve Accounts, the LaSalle Account, and all claims relating to the relationships between and among any of DFS, API, API's affiliates, and the Trustee.

7. Indemnification. DFS agrees to hold harmless and indemnify the Trustee and API's bankruptcy estate from and against any and all claims, demands, fines, penalties, damages, obligations, and costs of any nature whatsoever, including the Trustee's attorneys' fees and costs incurred in connection therewith, asserted against the Trustee or API's bankruptcy estate in connection with this Settlement Agreement, the API/DFS Agreement, the API/DFS MILES Program, the VSCs, or the Reserve Accounts.

8. Notice of the Agreement. Within five (5) business days after the execution of this Settlement Agreement, DFS will provide the Trustee with a list of all states in which VSCs were sold, receipt of which the Trustee acknowledges. Within five (5) business days after the

execution of this Settlement Agreement, the Trustee will file with the Bankruptcy Court a motion, pursuant to Fed. R. Bankr. P. 9019, seeking approval of this Settlement Agreement and the transactions and arrangements contemplated herein (the "DFS Settlement Motion"). Notice of the DFS Settlement Motion will be posted on the Bankruptcy Court-approved website maintained by the Trustee in the Bankruptcy Case, and provided to the U.S. Trustee, API and its affiliates, counsel for the Official Committee of Unsecured Creditors, API's twenty largest creditors as listed in the Petition, all parties that have requested notice of all pleadings filed in the Bankruptcy Case, and the Attorney General of each state in which VSCs were sold. Other than through posting on the Trustee's website for the Bankruptcy Case, separate notice of the DFS Settlement Motion will not be provided to the consumer purchasers of the VSCs.

9. Authority. The Parties state that they have read and understand this Settlement Agreement, that they have had an opportunity to consult with their attorneys concerning the terms and conditions herein, and that they have entered into this Settlement Agreement for reasons of their own and not based upon representations of any other Party hereto, and that the person signing this Settlement Agreement on behalf of each of the Parties has full authorization to do so.

10. Costs. Each Party shall pay its own respective costs and attorneys' fees incurred in connection with this Settlement Agreement.

11. Entire Agreement. This Settlement Agreement constitutes the entire agreement and supersedes all prior written or oral agreements between the Parties. This Settlement Agreement may not be amended or modified except in writing by both Parties.

12. Counterparts. This Settlement Agreement may be executed by signatures on more than one counterpart. If so executed, the various counterparts shall be considered one instrument. A facsimile or electronic signature hereto shall have the same force and effect as an original signature.

13. No Admissions. Neither the execution of this Settlement Agreement nor the settlement of the matters herein between the Trustee and DFS shall constitute an admission of liability by either the Trustee or DFS.

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14. Governing Law. This Settlement Agreement shall be construed under the internal laws (and not the laws of conflict) of the State of Illinois. This Settlement Agreement shall not be construed against either of the Parties but shall be given a reasonable interpretation. Should any part of this agreement be found void or unenforceable, the remaining portions of the agreement shall remain in full force and effect.

IN WITNESS THEREOF, the Parties hereto have executed this Agreement.

**FRANCES GECKER, not individually, but as
Chapter 11 Trustee of Automotive Professionals, Inc.**

DEALERS' FINANCIAL SERVICES, LLC

By: _____
One of her attorneys

By: _____
Its:

Dated: _____

Dated: _____