



GAP Addendum

FMC Flex Buy

This Guaranteed Asset Protection (GAP) Addendum (Addendum) dated _____ amends Your **Financing Contract**. This Addendum is between the **Customer/Borrower** (I, You, Your) and the **Dealer/Creditor** (We, Us, Our) or if assigned, with the assignee.

Customer/Borrower		Dealer/Creditor	
Address		Address	
City, State, Zip		City, State, Zip	
Vehicle Make/Model/Year		VIN	
Date of Financing Contract		Term of GAP	Monthly Pymt.
Email Address		Term of Financing Contract	Maximum Term of GAP: 66 Mos
Lender/Financial Institution		MSRP/NADA	Finance Benefit Limit % 150%
Address		Amount Financed	Interest Rate
City		State	Zip
<input type="checkbox"/> Balloon	<input type="checkbox"/> Lease	<input type="checkbox"/> New	<input type="checkbox"/> Used Mileage _____
<input type="checkbox"/> Installment Sales Contract			For Administrative Purposes CLASS:

ONLY FLEX BUY LOAN CONTRACTS ARE ELIGIBLE FOR COVERAGE UNDER THIS ADDENDUM.

You have voluntarily elected to purchase this Addendum which amends Your **Financing Contract**. This Addendum is not considered insurance and does not take the place of insurance on the Covered Vehicle. You are responsible for insurance required by the **Financing Contract** or applicable state law. You are responsible for handling all notifications or insurance claims that are required to be filed with Your **Primary Carrier**.

The Charge to You for this GAP Addendum is \$ _____.

In the event of a **Constructive Total Loss** to the **Covered Vehicle**, the **GAP Amount** will be **Waived** pursuant to all of the terms and conditions of this Addendum. You will remain responsible for payment of any items not included in the **GAP Amount**.

ASSIGNMENT: This Addendum will remain a part of the **Financing Contract** if the **Financing Contract** or lease is assigned, sold or transferred by the **Dealer/Creditor**.

REPORT YOUR CONSTRUCTIVE TOTAL LOSS TO THE GAP ADMINISTRATOR:

VEHICLE PROTECTION, INC.

250 NE MULBERRY, LEE'S SUMMIT, MO 64086 ▪ Toll Free (800) 670-9891 ▪ Fax (816) 347-9207

All Benefit requests must be submitted and required documentation provided to the GAP Administrator within ninety (90) days of settlement from an insurance carrier; or if no insurance coverage is in effect on the Date of Loss within ninety (90) days of the accident, theft or discovery of loss. No GAP Amount will be Waived if the Benefit request is not submitted and required documentation provided within these stated time periods. **BENEFIT REQUEST PROCEDURES:** In the event of a **Constructive Total Loss**, You must provide a copy of all the following, if applicable, to the **GAP Administrator** shown above. 1. Vehicle valuation statement; 2. Estimate of damage; 3. Insurance settlement check; 4. Automobile insurance policy declaration page; 5. Original **Financing Contract** including this Addendum; 6. Payoff from the **Lender** as of the **Date of Loss**; 7. Loan history; 8. Accident/police report; 9. Fire report (if applicable); and/or 10. Any additional reasonable documentation requested by the **Dealer/Creditor** or the **GAP Administrator** to include, but not limited to, a sworn proof of loss, and/or examination under oath.

YOU MAY PURCHASE THIS ADDENDUM ONLY AT THE TIME THE FINANCING CONTRACT IS ORIGINALLY EXECUTED. BY YOUR SIGNATURE BELOW, YOU ACKNOWLEDGE AND AGREE THAT YOUR ACCEPTANCE OF THIS GAP ADDENDUM IS VOLUNTARY AND IS NOT REQUIRED IN ORDER FOR YOU TO OBTAIN CREDIT, DOES NOT IMPACT YOUR ABILITY TO OBTAIN ANY PARTICULAR OR MORE FAVORABLE CREDIT TERMS, AND HAS NO EFFECT ON THE TERMS OF THE RELATED SALE OF THIS COVERED VEHICLE. The **GAP Amount** may decrease over the term of Your **Financing Contract** and may not extend for the full term of Your **Financing Contract**. You may wish to consult an alternative source to determine whether similar Benefits may be obtained and at what cost. You acknowledge that this Addendum supersedes any other representations made. If You purchase this Addendum from this **Dealer/Creditor**, You understand that the **Dealer/Creditor** may retain all or a portion of the charge paid by You. You acknowledge that you have read and understand the entire Addendum and its terms and conditions which may reduce or prevent you from receiving all or part of the Benefits due under this Addendum.

TERMINATION OF ADDENDUM: This Addendum will terminate on the date Your **Financing Contract** is scheduled to terminate and no refund will be due. A refund may be due if the Addendum terminates for reasons including but not limited to: 1. Payment in full of the **Financing Contract**; 2. Expiration of any redemption period following the repossession or surrender of the **Covered Vehicle**; 3. In the event of a **Constructive Total Loss** or theft of the **Covered Vehicle**; or 4. The date the **Financing Contract** is refinanced. You must request a refund, in writing, except where prohibited by law, from the **Dealer/Creditor** for any terminating event.

Customer/Borrower _____ Dealer/Creditor _____

PRINT NAME _____ DATE _____ BY _____ DATE _____

TERMS AND CONDITIONS

YOUR RIGHT TO CANCEL: You have the unconditional right to cancel this optional Addendum for a refund/credit of the unearned portion of the charge for this Addendum at any time. If any cancellation occurs within thirty (30) days of the Addendum purchase You will receive a full refund/credit of the Addendum cost. After thirty (30) days, a refund/credit of the Addendum cost will be calculated by the pro rata method, or by the refund method as may be required by state or federal law. All refund amounts will be returned to the Lender, unless proof of total payoff of the **Financing Contract** is provided by You. If You choose to cancel this Addendum, You must request a refund/credit, from the **Dealer/Creditor**, in writing, at the address shown above. If You do not receive the refund/credit within sixty (60) days of notice of cancellation/termination, contact the **GAP Administrator** shown above to assist You in obtaining any refund due.

DEFINITIONS

■ **Actual Cash Value (ACV):** The retail value of the **Covered Vehicle**, on the **Date of Loss**, as listed in a national or regional guide, such as National Automobile Dealers Association (NADA) or, at the **GAP Administrator's** discretion, the **GAP Administrator** may use an equivalent national or regional guide for the **Territory** in which the **Covered Vehicle** is principally garaged. For a **Covered Vehicle** which has no retail value available, or is located in territories where NADA or an equivalent national or regional guide is not customarily used, **ACV** will be determined using the best information available to the **GAP Administrator**, which accurately reflects the retail value of the **Covered Vehicle** and is customarily used as the basis for establishing **ACV** for **Covered Vehicle** in the territory of the **Covered Vehicle** location.

■ **Benefit:** The amount which the **Dealer/Creditor** is obligated to **Waive** under the definition of **GAP Amount** and pursuant to all of the terms and conditions of this Addendum.

■ **Constructive Total Loss:** A direct and accidental loss of or damage to **Covered Vehicle**, which meets one of these criteria: 1. the total cost to repair the **Covered Vehicle** is greater than or equal to the **ACV** of the **Covered Vehicle** immediately prior to the **Date of Loss**; or 2. the **Covered Vehicle** is stolen and is not recovered within thirty (30) days from the date a police report was filed, and an insurance carrier declares the **Covered Vehicle** a **Constructive Total Loss**. In the case there is no primary insurance coverage, the **Covered Vehicle** must be available for the **GAP Administrator's** inspection or appraisal to determine if the **Covered Vehicle** is a **Constructive Total Loss**. You will not be held responsible for

any inspection cost. If the **Covered Vehicle** is not available for inspection or appraisal the **GAP Amount** will not be **Waived** except when the **Constructive Total Loss** is due to unrecovered theft and a police report has been filed. In the event of a theft where the **Covered Vehicle** is recovered and returned to the **Customer/Borrower** after thirty (30) days, any **GAP Amount** that has been **Waived** shall be returned to the lender.

■ **Covered Vehicle:** Any four-wheel private passenger automobile, van, or light truck, as described in the **Financing Contract**, utilized for personal purposes and which is not otherwise excluded from coverage within this Addendum.

■ **Customer/Borrower:** The person(s) named in the **Financing Contract** receiving a **Financing Contract** from the **Lender**.

■ **Date of Loss:** The date on which the **Covered Vehicle** is stolen or incurs physical damage that is severe enough to constitute a **Constructive Total Loss**.

■ **Dealer/Creditor:** The entity originating the **Financing Contract** and who may assign, sell or transfer the **Financing Contract** to a **Lender**.

■ **Delinquent Payment:** Any payment, which is paid after the due date stated in the **Financing Contract**. The **Delinquent Payment** will be determined as of and limited to amounts past due on the **Date of Loss**.

■ **Finance Benefit Limit:** The Manufacturer's Suggested Retail Price (MSRP) for new vehicles or the NADA retail value for used vehicles multiplied by the **Finance Benefit Limit** percentage as stated in this Addendum.

■ **Financing Contract:** means the financing agreement, loan agreement, retail installment contract, or lease agreement, between the **Borrower** and the **Dealer/Creditor**. Such agreement may be assigned, transferred to or purchased by a **Lender** for the purchase or lease of the **Covered Vehicle**.

■ **GAP Administrator:** The entity designated by the **Dealer/Creditor** to perform administrative services for this Addendum.

■ **GAP Amount:** The **GAP Amount** is the difference between the **Net Payoff** on the **Date of Loss** and the **Primary Carrier** settlement but not to exceed \$50,000. The **GAP Amount** includes the amount of Your physical damage deductible on the **Primary Carrier's** policy up to \$1,000. In the event there is no **Primary Carrier** coverage in effect on the **Date of Loss**, or the **Primary Carrier** denies coverage or is declared insolvent, or if the **Primary Carrier** policy limits are less than the **Actual Cash Value** of the **Covered Vehicle**, the **Lender** will only **Waive** the difference between the **Net Payoff** as of the **Date of Loss** and the **Actual Cash Value**.

■ **Lender/Financial Institution:** Entity to whom the **Dealer/Creditor** assigns, sells or transfers the **Financing Contract**.

■ **Net Payoff:** The amount, as of the **Date of Loss**, as represented by the portion of the **Customer/Borrower's** unpaid balance according to the original payment schedule of the **Financing Contract** that is secured by collateral pursuant to all of the terms and conditions of this Addendum.

- The amount does not include any unearned finance charges; lease or **Financing Contract** charges; late charges; any **Delinquent Payments**; deferred payments; uncollected service charges; refundable prepaid taxes and fees; disposition fees; termination fees; penalty fees; the recoverable portion of financed insurance charges; or the recoverable portion of financed amounts for unearned insurance premiums or refundable charges (including, but not limited to credit life, vehicle service contracts/warranties and guaranteed asset protection charges) that are owed by the **Customer/Borrower** on the **Date of Loss**; and amounts that are added to the **Financing Contract** balance after the inception date of the **Financing Contract**.
- In the event the amount financed exceeds the **Finance Benefit Limit** at inception date of the Addendum, the **Net Payoff** will be reduced by the percentage the original amount financed exceeds the **Finance Benefit Limit**.

■ **Primary Carrier:** The insurance company that is selected by the **Customer/Borrower** to provide physical damage coverage on the **Covered Vehicle**; or provides liability coverage to any individual who has caused Your vehicle to incur a **Constructive Total Loss**. For the purposes of this Addendum, insurance that is forced placed, after the **Date of Loss**, is not considered a **Primary Carrier**.

■ **Self-financed** - A financing contract/loan/lease that is funded and retained by the selling dealer or an affiliate.

■ **Settlement Date:** The date the insurance carrier issues payment for the **Customer/Borrower's Covered Vehicle** for the **Constructive Total Loss**.

■ **Uniform Monthly Payment:** Installment payments that are equal in amount, except first and final payment, and are due at equal monthly intervals.

■ **Waive:** The cancelling of a debt due on Customer/Borrower's Financing Contract pursuant to all of the terms and conditions of this Addendum.

EXCLUSIONS

A) **Benefits shall not be provided upon the occurrence of a Constructive Total Loss:**

1. When a date of loss is prior to the date of the Addendum.
2. For any amounts deducted from the insurance carrier's settlement due to wear and tear, prior damage, unpaid insurance premiums, salvage, towing and storage and other condition adjustments.
3. To a vehicle used for commercial purposes including but not limited to transportation of persons or property for hire, compensation, profit, or in the furtherance of a commercial enterprise which includes but is not limited to one or more of the following: 1. a business name is permanently displayed on the vehicle; 2. vehicle is declared or deducted on federal income tax as a business vehicle; and 3. the primary insurance for the vehicle is a Business Auto Policy or Commercial Vehicle Policy. Share-the-expense car pools are not considered a commercial purpose.
4. When a **Constructive Total Loss** occurs during or after confiscation of Covered Vehicle by a government body or public official.
5. When a **Constructive Total Loss** is caused by theft, where an accident/police report has not been filed.
6. When a **Constructive Total Loss** is a result of being operated, used, or maintained in any race, speed contest, or other contest.
7. When a **Constructive Total Loss** occurs during or after the **Covered Vehicle** has been repossessed by a **Lender** or placed in the **Lender's** or its employee's or agent's possession.
8. When a **Constructive Total Loss** results directly or indirectly from any fraudulent, deceptive, illegal, or criminal act by You, whether acting alone or in collusion with others.
9. When a **Constructive Total Loss** may reasonably be expected to result from intentional or criminal acts of a **Customer/Borrower** or their permissive user while committing a felony, including but not limited to DUI/DWI, or while seeking to elude lawful apprehension or arrest by a law enforcement official. No **GAP Amount** will be **Waived** until the charge has been dismissed or adjudicated not guilty.
10. When a **Constructive Total Loss** occurs prior to a final **Finance Contract** approval.
11. Unless a **Constructive Total Loss** occurs within: 1. the United States of America, its territories or possessions; 2. Canada; or 3. being transported between any of the previously stated.

B) **Benefits shall not be provided** for the following items:

1. When the **Customer/Borrower** purchased coverage after the effective date of the **Financing Contract**.
2. The following vehicles which are excluded from coverage: Any vehicle in excess of 12,500 lbs GVWR, Daewoo, Bentley, Lamborghini, Lotus, Maserati, Ferrari, Rolls Royce, Yugo, Aston Martin, RV's, boats, ATV's, snowmobiles, motorcycles, and trailers.
3. For any vehicle with a salvage or rebuilt title as of the effective date of the **Finance Contract** or for which title has been changed or re-issued as salvage or rebuilt prior to the **Date of Loss**.
4. To special carpeting, furniture, bars, audio, video, or data equipment, cooking and sleeping facilities, customized paint, or any equipment installed to overcome a physical handicap, trailers, special commercial usage optional equipment, accessories and body components. This exclusion does not include: factory approved conversion packages and dealer installed options usually included in used car value guidebooks or attributable to standard or optional equipment available from the manufacturer of the **Covered Vehicle**.
5. A vehicle with a Manufacturer's Suggested Retail Price (MSRP) or NADA retail value of more than \$100,000, or if the Amount Financed exceeds \$100,000.
6. A **Financing Contract** or lease that is **Self-Financed**.
7. A vehicle classified as a lemon and has not been corrected.
8. A **Financing Contract** that requires the first payment to be made more than fifty-two (52) days from the date of the **Financing Contract**.
9. A **Financing Contract** or lease that is funded and retained by the selling **Dealer/Creditor** or an affiliate of the **Dealer/Creditor** unless the financial institution is authorized by the GAP Administrator to offer a GAP Addendum on a **Financing Contract**.

FRAUD AND MISREPRESENTATION: This Addendum is issued in reliance upon the truth of all representations made by You. A **GAP Amount** will not be **Waived** as to any **Financing Contract** where You: 1. Intentionally concealed or misrepresented any material fact; 2. Engaged in fraudulent conduct; or 3. Made a false statement relating to submitting a **Benefit** request. If You have concealed or misrepresented any material fact(s) concerning this coverage, or in case of fraud, attempted fraud, or the false swearing by affecting any matter relating to this coverage, whether before or after the **Benefit** request, this Addendum may be voided and all charges will be returned. All refunds are the responsibility of the **Dealer/Creditor**.

STATE PROVISIONS

- **Illinois:** Exclusion A9 is amended as follows: “DUI/DWI, or” is deleted.
- **Kansas, Indiana, Louisiana, Missouri, New Mexico, Vermont and Wisconsin:** The cancellation fee is not applicable.
- **Kansas:** The ASSIGNMENT section is deleted and replaced with the following: ASSIGNMENT: This addendum will remain a part of the **Financing Contract** with no subrogation rights against the **Customer/Borrower**, if the **Financing Contract** or lease is assigned, sold or transferred by the **Dealer/Creditor**. The EXCLUSIONS SECTION is amended as follows: “while committing a felony, including but not limited to DUI/DWI, or” is deleted. **GAP COVERAGE MAY NOT CANCEL OR WAIVE THE ENTIRE AMOUNT OWED AT THE TIME OF LOSS.** Kansas consumers with questions or complaints may contact the Office of the State Bank Commissioner, 700 SW Jackson #300, Topeka, KS 66603, 785-296-2266 or toll free 1-877-387-8523.
- **Louisiana:** Exclusion A2 is amended as follows: “wear and tear” is deleted.
- **Nebraska:** This Addendum is not regulated by the Department of Insurance.
- **Tennessee:** The cost of this Addendum is not regulated and You have the responsibility to determine whether the cost of this Addendum is reasonable in relation to the protection afforded by this Addendum.
- **Utah:** This Addendum is subject to limited regulation by the Utah Insurance Commissioner and a complaint regarding this Addendum may be submitted to the Commissioner at the Utah Department of Insurance, State Office Building, Room 3110, Salt Lake City, UT 84114.
- **Vermont:** We must assign, sell or transfer, within fifteen (15) business days, the **Financing Contract** to a **Financial Institution/Lender** as defined in subdivision 11101(32) of Title 8 or a credit union or entity licensed under subdivision 2201(a)(1) or (3) of Title 8 or this Addendum is void and You will receive a full refund of the charges of this Addendum.
- **Washington:** 1. Any refund of the purchase price for an Addendum that was included in the financing of the **Covered Vehicle** or vessel may be applied by the Lender/Financial Institution as a reduction of the overall amount owed under the **Financing Contract**, rather than applying the refund strictly to the GAP charge for this Addendum. 2. The Guaranteed Asset Protection Addendum is not credit insurance, nor does it eliminate the **Customer/Borrower’s** obligation to insure the **Covered Vehicle** as provided by laws of this state. Purchasing a GAP Addendum does not eliminate the **Customer/Borrower’s** rights and obligations under the vendor single-interest and collateral protection coverage laws of this state. 3 The sentence “All preliminary issues of arbitrability of any dispute will be decided by the arbitrator.” is deleted from the Arbitration Provision.
- **Wisconsin:** 1. The Arbitration provision is amended as follows: the following four sentences are deleted: a) “In the first instance, the parties agree to attempt to resolve any dispute through informal negotiation.” b) “The parties agree to contact each other about a dispute before initiating any legal action.” c) “All preliminary issues of arbitration will be decided by the arbitrator.” and d) “The arbitrator shall be prohibited from awarding punitive, consequential, special, incidental, and exemplary damages.” 2. Class Action or any other collective or representative claims are not prohibited under this provision. If any portion of this arbitration provision is deemed invalid or unenforceable, the remaining portions of this arbitration provision will remain valid to the extent not prohibited by the Wisconsin Consumer Act. 3. A cancellation refund within the first thirty (30) days will also include the amount of the applicable finance charge. 4. TERMINATION OF ADDENDUM SECTION is amended as follows. The last sentence, “You must request a refund, in writing, from the Dealer/Creditor for any terminating event.” is deleted. 5. The following sentence is deleted “You acknowledge that this Addendum supersedes any other representations made” and is replaced with “This Addendum is intended to be the complete and final statement of the terms and conditions governing the relationship between You and the **Dealer/Creditor.**”

SAMPLE