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IN THE CIRCUIT COURT OF CHRISTIAN COUNTY, MISSOURI
ASSOCIATE CIRCUIT DIVISION

| | | |
|---|---|---|
| Lendmark Financial Services, LLC | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| vs. | ) | Case No. |
| | ) | Division |
| AIMEE POTTS | ) | |
| 4119 S FARM RD 99 | ) | |
| Republic MO 65738 | ) | |
| | ) | |
| Defendant. | ) | |

PETITION

COMES NOW, Plaintiff Lendmark Financial Services, LLC and for its cause of action against Defendant AIMEE POTTS , states as follows:

1. This Court has original jurisdiction over this controversy, as Defendant is a resident of Missouri. Venue in this Circuit is proper because the Defendant resides in this county.

2. Plaintiff and Defendant entered into a written contract. A copy of said written contract is attached hereto and marked "Exhibit A".

3. Plaintiff fully performed as agreed.

4. Defendant breached said written contract by failing to pay to Plaintiff the full agreed sum and now owes Plaintiff in the principal amount of $3,330.55, interest charges in the amount of $229.73, miscellaneous fees in the amount of $55.00, minus an interest rebate in the amount of $40.56, plus interest at the statutory rate of 9.00% from and after the date of judgment.

5. Demand has been made upon Defendant, but the balance remains due and unpaid.

WHEREFORE, Plaintiff Lendmark Financial Services, LLC prays for judgment against Defendant AIMEE POTTS, for the principal sum of $3,330.55, interest charges in the amount of $229.73, miscellaneous fees in the amount of $55.00, minus an interest rebate in the amount of $40.56, and for interest thereon at the statutory rate of 9.00% per annum from and after the date of judgment, and court costs.

BERMAN & RABIN, P.A.

Daniel S. Rabin #37315
drabin@bermanrabin.com
Benjamin N. Hutnick #63668
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ATTORNEYS FOR PLAINTIFF

2958543-3

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DocuSign Envelope ID: [redacted]

# DISCLOSURE STATEMENT, PROMISSORY NOTE AND SECURITY AGREEMENT

DATE: 02/09/2023 ACCOUNT NUMBER: [redacted] LOAN AMOUNT: $3,709.46

LENDER/SECURED PARTY:
(you, your)
LENDMARK FINANCIAL SERVICES, LLC

319 E. Battlefield Street Suite A
Springfield, MO 65807

BORROWER(S)/DEBTOR(S):
(I, me, my, mine, we, our, and ours)
AIMEE POTTS

ADDRESS FOR BORROWER(S):
[redacted]

FEDERAL TRUTH IN LENDING DISCLOSURES

| ANNUAL PERCENTAGE RATE | FINANCE CHARGE | Amount Financed | Total of Payments |
|---|---|---|---|
| The cost of my credit as a yearly rate. | The dollar amount the credit will cost me. | The amount of credit provided to me or on my behalf. | The amount I will have paid after I have made all payments as scheduled. |
| 26.89% | $1,096.46 | $3,609.46 | $4,705.92 |

My payment schedule will be:

| Number of Payments | Amount of Payments | When Payments are Due | Final Payment Date (Maturity Date) |
|---|---|---|---|
| 1 | 196.08 | First Payment Date: 03/09/2023 | 03/09/2025 |
| 23 | 196.08 | Monthly, Beginning 04/09/2023 | |

Security: I am giving a security interest in:
☐ Consumer goods ☒ Motor vehicle ☐ Unsecured
☐ Other (describe): _____

Late Charge: If any installment payment is not paid in full within 15 days after it is due, I agree to pay a late charge equal to 5% of the installment or $15.00, whichever is greater, but not to exceed $50.00.
Prepayment: If I pay off early, I will not have to pay a penalty.
I can see my contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

ITEMIZATION OF THE AMOUNT FINANCED

Amount Given to Me Directly
1. $2,000.00
2. $0.00

Amount Paid on My Prior Account
3. $1,491.51

Amount Paid to Others on My Behalf
4. $0.00 To Allied Solutions, LLC, for GAP Debt cancellation contract*
5. $71.95 To Insurance Company for Life Ins.*
6. $0.00 To Insurance Company for Accident & Health Ins.*
7. $0.00 To Insurance Company for Personal Property Ins.*
8. $0.00 To Insurance Company for Involuntary Unemployment Ins.*
9. $0.00 To Insurance Company for Vehicle Single Interest Ins.*
10. $0.00 To Public Official for Recording Fees
11. $0.00 To Public Official for Lien Filing Fees
12. $46.70 Sum of Additional Amounts Paid to Others
13. $3,609.46 Amount Financed (Sum of 1-12)

$100.00 Prepaid Finance Charge (Origination Fee)

Additional Amounts Paid To Others
(a) $46.70 To American Traveler Motor Club LLC
(b) To
(c) To
(d) To
(e) To
(f) To
(g) To
(h) To
(i) To
(j) To

*Lender may retain a portion of these amounts

NOTE: I, the undersigned Borrower, jointly and severally, promise to pay to the order of Lender, at its office, the Loan Amount (Amount Financed plus Prepaid Finance Charge shown above) plus interest from the date hereof on the unpaid balance of the Loan Amount at the interest rate(s) described below, until paid in full, according to the payment schedule shown above. Each consecutive payment is due on the same day of each calendar month.
RATE OF INTEREST: Interest accrues on a daily basis at a rate of 23.96% per annum.
POST-MATURITY INTEREST: Interest will continue to accrue at the Rate of Interest on the balance of this note not paid at maturity, including maturity by acceleration.
SECURITY AGREEMENT: I grant you a security interest in the Property described below. The rights I am giving you in this Property and the obligations this document secures are defined on page 2.
☒ (a) Motor Vehicle:

| YEAR | MAKE | MODEL | BODY TYPE | SERIAL NO. /IDENTIFICATION |
|---|---|---|---|---|
| 2013 | Nissan | Versa | Sedan 4DSL 1.6L4 | 3N1CN7AP2DL842479 |
| | | | | |
| | | | | |

☐ (b) Consumer Goods: See "Personal Property List" which is incorporated herein by reference thereto.
☐ (c) Other (describe): _____

Oral agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable. To protect you (borrower(s)) and us (creditor) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it.
I, the undersigned Borrower, agree to the terms set out on Page 1 and Page 2 of this document. I do hereby acknowledge receipt of a copy of this Disclosure Statement, Promissory Note and Security Agreement, as well as the receipt of the proceeds of the loan as stated above. I further acknowledge that at the time I received a copy of this Disclosure Statement, Promissory Note and Security Agreement, that such forms were complete and filled in and that all blanks in such forms were filled in prior to my executing the same.
THIS DOCUMENT IS EXECUTED UNDER SEAL BY THE BORROWER(S) ON THE DATE ABOVE WRITTEN.

DocuSigned by:
AIMEE POTTS

Exhibit A

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**ADDITIONAL TERMS APPLICABLE TO THE NOTE AND SECURITY AGREEMENT**

**DEFINITIONS** – "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

**APPLICABLE LAW** – This note and security agreement securing this note will be governed by the laws of the State of Missouri. The federal Truth-in-Lending disclosures on page 1 are disclosures only and are not intended to be terms of this agreement. The fact that any part of this note and security agreement cannot be enforced will not affect the rest of this note and security agreement. Any change to this note, the security agreement, or any other agreement securing this note must be in writing and signed by you and me.

**ASSUMPTION** – The note and security agreement cannot be assumed by someone buying the Property from me. This will be true unless you agree in writing to the contrary. Without such an agreement, if I try to transfer any interest in the Property, I will be in default under the note and security agreement.

**ELECTRONIC RECORD** – I understand and agree that you may convert this note into an electronic record for document retention and other purposes (the "Electronic Record"). I consent to the conversion of this note into the Electronic Record and agree that the Electronic Record will be the original version of this note and effective, valid and enforceable for all reasons under applicable law. I also agree that sending me a printout of the Electronic Record will satisfy the requirements of applicable law regarding the return of my original note after satisfaction of my obligations under the note.

**CALLS AND MESSAGES:** I understand and agree that you, including your affiliates, assigns, service providers and agents, (collectively, the "Messaging Parties") may use automated telephone dialing, text messaging systems and electronic mail to provide messages to me or contact me about scheduled payments, missed payments and with other important information regarding this agreement or my relationship with the Messaging Parties. Telephone calls may include a pre-recorded message and may be played by a machine automatically when the telephone is answered, whether answered by me, someone else or a voice mail or answering machine. I authorize the Messaging Parties to call or send a text message to any telephone number I have given the Messaging Parties or I give to a Messaging Party in the future, including telephone number(s) set forth in the Application for Credit submitted in connection with this note and security agreement. I also give the Messaging Parties permission to communicate such information to me by e-mail. I understand that, when I receive such calls, texts or e-mails, I may incur a charge from the company that provides me with telecommunications, wireless and/or internet services. I agree that the Messaging Parties will not be liable to me for any fees, inconvenience, annoyance or loss of privacy in connection with such calls or e-mails. I understand that anyone with access to my telephone, answering machine or email account may listen to or read the messages, notwithstanding the Messaging Parties' efforts to communicate only with me. This authorization is part of our bargain concerning this extension of credit and this agreement and understand you do not intend it to be revocable. However, to the extent you are required by applicable law to allow me to revoke my consent to these automatic reminders, I may do so by calling 1-866-413-8140 or submitting a request at www.landmarkfinancial.com under the Contact Us tab.

**PAYMENT OPTIONS:** I understand that I can make my loan payments to you by cash, check, money order, ACH, or debit card. I also understand that you contract with a third-party payment processor to process debit card payments and cash payments at select participating retailers. If I choose to make a loan payment using my debit card or by cash at a select participating retailer, I authorize the third-party payment processor to directly charge and collect a fee to process my debit card or cash loan payment. I understand that Landmark does not and will not receive any portion of this fee. I also understand that I may make a payment by cash with no additional fee at any Landmark branch location.

**ADDITIONAL TERMS OF THE NOTE**

**PAYMENTS** – Each payment I make on this loan will be applied first to late charges, then to interest that is due, then to principal that is due (and then to any other charges) due hereunder. No late charge will be assessed on any payment when the only delinquency is due to late fees assessed on earlier payments and the payment is otherwise a full payment. The actual amount of my final payment will depend on my payment record.

**PREPAYMENT** – I may prepay this note in whole or in part at any time. If I prepay in part, I must still make each later payment in the original amount as it becomes due until this note is paid in full.

**USURY** – The interest rate and other charges on this note will never exceed the highest rate or charge allowed by law for this note.

**LATE CHARGE** – If any installment payment is not paid in full within 15 days after it is due, I agree to pay a late charge equal to 5% of the installment or $15.00, whichever is greater, but not to exceed $50.00.

**DEFAULT** – I will be in default on this note and security agreement if any one or more of the following occurs:

(a) I fail to make a payment in full when due; or

(b) I cause you to have a reasonable belief that the prospect of payment or performance or realization on collateral is significantly impaired;

If any of us are in default on this note or security agreement, you may exercise your remedies against any or all of us.

**REMEDIES** – If I am in default on this note or security agreement, you may use any of the remedies listed below. *If I am in default for failure to pay or otherwise perform under the terms of this note or security agreement and have not voluntarily surrendered possession of collateral securing this loan, you will send me a written notice of the*

(a) Make unpaid principal, earned interest and all other agreed charges I owe you under this note immediately due;

(b) Demand more security or new parties obligated to pay this note (or both) in return for not using any other remedy;

(c) Make a claim for any and all insurance benefits or refunds that may be available on my default;

(d) Use any remedy you have under state or federal law; and

(e) Use any remedy given to you in any agreement securing this note.

By choosing any one or more of these remedies you do not give up your right to use another remedy later. By deciding not to use any remedy should I be in default, you do not give up your right to consider the event a default if it happens again.

**ATTORNEYS' FEES AND EXPENSES** – I agree to pay the reasonable attorneys' fees not greater than 15% of the unpaid debt, that you incur if you retain an attorney who is not your salaried employee to collect this note in the event of my default. I will also pay your court costs and other collection costs actually incurred by you. To the extent permitted by applicable law, I also agree to pay you for the reasonable expenses incurred by you in realizing on any collateral securing this loan.

**OBLIGATIONS INDEPENDENT** – I understand that my obligation to pay this note is independent of the obligation of any other person who has also agreed to pay it. You may, without notice, release me or any of us, give up any right you may have against any of us, extend new credit to any of us, or renew or change this note one or more times and for any term, and I will still be obligated to pay this note. You may, without notice, fail to perfect your security interest in, impair, or release any security and I will still be obligated to pay this note.

**WAIVER** – I waive (to the extent permitted by law) demand, presentment, protest, notice of dishonor and notice of protest.

**MLA SAVINGS CLAUSE** – Nothing contained herein, which constitutes a waiver of a right to legal recourse under any otherwise applicable provision of State or Federal law, shall apply to an individual who is a "Covered Borrower" as defined by the Department of Defense's Regulation (32 C.F.R. §232) implementing the Military Lending Act (10 U.S.C. §987) on the date of this loan agreement.

**PURCHASE MONEY LOAN** – If this is a Purchase Money Loan, you may include the name of the seller on the check or draft for this loan. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any property securing the note and all extensions, renewals, consolidations and refinancings of such note.

**DISHONORED CHECK CHARGE** – In the event I make payment by check or other instrument or authorization that is returned or dishonored by the institution upon which it is drawn, I agree to pay a bad check charge in the amount of $25.00.

**ADDITIONAL TERMS OF THE SECURITY AGREEMENT**

**SECURED OBLIGATIONS** – This security agreement secures the note and all extensions, renewals, refinancings and modifications of the note and any future advances by You. This security agreement will last until it is discharged in writing.

**PROPERTY** – The word "Property" as used here, includes all property that is listed in the security agreement on page 1. If a general description is used, the word Property includes all my property fitting the general description. Property also means all benefits that arise from the described Property (including all proceeds, insurance benefits, payments from others, interest, dividends, stock splits and voting rights). It also means property that now or later is attached to, is a part of, or results from property.

**OWNERSHIP AND DUTIES TOWARD PROPERTY** – I represent that I own all the Property. I will defend the Property against any other claim. I agree to do whatever you require to perfect your interest and keep your priority. I will not do anything to harm your position.

I will keep the Property in my possession (except if pledged and delivered to you). I will keep it in good repair and use it only for its intended purposes. I will keep it at my address unless we agree otherwise in writing.

I will not try to sell or transfer the Property or permit the Property to become attached to any real estate, without your written consent. I will pay all taxes and charges on the property as they become due. I will inform you of any loss or damage to the Property. You have the right of reasonable access in order to inspect the Property.

**INSURANCE** – I agree to buy insurance on the property against the risks and for the amounts you require. I will name you as loss payee on any such policy, you may require added security on the loan if you agree that insurance proceeds may be used to repair or replace the Property. I agree that if the insurance proceeds do not cover the amounts I still owe you, I will pay the difference. I will buy the insurance from a firm authorized to do business in Missouri. The firm will be reasonably acceptable to you. I will keep the insurance until all debts secured by this agreement are paid.

**DEFAULT AND REMEDIES** – If I am in default, in addition to the remedies listed in the note portion of this document you may seek the following remedies:

(a) Pay taxes or other charges, or purchase any required insurance, if I fail to do these things (but you are not required to do so). You may add the amount you pay to this loan and accrue interest on that amount at the interest rate disclosed on page 1 until paid in full;

(b) Require me to gather the Property and any related records and make it available to you in a reasonable fashion; and

(c) Take immediate possession of the Property, but in doing so you may not breach the peace or unlawfully enter onto my premises. You may sell, lease or dispose of the Property as provided by law. You may apply what you receive from the sale of the Property to your expenses and then to the balance due under the note. If what you receive from the sale of the Property is less than what I owe you, I agree to pay the deficiency plus interest at the Post-Maturity Interest rate on page 1 (to the extent permitted by law).

I agree that when you must give notice to me of your intended sale or disposition of

LENDMARK FINANCIAL SERVICES

**Plaintiff,**

vs.

AIMEE POTTS

**Defendant(s)**

# AFFIDAVIT

STATE OF KANSAS )
) ss.
COUNTY OF JOHNSON )

Before me, the undersigned Notary Public, personally appeared the person identified by name and title below, who being by me duly sworn, deposed and stated as follows:

1. I am making the statements in this Affidavit as of _____. My name is Bernard Bartholome. I am of sound mind, lawful age and capable of making this Affidavit. I am a Custodian of Records, authorized Officer, and employee of the above named Plaintiff. I am duly authorized by the Plaintiff to make this Affidavit, and because of the scope of my job responsibilities, I am familiar with the manner and method by which Plaintiff maintains its normal business books and records, including computer records, physical records, contracts, and records concerning contracts in default.

2. The statements set forth in this Affidavit are true and correct based on my personal knowledge and review of the business records described herein, and the processes by which Plaintiff maintains its business books and records..

3. These books and records, including specifically Contracts and corresponding documents, are made in the course of regularly conducted business activity: (1) at or near the time the events they purport to describe occurred, by a person with knowledge of the acts and events; or (2) by a computer or other similar digital means, which contemporaneously records and event as it occurs.

4. My employment duties include being a custodian of records for the Plaintiff with respect to contracts with customers. As a custodian of such records, I have knowledge of, and access to, Plaintiff's contracts, account information, and records concerning a Contract entered into by Defendant(s) with Plaintiff.

5. The Defendant(s) has/have failed to timely remit payment due under the Contract and is therefore in default thereof. The balance due under the Contract is therefore accelerated, and past due. After all credits and setoffs to which Defendant(s) is/are entitled, there is a total balance owing from Defendant(s) to Plaintiff of $3,574.72 as of September 29, 2023. The breakdown of the total balance as of is as follows: principal balance of $3,330.55 , interest charges of $229.73 , late

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fees of $0.00, legal fees of $0.00, repossession fees of $0.00, miscellaneous fees of $55.00 , NSF fees of $0.00 , and an interest rebate of $40.56.

6. The above Plaintiff is the current holder and/or servicer and payee of the Contract, and neither the Contract, nor any part thereof, has been assigned to any other person or entity.

7. The books and records of Plaintiff show that credit has been given to Defendant(s) for all just and lawful offsets, payments, and credits as of the date specified herein, and the entire remaining balance on the Contract as set forth in Plaintiff's Complaint now remains due and owing.

8. Demand for payment of the balance owing was made more than thirty (30) days prior to making this Affidavit, after which the attorneys representing Plaintiff were retained for the purpose of collecting on the Contract.

9. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

K Rogers 09/28/2023

Kelsey Rogers
Notary Public State of Kansas
My Appt Expires 12/06/2025

By: _____

Name: Bernard Bartholome

Title: Assistant Vice President

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IN THE CIRCUIT COURT OF CHRISTIAN COUNTY, MISSOURI
ASSOCIATE CIRCUIT DIVISION

Lendmark Financial Services, LLC

Plaintiff,

vs. Case No.
Division

AIMEE POTTS
4119 S FARM RD 99
Republic MO 65738

Defendant.

AFFIDAVIT OF NON-MILITARY SERVICE

STATE OF KANSAS )
)ss.
COUNTY OF JOHNSON )

I, Daniel S. Rabin/Benjamin N. Hutnick, of lawful age, affirm, on oath state that I am the Attorney for Plaintiff or Petitioner, in the above entitled case, and I make this affidavit pursuant to the provisions of the Service Members Civil Relief Act of 2003; that I have caused a careful investigation to be made to ascertain whether or not the above-named Defendant or Respondent is in the active service of the Army of the United States, the United States Navy, the United States Marine Corps, the United States Coast Guard, the United States Air Force, the National Guard or of any Public Health Service detailed by proper authority for duty with the military; and, that as a result of said investigation, I hereby state that to the best of my knowledge the Defendant or Respondent is not in any of the above-named branches of the military service nor has the Defendant or Respondent received notice of induction or notice to report for active service.

THE AFFIANT SAYETH NOT.

Daniel S. Rabin #37315
Benjamin N. Hutnick #63668

Signed and Affirmed to before me this 23rd day of October, 2023.

Kelsey Rogers
Notary Public State of Kansas
My Appt Expires 12/06/2025

Notary Public

2958543-3