

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

VERA-WILLIAMSON INVESTMENTS, INC.	)	
d/b/a Vera Cadillac Buick GMC; and the STATE	)	
OF FLORIDA and the FLORIDA	)	
DEPARTMENT OF HIGHWAY SAFETY	)	
AND MOTOR VEHICLES	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.:
	)	
GENERAL MOTORS, LLC	)	
	)	
Defendant	)	
	)	
	)	
	)	

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Vera-Williamson Investments, Inc., d/b/a Vera Cadillac Buick GMC (“Vera”) by way of Complaint against the Defendant, General Motors, LLC (“GM”), hereby alleges as follows:

Parties

1. Plaintiff Vera is a corporation organized and existing under the laws of Florida with its principal place of business located at 300 S. University Drive, Pembroke Pines, Florida 33025.

2. Vera is a franchised motor vehicle dealer as defined by Section 320.27(1)(c)(1), Florida Statutes, and operates a franchised motor vehicle dealership, where it sells and services Cadillac, Buick and GMC products pursuant to a franchise agreement, as defined by Section 320.60(1), Florida Statutes. Vera’s Franchise Agreements are attached as Exhibit A.

3. Defendant GM is a limited liability company organized and existing under the laws of Delaware with its principal place of business located in Detroit, Michigan. All of the underlying LLC members are domiciled outside of the state of Florida.

4. GM is a manufacturer and distributor as defined by Sections 320.60(5) and 320.60(9), Florida Statutes, as it manufactures *inter alia* Cadillac, Buick and GMC vehicles and sells, and offers to sell, those vehicles to new motor vehicle dealers (including Vera) in this State.

Jurisdiction

5. This court has jurisdiction pursuant to 28 U.S.C. §1332(a)(1) in that there is complete diversity of citizenship and the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs.

6. Venue is proper in this District pursuant to 28 U.S.C. §1391(a) in that jurisdiction is founded solely on the basis of diversity, and GM, by virtue of its systematic and continuous business contacts in this District, resides in this District.

Facts Applicable to All Claims

Vera's Dealership Operations

7. Vera has continuously operated as a Cadillac dealer from its current location since August 31, 2004, which has at all times been approved by GM. Vera also operated Hummer and Saturn at the facility with Cadillac pursuant to GM's express approval from August 31, 2004 until 2009, and operated Saab there from January 2008 until 2009. Vera currently operates Buick-GMC in addition to Cadillac at the location, likewise with GM's express authorization. At all pertinent times hereto, Vera's facility has been approved by GM for the respective dealership operations.

8. Vera's dealership facility was severely damaged by a hurricane in 2005. As a result of the storm damage, Vera renovated virtually the entire facility. The renovation was completed in 2008 and provided Vera a new facility built to GM specifications, which at that time housed four GM brands. Indeed, until 2012, GM used a picture of Vera's facility in meetings at its headquarters in Detroit as an example of what a GM compliant Cadillac facility should look like. A picture of Vera's Cadillac facility is attached as Exhibit B.

9. Vera operated the Hummer, Saturn, and Saab franchises (along with Cadillac) from the existing facility until GM filed for bankruptcy in 2009, at which time those three brands were "wound down". Practically speaking, GM eliminated those three brands, and as a natural consequence, Vera lost its franchises for those brands leaving Vera with just the Cadillac franchise.

10. In addition to eliminating several brands during the bankruptcy, GM also reshaped its dealer network for the remaining brands, and in so doing, terminated dealer agreements for certain Chevrolet, Cadillac, Buick and GMC dealers. Vera survived GM's consolidation plan and was chosen by GM to move forward as a Cadillac dealer with the new-GM entity after bankruptcy. GM Letter Retaining Vera Cadillac attached as Exhibit C. After the bankruptcy, and due to market consolidation in South Florida, GM also awarded Vera the Buick and GMC franchises to be operated at its current location. GM authorized Vera to operate the Buick and GMC franchises at Vera's current location alongside Cadillac. Vera has operated Cadillac, Buick and GMC together at its existing location since January 2010.

11. Vera's facility has at all pertinent times been approved by GM to operate the three brands.

GM's EBE Program

12. GM operates a bonus/incentive program entitled Essential Brand Elements (“EBE”), which is purportedly based on improving the customer experience. The EBE program is an agreement between the dealer and GM whereby the dealer agrees to take on certain program requirements in return for GM’s payment upon achievement of said requirements. Under the EBE program, GM makes quarterly “bonus” payments to dealers that are in full compliance with the EBE program’s requirements. The quarterly EBE bonus payment was calculated on a per-vehicle basis and paid based on how many vehicles a dealer is invoiced during the previous quarter. To be eligible for EBE funds a dealer must participate in GM’s sales and service retention program, participate in GM’s digital customer lead package, meet GM’s training requirements for the dealer’s staff, and participate in the GM facility image program.

13. The facility image program requires that a dealer’s facility meet all of GM’s specific interior and exterior requirements under the EBE program. The EBE facility image requirements operate separately from the franchise facility approval process, so that a dealer (like Vera) could operate from a fully approved and compliant GM facility, yet, be deemed non-compliant under the EBE program’s facility image requirements. That is exactly what occurred with Vera.

14. The EBE facility image process works in phases and has corresponding milestones that a dealer must achieve by a date certain or otherwise be deemed non-compliant for the facility image portion of the EBE program. If the dealer becomes non-compliant, it loses eligibility to receive the EBE quarterly payment.

15. The EBE facility image process is made up of five phases (enrollment; consultation; D.I.D. delivery; construction documents review; and verification). Phase one (enrollment) is simply signing up for the facility image program and submitting to GM (and its architect Gensler) “as-built” design documents for the dealer’s existing facility. GM states that this phase should take 15 days. Submission of the existing facility design documents gives GM a detailed understanding of the dealer’s current facility and what must be changed in order to comply with the EBE facility image requirements. Upon enrollment the dealer will also receive its deadlines (or gates) to complete the rest of the project.

16. Phase two of the program involves a visit to the dealership facility by Gensler (i.e. a consultation) and Gensler’s preparation of an initial dealership sketch showing what the dealership would need to look like to be compliant with the EBE facility image requirements. Pursuant to GM’s timeline, phase two is supposed to occur within 30 days after the completion of phase one. Gensler is GM’s architectural firm, and is very involved in the EBE facility image process. GM/Gensler must agree to the proposals, plans and construction documents in the facility image program before a dealer can move forward with construction.

17. Phase three of the program involves GM/Gensler producing design intent documents (“D.I.D.’s”), which are a more detailed representation of the facility plan requirements under the EBE facility image program. The facility image requirements, plan and detailed documents are all produced by GM, and the dealer is at GM’s mercy under the program. The EBE facility image requirements cover everything from the outside of the building (such as the exterior building color, shape and signage) to the inside of the showroom (such as size, floor tile, and specific furniture) as well as the parts and service areas (such as the parts counter and service drive). A facility plan has to be approved by GM, so Gensler creates the D.I.D.’s and

sends those to the dealer. Pursuant to GM's timeline, phase three is supposed to be complete in 45 days from the completion of phase two. GM allots 90 days to complete phases one through three.

18. Phase four of the EBE facility image program takes the D.I.D.'s and turns them into full-fledged construction drawings. This is done in concert with the dealer's local architect and/or contractor, and these documents serve as the final documents used in construction. However, the dealer's local architect does not have free reign to create construction documents, and instead, must follow the D.I.D.'s and then submit the final construction documents to GM/Gensler for review and final approval. GM allots 120 days to complete phase four.

19. The dealer has a deadline to complete each phase (or gate) of the EBE facility image program. The failure to meet a deadline can result in the dealer moving from compliant status (green) to non-compliant status (yellow), which suspends payments at the end of that quarter. The dealer has an opportunity to catch up so that the suspended funds are released. However, the dealer has a limited time to do so and if a dealer does not cure the missed milestone within a certain period of time, its status will eventually move to red, which signifies the funding is lost forever.

20. The last phase of the facility image program is verification of the construction completion, which requires date-stamped photographs showing completion pursuant to the approved plans. GM allots 520 days for the construction and verification phase. All in all, GM established a 24-month timeline for a dealer to complete the EBE facility image requirements.

21. Although GM did not build in a separate phase in the facility image program (or allocate extra time), a dealer must also obtain local government approval for the construction activity to include any permits, variances, and/or inspections that must occur prior to the

beginning of construction. Absent such local government approval, a dealer cannot begin construction even if the documents are finalized and approved by GM. Likewise, GM/Gensler's plans do not factor in various local government zoning and/or architectural code requirements. So, a dealer could have an approved proposal and received detailed D.I.D.'s from GM, but not receive local government approval for the construction plans, and as a result, not be authorized to move forward with the facility changes. That is exactly what occurred to Vera, several times, as will be set forth in more detail below. GM does not make accommodation for those situations, and instead, simply deems the dealer to have missed a deadline (gate) even though GM could not (or would not) agree to a plan that could garner local government approval, which ultimately results in the dealer losing the EBE funds.

22. Although the dealer is responsible for meeting the various milestones (or gates) for each phase, GM controls every step in the process. GM controls when Gensler will visit the dealership to complete the facility sketch. GM controls approval of the initial facility proposal. GM controls the creation and production of the D.I.D. GM controls the approval of the dealer's construction drawings. GM controls review and approval of the very first facility proposal all the way to the final construction documents. GM also controls whether any accommodations will be made to satisfy local government/zoning requirements. Notwithstanding GM's control, GM also has obligations under EBE to include making payments when a dealer has complied, and also taking such actions that enable to a dealer to comply, such as providing a useable D.I.D. document.

Impact of GM's EBE Program

23. GM generally contends that the EBE program is voluntary, but not participating in the EBE program can potentially result in the loss of millions of dollars and make a dealer not

competitive in the marketplace. Thus, participation in the EBE program is anything but voluntary. GM uses the EBE program, and its payments in particular, to force dealers to commit to facility modifications that are otherwise not needed or justified. GM is able to control dealer behavior through the use of the EBE program, because GM effectively controls the dealer's profit margin on each vehicle sold. GM is the sole supplier of new-vehicle inventory to its dealers and as such, it sets the sale price to the dealers as well as the MSRP for every vehicle. So, GM effectively controls the vehicle profit margin of its dealers.

24. Historically, there was a profit margin between the vehicle invoice price to the dealer and the MSRP. However, in the EBE program GM has held some of the per-vehicle profit back and agreed to return that money to the dealer after the fact (i.e. post sale of the vehicle) only if the dealer complies with GM's dictates. The dealer is at the mercy of GM for pricing, because GM can alter the invoice price as it sees fit and also creates programs such as EBE in its sole discretion.

25. The EBE program creates a pricing disadvantage for those dealers that do not participate or are not able to comply with the requirements of the program either through their choice or for reasons outside of their control as in the case of Vera. The pricing disadvantage is easily illustrated as EBE compliant dealers know that they will receive a per-vehicle bonus (in a pre-specified amount) at the end of each quarter. Because the "bonus" amount is paid on a per-vehicle basis, GM effectively reduces the cost of each vehicle to those compliant dealers, and in contrast, the non-compliant dealers ultimately pay more for each similarly equipped model vehicle. This pricing disparity ultimately impacts consumers as dealers that have, for example, an extra \$500 of margin per-vehicle can pass that savings on to a customer, whereas non-compliant EBE dealers are not able to be as competitive. The ultimate impact is that a dealer

who is not EBE compliant (for whatever reason) is not purchasing the vehicle on the same terms as other competitor dealers and is also not competitive on the price sold to consumers.

26. The EBE per-vehicle bonus amounts also have no correlation to the cost of compliance with the EBE program. For example, a dealer whose facility needs only new exterior signage will receive the same per-vehicle bonus as a dealer that had to undertake a massive renovation to become EBE compliant. Consequently, the EBE bonus payments are not simply reimbursements for dealership investment and instead, they are quarterly payments whereby GM simply hands back a certain per-vehicle profit margin to the dealer. As set forth above, the bonus payments result in a non-compliant dealer paying a higher price for a similarly equipped vehicle than dealers that are EBE compliant. The pricing disparity ultimately impacts consumer price and dealership competitiveness.

Vera's Attempts to Comply with EBE Facility Requirements and GM's Unlawful Withholding of EBE Payments

27. Vera received the Buick-GMC brands in January, 2010, and GM approved those brands to operate from the existing location, which is reflected on Vera's franchise agreement. In 2010, GM representatives toured the recently rebuilt Vera facility and reviewed the Cadillac, Buick, GMC operations. At that time, GM stated all that was needed to update the facility to GM image standards was to add the Buick-GMC sign on the building and to adapt the glass partition in the showroom so that the Cadillac vehicles would not be seen from the Buick-GMC showroom, and vice-versa. Vera complied with GM's request and installed graphics on the glass partition to prevent the respective vehicle emblems from being seen from the other showroom. Thereafter, Vera operated without issue from GM for several years.

28. However, everything changed in the summer of 2012. GM scheduled a site visit at Vera's dealership and after touring the facility demanded that Vera substantially alter its

facility if it desired to reap the benefits of GM's EBE program. GM's facility demands were further exacerbated by the fact that Vera had just completed a major facility renovation in 2008, and GM had used Vera's facility as the poster child of a compliant facility. Notwithstanding that Vera's facility was large enough, had the correct signage, was approved by the Town of Pembroke Pines and was recently rebuilt, Vera agreed to attempt to comply with the EBE requirements.

29. Vera enrolled in the EBE facility image program in 2009, and quickly began to try to satisfy GM's demands. However, from the very first step (submission of current facility drawings), GM made the process extremely difficult, to the point where Vera ultimately could not comply no matter what efforts it made. First, GM informed Vera that its EBE enrollment had been lost or misplaced, and there was confusion about Vera's status in the program. Yet, even after Vera's enrollment was made clear, GM's dysfunction continued. For example, phase one requires that the dealer submit the existing facility detailed construction drawings to GM and Gensler so that they can see the facility and determine what changes need to be made and likewise, are feasible. Vera's architect that was involved in the post-hurricane facility rebuild submitted the drawings to GM, but GM rejected the drawings as incomplete. GM contended that the drawings were incomplete, because they were in two phases rather than one document. However, the drawings were that way due to how the construction had to progress following the storms. GM should have known that since the facility was approved by GM. Yet, there was unnecessary delay and frustration in the simplest task, all the while Vera's deadlines were still running.

30. The EBE facility image process continued in fits and starts for close to two years after the initial consultation, culminating in GM's inability to produce a D.I.D. that would (or

could) meet the City of Pembroke Pines (and its Planning & Zoning Board's) approval. GM first proposed that Vera cut its existing facility in half so that one side would house the Cadillac operations and the other would house Buick-GMC ("Duplex Proposal"). To accomplish this plan, amongst other things, the exterior of the building would have to undergo a complete facelift. GM proposed that the Buick-GMC half of the building match the standard Buick-GMC "image", which is a silver and black exterior with red signage inset on the building. Vera's existing facility is a light stone that meets the City's zoning requirements. The City requires that buildings have architectural consistency, and the Buick-GMC image would not be consistent with the existing facility.

31. Vera indicated that the Duplex Proposal could be problematic due to the City's stringent zoning requirements, which include a requirement of architectural consistency. GM ultimately produced a D.I.D. for the Buick-GMC portion of the duplex proposal in January 2013, but the D.I.D. was incomplete as there was not a corresponding Cadillac D.I.D. The Cadillac D.I.D. was (and is) necessary since Vera operates all three brands, and any change to the Buick-GMC portion of the facility will likewise necessitate a change to the Cadillac portion, which requires a D.I.D. Notably, it took GM approximately six months to produce the Buick-GMC D.I.D., even though GM's process calls for that to happen within 90 days after a dealer enrolls in the EBE facility image program. As set forth above, Vera is solely dependent upon GM for the production of the D.I.D., so it had to wait for GM to produce the document. This Duplex Proposal was submitted to the City of Pembroke Pines in early 2013, and the City expressly stated that the submission did not meet the City's architectural and zoning requirements. Specifically, GM's desire to change the Buick-GMC façade in a way that did not match the Cadillac facade violated the City's architectural and zoning requirements. In March 2013, the

City's staff stated that GM's "proposals represent a departure from this established Planning and Zoning Board standard and therefore **will not** be supported by staff. Staff requests that you provide a design for GMC that is more in line with the architectural theme of the existing façade and other buildings on site." Absent a recommendation by staff, the City's approval would not be provided. Consequently, in March, 2013, GM's first proposal/facility plan was effectively rejected by the City.

32. Thereafter, Vera went back to the drawing board with GM, again in an attempt to comply with the EBE facility image program. Over the course of the Spring and the Summer, 2013, Vera and GM also had several meetings with the City, Gensler made other site visit/consultations, and ultimately another set of D.I.D.'s was provided by GM to Vera in September 2013. Vera repeatedly requested that GM provide a complete set of plans for both Buick-GMC and Cadillac. However, this time GM only provided a D.I.D. for Cadillac, and did not provide a new Buick-GMC D.I.D. after the City's rejection of the first plan. As previously stated, Vera needed a complete D.I.D. for all three brands to move forward, which it repeatedly requested from GM. Vera questioned GM about the lack of a new Buick-GMC D.I.D., and GM stated that the City had to approve the informal "proposal" before GM would provide a D.I.D. Even though GM had not provided Vera a Buick-GMC D.I.D., GM was holding Vera to the EBE deadlines to complete the D.I.D. phase, which ultimately made Vera non-compliant, even though it was GM that failed to provide the D.I.D. document. GM's subsequent plan for Buick-GMC (an informal proposal, not the EBE required D.I.D. document) called for Vera to use the existing dealership facility solely for Cadillac and to add an additional building directly adjacent to the existing Cadillac facility on the existing property to serve as the Buick-GMC showroom ("variable facility").

33. Even though GM failed to provide Vera a formal D.I.D. for the variable facility, Vera attempted to move forward so that it could complete the EBE requirements. To that end, Vera submitted the GM's variable facility proposal to add the additional building to serve as the Buick-GMC facility to the City for a variance in October 2013, and Vera informed GM of its submittal. The proposal was set for a January 9, 2014 Board meeting to consider the request.

34. Simultaneously while Vera was working to secure approval for the facility changes GM demanded, in the fall of 2013, GM turned Vera to "yellow" status in the EBE program and stopped paying funds to Vera under the program. GM's justification was that "Vera never submitted final, EBE-compliant construction drawings". However, at that time (and still to this day) GM has not provided Vera with complete D.I.D.'s for the three brands that can be approved by the City and ultimately turned into construction drawings. Indeed, at the time GM turned Vera yellow (signifying failure to comply with EBE), Vera was actively working with the City to obtain approval for GM's incomplete proposal. GM provided the first Buick-GMC D.I.D. in January 2013, which was rejected by the City, and GM has not provided a subsequent D.I.D. document. Vera repeatedly requested the D.I.D., as it attempted to comply with the EBE requirements, but GM did not provide the document. Similarly, GM provided the Cadillac D.I.D. in September, 2013. However, GM never provided final documents for all three brands, which would allow Vera to comply with the EBE requirements.

35. Nevertheless, Vera submitted GM's subsequent Buick-GMC variable facility proposal to the City for the necessary approval. The City did not approve the proposal, and GM has not provided a document that Vera can turn into the required construction drawings. In short, GM has failed to abide by its obligations under the EBE program and provided incomplete documents, while at the same time withholding EBE funds from Vera claiming that Vera failed

to meet its timeline. Shockingly, GM's refusal to pay funds at the end of September, meant that GM was actually refusing to pay EBE funds on vehicles invoiced by Vera in prior months (July and August) before GM delivered the Cadillac D.I.D. to Vera. GM's EBE timeline provides that a D.I.D. should be delivered by GM to the dealer within 90 days after enrollment in the program. Yet, Vera was almost 18 months into the program and still did not have a suitable D.I.D for Buick-GMC. Simply put, Vera's inability to submit final, EBE compliant construction drawings was entirely of GM's own making.

36. The City did not approve the Buick-GMC variable facility proposal, because of its zoning requirements. The City considers a separate franchise operating out of its own building to be an additional dealership, and each dealership must operate on at least ten acres. The proposal, in the eyes of the City, would mean that Vera would operate two dealerships and, as a result, need twenty acres, which Vera does not possess at the existing location. The variable facility proposal was actually considered by the City twice. The City first considered the variable facility proposal in January 2014, and took no formal action, which effectively denied the proposal. However, Vera took the proposal back to the City (at GM's request), and the City formally denied the proposal in June 2014. Consequently, more than 18 months into the EBE process, GM had yet to face the reality that the City of Pembroke Pines would not approve a cookie-cutter EBE facility image plan, which was entirely out of Vera's control. Indeed, the City had refused to approve GM's proposals three separate times. Nonetheless, GM deemed Vera to be non-compliant for failing to meet the construction document submission milestone, even though GM had failed to produce a plan that could be approved.

37. Starting with the third quarter of 2013, GM has continued to withhold EBE funds from Vera due to the facility image issues. Vera has remained compliant with the other

EBE requirements, for most, if not all, of this time. GM has withheld in excess of \$1,000,000.00 in EBE funds that are due to Vera. Vera has repeatedly attempted to comply with GM's EBE facility image as set forth herein. Additionally, Vera paid \$15,000 to Gensler for architectural work, even though Gensler has yet to provide a useable document. Vera has spent considerable time and money meeting with the City, meeting with GM, and consulting with its architect in an effort to satisfy GM so that Vera can continue in the EBE program. Vera repeatedly requested a complete D.I.D. for all three brands, but GM has failed to provide such. Vera is at GM's mercy to approve a facility that will also meet the City's zoning requirements, and GM has yet to provide a suitable plan. Vera has been damaged by GM's unlawful withholding of funds.

GM's Sales Performance Measurement, the South Florida Market and Vera's
Performance

38. GM evaluates its dealers' sales performance using a metric entitled Retail Sales Index ("RSI"), which measures the dealer's sales share compared to the overall market share of the brand in the state. GM requires its dealers to meet 100% of RSI, which means that the dealer must meet state average market share, to be in compliance with its sales performance requirements under the dealer agreement. See Exhibit A, Article 9. However, RSI does not take into account local and unique market conditions, is not applied uniformly and is not a reasonable basis to measure, much less terminate, a dealer.

39. RSI measures the dealer's total new vehicle sales as a percentage of the competitive segment new vehicle registrations in the dealer's assigned territory. That measurement is then compared to the brand's competitive segment market share in the state as a whole. If a dealer's sales as a percentage of competitive new vehicle registrations in the dealer's assigned area is 10% and the state market share for the brand is 10%, then the dealer's RSI

would be 100%. In contrast, if a dealer's sales share is 5% and the state market share is 10%, the dealer's RSI would be 50%, and the dealer would be considered non-compliant. GM contends that a dealer must be at 100% RSI to be in compliance with its sales requirements pursuant to the dealer agreement. *See* Exhibit A, Article 9.

40. GM's RSI measurement is simply an average, and GM requires that every dealer, in every market, meet or exceed the state average market share. However, GM's requirement is impossible to comply with, because it is an average. In a practical sense, an average only exists because there are those above the average and below the average. Because GM's measurement is an average, roughly half of the dealers in the state will be below the average regardless of the brand's market share. In short, roughly half of the dealers in the state are doomed to non-compliance before a single sale is made simply by virtue of the metric. Nonetheless, GM applies this one-size fits all standard to every dealer and demands that every dealer be at or above average even though it is a virtually impossible to do so.

41. GM's RSI standard is also fatally flawed, because it treats every market in a state in the same manner notwithstanding unique market circumstances such as consumer behavior, demographic diversity, income, number of competitive brands, etc... For example, GM expects a Cadillac dealer in Miami to achieve the same market share as a Cadillac dealer in Lake City, even though the Miami dealer faces a number of competitor Cadillac dealers as well as numerous other competitive brands such as Audi, Mercedes-Benz, BMW, and Lexus that are not present in the Lake City example.

42. The number and strength of competitive brands (such as Lexus, Mercedes-Benz, and BMW) are important, because the number of competitive brand sales make up a large portion of the RSI formula. Consequently, a dealer that has more nearby competitors is in all

likelihood at a substantial disadvantage under RSI compared to a dealer that may be the only (or one of the only) luxury brand dealers for many miles. Nonetheless, GM treats the markets within a state the same. GM does acknowledge that markets across the country are different by applying state market share average as the RSI standard, however it in no way recognizes that markets within a state demonstrate significant differences that have nothing to do with dealer representation.

43. GM's RSI measurement is also not known until after the period of time being measured. For example, GM states that a dealer must meet 100% RSI for a particular period of time. However, the inputs into the RSI formula are not known until after (approximately 60-90 days) the conclusion of the measurement period. So, practically speaking a dealer has no idea how many vehicles it must sell during the measurement period to be deemed compliant. In fact, half of the equation (competitive brand sales registered in the dealer's assigned territory) is entirely outside of the dealer's control and there is no way for the dealer to even monitor the status during the measurement period. The RSI measurement is an after-the-fact determination that is unknowable to the dealer (or GM for that matter) until after the close of the period being measured. Simply put, it is an unknowable moving target.

44. The South Florida market is unique from other markets in Florida in many ways that are not considered in GM's RSI measurement. For example, the largest volume Lexus dealership in the world (for the last 20+ years) is located approximately 20 miles from Vera in the Margate/Coconut Creek area. The Lexus dealership is operated by the same organization that is the authorized Toyota distributor for the southeastern United States. As a result, Lexus market share in South Florida is vastly greater than other parts of the state or the state as a whole. For example, Lexus' share of the luxury vehicle segment in the Miami market was 26.9% in

2014 compared to 16.6% in Orlando, 15.4% in Tampa and 9.5% in Tallahassee. The geographic area of responsibility assigned to Vera by GM has dealership representation in that specific geography from Mercedes-Benz, BMW, Lexus, Audi, Acura, Jaguar and Infiniti. This has a direct impact on Cadillac market share and RSI.

45. Similarly, South Florida has a large Spanish speaking population, many of which are immigrants from the Caribbean and South America. As a result, many luxury manufacturers spend considerable advertising dollars on Spanish language advertisements. However, Cadillac spends significantly less, and instead, believes that native Spanish speakers desire to hear and/or watch vehicle advertisements in English. This puts Cadillac dealers, especially Vera, at a disadvantage since much of the South Florida market may not even be reached by the advertisements, which its competitors are reaching. Additionally, GM's own research has shown that Latino/Hispanic consumers have lower brand preference for Cadillac than the general market. This is also not surprising given that Cadillac is not a global luxury brand. Further, a significant portion of residents in the metropolitan Miami area were born in foreign countries.

46. Additionally, the consumers in South Florida have continually exhibited a strong preference for import luxury vehicles. This is evidenced by the fact that brands such as Lexus and Mercedes-Benz have substantially higher market-share in South Florida as compared to the United States overall. This is not entirely surprising, as import vehicles often perform much better in coastal metropolitan areas (such as Miami, New York, Boston, San Francisco, and Los Angeles) than they do in smaller and/or more inland markets. According to U.S. Census data, a number of residents in the Miami metropolitan area originate from the Northeast coastal markets where the Cadillac brand has shown weakness. Conversely, domestic brands often perform better in the Midwest than they do in the coastal, metropolitan areas. These consumer

preferences (and brand performance) are the result of market dynamics and not, as GM would contend, the effectiveness of the dealers in those locations.

47. South Florida is also a strong lease market, meaning that leasing vehicles is popular among consumers. GM controls the advertised lease price through its Cadillac Brand Standards. Cadillac dealers in South Florida have repeatedly requested changes to the minimum monthly advertised payments to allow them to effectively compete with the low monthly lease payments advertised by Lexus and BMW and others in this market. For example, Cadillac has set the minimum monthly payment for an ATS at \$269/month (until recently, the monthly amount allowed to be advertised was \$299), which means that a Cadillac dealer such as Vera, cannot advertise a vehicle below that lease price. However, the direct competitors BMW 320i and Lexus IS 250 show a \$221/month lease and \$200/month lease, respectively.

48. GM refuses to take these market dynamics into account in the application of its RSI formula, and instead, implements the one-size-fits-all market share requirements on dealers regardless of market size, customer preference or the competitors in the market.

49. In addition to the issues detailed above, Vera's assigned territory ("Area of Geographic Sales and Service Advantage" or "AGGSA") includes census tracts that are more convenient to other Cadillac dealers. GM assigns territory to dealers by census tract. GM assigns each census tract to the dealer that is deemed to be the closest to the census tract based upon the proximity of the dealer to the geographic population center of the census tract. GM uses driving distance to measure the distance. GM will occasionally consider the travel time or certain other barriers like rivers or mountains to make adjustments to the dealer's territory.

50. The assigned territory is extremely important, because that is the territory GM uses to determine the number of competitive segment registrations, which is a significant

variable in the RSI calculation. So, a territory that is too large can result in a negatively skewed RSI. Vera's assigned territory includes residents within which are more likely to shop at other Cadillac dealers based upon both drive-time and socio-economic characteristics. As a result, those customers are more likely to shop other more convenient Cadillac dealers (or competitor brands) than Vera. Vera repeatedly requested that GM completely reconfigure its assigned territory so that it accurately reflects those customers that are more likely to shop at Vera. GM altered Vera's AGGSA very slightly, which change became effective in January, 2014, but GM has not adequately rectified the situation so that Vera's territory includes only those areas that are closer and/or more convenient to Vera.

51. Vera has also been unable to obtain a sufficient number of vehicles to meet consumer demand at various times since 2010 through the present. In particular, Vera has requested additional Cadillac Escalade and base CTS coupe vehicles, but GM has not provided the additional vehicles. Those vehicles, in particular, have been in demand by customers in Vera's market. Further, in 2012 a number of base CTS Coupes were ordered for Vera to be placed in courtesy transportation service. However, after Vera ordered the vehicles, Vera opted out of the courtesy transportation program (Courtesy Transportation Alternative or CTA Program). Rather than delivering the vehicles to Vera, GM parked the vehicles in the shipping depot in South Florida for several months. Subsequently, Vera sales management tracked these vehicles down and requested that these vehicles be released to Vera for retail sale. Rather than make these high demand vehicles available to Vera, GM distributed these vehicle to Vera's same brand competitors in nearby locations. This action helped Vera's competitors and negatively affected Vera, not only for that specific sales period but for the future as well given GM's "turn and earn" distribution system.

GM Complains About Vera's Performance

52. GM began to complain about Vera's Cadillac sales performance (RSI) in November 2012, which is interestingly during the time in which GM was also requiring that Vera substantially modify its facility to meet the EBE requirements. GM stated that Vera did not achieve 100% RSI for Cadillac, and that its RSI was unacceptable. GM's complaints about Vera's sales performance directly contradicted prior communications from GM. Indeed, GM chose Vera to continue as a Cadillac dealer in 2009 after the bankruptcy when it otherwise terminated underperforming dealers, and also awarded Vera the Buick-GMC franchises. Notably, Vera has also never had an issue with its Buick-GMC sales performance, and likewise, had no sales performance issues with the former GM brands (Hummer, Saturn and Saab). Vera responded to GM's November 2012 letter and pointed out many of the things that impact RSI such as unique market circumstances and an AGGSA that was much too large, which are set forth in the paragraphs herein, and also affirmed its commitment to the Cadillac brand.

53. Vera has consistently been a top-50 Cadillac dealer in terms of sales volume out of roughly 930 Cadillac dealers in the entire United States. Vera ranked 41st nationally in sales volume in 2014. In 2014, Vera also outsold its three closest Cadillac competitors. Indeed, Vera consistently ranks in the top 15 in the state of Florida out of 46 Cadillac dealers, and is in the top 10 state-wide for 2015 through July. Notwithstanding that Vera sells more Cadillacs than 95% of Cadillac dealers in the nation, and 80% of the Cadillac dealers in the state, GM contended that Vera's sales performance was one of the worst in the state.

54. The sales performance letters continued from GM in 2013 and 2014. Vera, likewise, continued to respond to GM's letters and request that GM take into account the unique market circumstances. However, GM did not. Instead, GM issued Vera a notice of default

through a letter dated May 20, 2014, which stated that Vera was in breach of its franchise and had 180 days to cure the alleged breach. The cure period was from July 1, 2014 through December 31, 2014. GM stated that Vera needed to achieve 100% RSI to cure the alleged breach. GM's default notice also claimed that Vera was in breach of its customer service requirements and working capital requirements.

55. Vera responded to the default notice and again, requested that GM take into account the unique market circumstances. Vera also set forth efforts it had taken to improve the dealership's sales to include increasing advertising, establishment of a Business Development Center, and hiring additional salespersons and sales managers. Vera also noted that the working capital deficiency was largely due to GM's refusal to pay EBE funds. Additionally, Vera noted the lease payment and advertising issues, which place Cadillac dealers at a competitive disadvantage. Lastly, Vera noted that it was working diligently to improve customer satisfaction. The CSI deficiency was caused in large part by a significant and unexpected turnover in service personnel, including the unfortunate deaths of two senior service advisors. Furthermore, Vera has consistently met the Cadillac CSI benchmark for Standards for Excellence (SFE). The CSI measurement also suffers from the same issues as the sales performance standard since it is an average and roughly half of the dealers are above the average and half are below.

56. Vera was so desperate to improve its sales performance that it began to sell vehicles at a loss (often a substantial loss up to several thousand dollars) in order to increase vehicle sales during the cure period.

57. In addition to all its other requests and efforts, Vera also repeatedly sought GM's assistance to improve its sales performance. Vera contacted GM's Vice President of Diversity Dealer Relations, Eric Peterson, to discuss the sales performance issues in hopes of improving,

but Vera never received a response. Likewise, none of the GM managers (Zone or Region) offered to assist Vera in any substantial or productive way, and stated that it was the dealer's responsibility, not GM's, to attain 100% RSI.

58. Even though GM provided Vera with a "cure period", Vera had no way of knowing what performance would satisfy the cure. GM simply said Vera must meet 100% RSI, but as explained above, the actual performance needed to meet 100% RSI is unknowable until months after the cure period ends. GM did not provide Vera an objective goal that it must sell, for example, 500 vehicles during the cure period. Instead, under the RSI measurement, Vera's performance is dictated in large part by how many vehicles other dealers sell, not Vera.

59. Making matters even worse, GM issued the notice of default only six months after GM adjusted Vera's AGGSA. As set forth above, the sales performance data is not known for 2-3 months after the fact, so GM's June 2014 default notice was based upon sales information from the first quarter of 2014. Thus, GM allowed Vera only a few months (at most) to sell into the revised AGGSA before issuing the notice of default. GM also failed to consider the numerous relevant factors raised by Vera regarding the RSI calculation and the negative impact on Vera to include the unique market circumstances referenced herein.

60. Ultimately, GM notified Vera that it was terminating its dealer agreement, through a letter dated May 28, 2015, for the failure to meet sales performance requirements, the failure to meet customer service requirements, and the failure to meet working capital requirements. GM's letter dated May 28, 2015, is attached as Exhibit D.

COUNT I
(Violation of F.S. §320.641 – Unlawful Termination and Mandatory Stay)

61. Vera realleges and incorporates paragraphs 1-60 as set forth fully herein.

62. Section 320.641, Florida Statutes, provides that it is unlawful to terminate a motor vehicle franchise agreement if the termination is unfair, is not undertaken in good faith, is not undertaken for good cause, or if the grounds relied upon for the termination have not been applied in a uniform and consistent manner by the manufacturer.

63. Section 320.641, Florida Statutes, requires a manufacturer to provide written notice to the dealer and the Department of its intent to terminate the franchise and set forth the specific grounds for the termination. Section 320.641 provides a right of action for a dealer that receives notice of such proposed termination. Specifically, “[a]ny motor vehicle dealer who receives a notice of intent to discontinue, cancel, not renew, modify, or replace may, within the 90-day notice period, file a petition or complaint for a determination of whether such action is an unfair or prohibited discontinuation, cancellation, nonrenewal, modification, or replacement.” *Id.* Furthermore, the termination is stayed immediately, by express statutory requirement and without need to seek an injunction, upon the filing of a Complaint contesting the proposed termination. §320.641(3) “Agreements ... shall continue in effect until final determination of the issues raised in such petition or complaint by the motor vehicle dealer.” *Id.* Likewise, section 320.641(7) reiterates that “the franchise agreement shall remain in effect until a final judgment is entered after all appeals are exhausted.”

64. Vera received notice of GM’s intent to terminate its franchise through a letter dated May 28, 2015. The grounds set forth in GM’s letter are breaches of the dealer agreement for failure to achieve the level of sales performance required by Article’s 5.1.1 and 9. The letter also states that Vera “failed to provide acceptable customer satisfaction as required by the Dealer Agreement”, and Vera “failed to maintain the net working capital required by the Dealer Agreement”. Vera files this complaint, as expressly permitted by section 320.641, and seeks a

determination that the termination is unfair, is not undertaken in good faith, is not undertaken for good cause, and that GM has not applied the grounds for termination in a uniform and consistent manner.

65. Specifically, Vera states that the proposed termination is unlawful, because *inter alia* the RSI measurement fails to take into account the unique market circumstances that exist in Vera's market. Vera further states that RSI is based upon an assigned territory that includes territory closer and/or more convenient to other dealers, which negatively impacts Vera. Vera further states that GM does not apply RSI uniformly in that GM does not notify every dealer that is below 100% that it is in material breach of the dealer agreement. GM also does not seek to terminate every dealer that fails to meet 100% RSI. Vera also states that the RSI measurement is not known until after the fact, and during the Cure Period it was impossible to know how many vehicles Vera needed to sell in order to cure the alleged deficiency. Additionally, GM does not apply CSI uniformly in that GM does not notify every dealer that is below 100% that it is in material breach of the dealer agreement. Likewise, GM does not apply working capital requirements uniformly in that GM does not notify every dealer that is below its working capital requirements that it is in material breach of the dealer agreement.

66. Vera further states that the breaches identified in the notice of termination are not material and substantial. For example, Vera's net working capital (as identified in the notice of termination) was 98.7% of the requirement. That is obviously not a material breach. Similarly, Vera's customer service scores (as identified in the notice of termination) were over 95% of the required amount in two instances, and in the two other instances identified in the notice of termination, Vera exceeded the customer service requirement. Additionally, customer service scores, such as those used by GM, are notoriously unreliable as they are based upon customers

returning surveys after-the-fact. Not all customers return the surveys, and as such, the scores shown are not an accurate representation of Vera's performance. Vera's customer service performance is not a material and substantial breach of the dealer agreement.

67. Vera further states that GM cannot establish a material and substantial breach when it has been the cause of and/or contributed to any alleged breach by its failure to provide sufficient vehicle inventory and failure to provide EBE funds.

68. GM also cannot establish a material and substantial breach of Article 9, when GM is in breach of that Article. Article 9 states that “[i]n addition to the Retail Sales Index, General Motors will consider any other relevant factors in deciding whether to proceed under the provisions of Article 13.2 to address any failure by Dealer to adequately perform its sales responsibilities.” GM has failed to consider other relevant factors such as unique market circumstances, and has materially breached Article 9. GM has repeatedly refused to consider numerous relevant factors relating to RSI and Vera's market. Vera raised these factors with GM both in person and in writing, but GM has continually refused to consider significant relevant factors that weigh on Vera's sales performance, including but not limited to, the presence of JM Lexus nearby, the number of competitors in the market, the difference in a metropolitan market compared to a suburban or rural market, and the differences in market demographics and consumer between South Florida and the rest of the state. Consequently, GM cannot establish a material and substantial breach of Article 9 when it is in breach of that same Article.

69. Pursuant to section 320.641(3), GM has the burden of proof to establish the termination is lawful.

WHEREFORE, pursuant to section 320.641(3), (7), Vera requests that this Court enter an immediate stay of the termination, a judgment against GM finding that the proposed termination

is not permitted under section 320.641, a judgment prohibiting GM from terminating the franchise, and attorney's fees and costs, and such other relief as this Court deems just and equitable.

COUNT II

Violation of F.S. §320.64(7) (Unlawful Termination in the Alternative to Count I)

69. Vera realleges and incorporates paragraphs 1-68 as set forth fully herein.

70. Section 320.64(7), Florida Statutes, makes it unlawful for a manufacturer to have "threatened to discontinue, cancel, or not to renew a franchise agreement of a licensed motor vehicle dealer, where the threatened discontinuation, cancellation, or nonrenewal, if implemented, would be in violation of any of the provisions of s. 320.641."

71. Section 320.697, Florida Statutes, provides a right of action for any person "who has suffered pecuniary loss or who has been otherwise adversely affected because of a violation by a licensee of ss. 320.60-320.70, notwithstanding the existence of any other remedies under ss. 320.60-320.70." Additionally, section 320.697 provides that "[u]pon a prima facie showing by the person bringing the action that such a violation by the licensee has occurred, the burden of proof shall then be upon the licensee to prove that such violation or unfair practice did not occur."

72. Vera received written notice of GM's intent to terminate its Cadillac dealership through a letter dated May 28, 2015. GM's notice is a threat to cancel Vera's franchise. GM's notice of termination has, and continues to, adversely affect Vera. GM's threatened termination is in violation of 320.641 for the reasons set forth in detail in this Complaint, and in particular Count I above. GM possesses the burden of proof to establish that the termination is permissible. Vera files this Count in the alternative to Count I.

WHEREFORE, pursuant to section 320.697, Vera demands entry of a judgment against GM finding that GM's threatened termination violates section 320.64(7), and an award of treble damages, attorney's fees and costs and other relief this Court deems just and equitable.

COUNT III
Violation of F.S. §320.64(7) (Injunctive Relief)

73. Vera realleges and incorporates paragraphs 1-72 as set forth fully herein.

74. Section 320.695, Florida Statutes, provides that "[i]n addition to the remedies provided in this chapter, and notwithstanding the existence of any adequate remedy at law" a dealer may apply for "a temporary or permanent injunction, or both, restraining any person ... from violating or continuing to violate any of the provisions of ss. 320.60-320.70." "Such injunction shall be issued without bond. A single act in violation of the provisions of ss. 320.60-320.70 shall be sufficient to authorize the issuance of an injunction." Vera is authorized to seek an injunction, and obtain such an injunction (without bond) based upon a single act in violation of sections 320.60-320.70.

75. Pursuant to section 320.695, Vera brings this action in the name of the Florida Department of Highway Safety and Motor Vehicles and the State of Florida for the use and benefit of Vera.

76. GM has alleged that Vera is in material breach of its franchise and is actively attempting to terminate Vera's franchise. Sections 320.641 and 320.64(7) prohibit GM from terminating, or threatening to terminate, Vera's franchise unless it meets the statutory requirements to do so. Vera, in Counts I-II, has set forth that GM's threatened termination violates sections 320.641 and 320.64(7), and establishes that GM does not have statutory authority to terminate Vera's franchise. Counts I and II adequately allege a statutory violation

based upon the threatened termination, which “shall be sufficient to authorize the issuance of an injunction” that halts GM from terminating Vera’s Cadillac agreement. §320.695, Fla. Stat.

77. Further reinforcing the need for and appropriateness of the injunction is the express requirement that a franchise remains in full force and effect after the filing of a Complaint challenging the proposed termination unless and until a final determination has been made that the proposed termination is permitted by law. §320.641(3), (7), Fla.Stat. Therefore, an injunction restraining GM from terminating Vera’s Cadillac franchise is appropriate.

WHEREFORE, Vera, in the name of the Florida Department of Highway Safety and Motor Vehicles and the State of Florida for the use and benefit of Vera hereby demands entry of an injunction restraining GM from terminating Vera’s franchise unless and until a final determination has been made that GM is permitted to do so pursuant to Florida law.

COUNT IV
Violation of F.S. §320.64(10)(b) (Facility Requirements)

78. Vera realleges and incorporates paragraphs 1-77 as set forth fully herein.

79. Section 320.64(10)(b) provides that “[n]otwithstanding any provision of a franchise a licensee may not require a motor vehicle dealer, by agreement, program, policy, standard, or otherwise, to make substantial changes, alterations, or remodeling to, or to replace a motor vehicle dealer's sales or service facilities unless the licensee's requirements are reasonable and justifiable in light of the current and reasonably foreseeable projections of economic conditions, financial expectations, and the motor vehicle dealer's market for the licensee's motor vehicles.” (emphasis supplied)

80. GM’s EBE program requires that Vera make substantial changes, alterations and/or remodel its facility. GM’s requirements are not reasonable and justifiable in light of the

current and reasonably foreseeable projections of economic conditions, financial expectations, and the motor vehicle dealer's market for GM's vehicles. Specifically, GM's requirements are not reasonable and justifiable in light of Vera's recent renovation of the dealership facility, which was complete in 2008, built to GM specifications and even used by GM as an example of a compliant facility. It is not justifiable to require Vera to make substantial and costly renovations to a facility just a few years after the facility was complete, and when the current facility is more than adequate to meet all of the current and expected future vehicles sales and service business in the market. Furthermore, standard depreciation schedules (such as those used in G.A.A.P. and by the I.R.S.) show the unreasonableness of the demand since the facility has not even been fully depreciated before GM has demanded another modification. It is also unreasonable for GM to continue to demand the facility modification while at the same time threatening to terminate Vera's franchise.

81. GM has used the EBE program facility requirements to squeeze Vera's profits from new vehicle sales and converting those profits into a bonus program. GM is effectively requiring Vera to make facility changes in violation of section 320.64(10)(b).

82. GM's facility requirements are even less justifiable in light of GM's blanket refusal to pay Vera over a million dollars of EBE funds despite Vera's efforts to comply with the program.

83. GM's EBE program is not saved by GM's claims that the program is voluntary and/or secured by agreement. The statute clearly makes a requirement unlawful even if the activity is purportedly obtained by "agreement, program, policy, standard or otherwise." Consequently, GM's EBE facility image requirements are unlawful pursuant to section 320.64(10)(b) and have damaged Vera.

WHEREFORE, Vera, pursuant to section 320.697, requests entry of a judgment against GM for treble damages, attorney's fees and costs, and such other relief this Court deems just and equitable.

COUNT V
Violation of F.S. §320.64(38) (Incentive Payments)

84. Vera realleges and incorporates paragraphs 1-83 as set forth fully herein.

85. Section 320.64(38) requires that a manufacturer offer bonus programs on an equal basis to its dealers in the state. Section 320.64(38) further provides that "[a] licensee may offer a bonus, rebate, incentive, or other benefit program to its dealers in this state which is calculated or paid on a per vehicle basis and is related in part to a dealer's facility or the expansion, improvement, remodeling, alteration, or renovation of a dealer's facility." However, "[a]ny dealer who does not comply with the facility criteria or eligibility requirements of such program is entitled to receive a reasonable percentage of the bonus, incentive, rebate, or other benefit offered by the licensee under that program by complying with the criteria or eligibility requirements unrelated to the dealer's facility under that program." And, "[f]or purposes of the previous sentence, the percentage unrelated to the facility criteria or requirements is presumed to be reasonable if it is not less than 80 percent of the total of the per vehicle bonus, incentive, rebate, or other benefits offered under the program."

86. GM's EBE program is a bonus program that is paid on a per vehicle basis. GM has deemed Vera to not be in compliance with the program even though it is GM who has failed to provide Vera with a facility design that is capable of being approved by the City of Pembroke Pines. Absent such design from GM, Vera cannot begin construction and be deemed in compliance with the program. Indeed, GM's timeframe for completion of the facility image program is two years from enrollment to new facility occupancy. However, GM had not

provided a suitable D.I.D. to Vera approximately 18 months after the initial facility consultation. Indeed, Vera has yet to receive an appropriate D.I.D. to this day.

87. GM's withholding of EBE funds from Vera has damaged Vera. Nonetheless, Vera has been in compliance with the EBE criteria unrelated to the facility image program. Pursuant to section 320.64(38), GM must pay Vera a reasonable percentage of the per vehicle incentive, which is not less than 80 percent of the per vehicle incentive.

88. GM has refused to pay Vera the 80 percent of the per vehicle incentive, which is required under Florida law. Instead, GM has offered to pay 20% of the EBE incentives for a period of time. Thus, rather than complying with the 80% payment requirement, GM has created its own rules and withheld 80%. GM's refusal to pay the EBE funds constitutes a violation of section 320.64(38) and has damaged, and continues to damage, Vera.

WHEREFORE, Vera, pursuant to section 320.697, requests a judgment against GM for treble damages, attorney's fees and costs, and such other relief as this Court deems just and equitable.

COUNT VI
Violation of F.S. §320.64(18) (Vehicle Allocation and Distribution)

89. Vera realleges and incorporates paragraphs 1-88 as set forth fully herein.

90. Section 320.64(18) makes it unlawful for GM to "establish a system of motor vehicle allocation or distribution ... which otherwise is unfair, inequitable, unreasonably discriminatory, or not supportable by reason and good cause after considering the equities of the affected motor vehicle dealer or dealers."

91. GM distributes vehicles to its dealers, such as Vera. GM sells the vehicles to its dealers at a price set by GM. However, GM has also established a bonus program that pays a per-vehicle incentive to dealers that qualify under the EBE program. The per-vehicle incentive

effectively reduces the cost of the vehicle to the dealers that receive the bonus funds.

Conversely, a dealer that does not receive the per-vehicle funds pays more for similarly equipped vehicles. The per-vehicle incentive is not tied to, or based upon, the cost of compliance for the EBE program so that it could be a reimbursement for facility costs (or other costs).

92. GM has established a system of motor vehicle distribution that is unfair, inequitable, unreasonably discriminatory, or not supportable by reason and good cause, through the payment of incentive funds that effectively reduce the cost of vehicles for those dealers that receive the EBE funds. In particular, GM has withheld over a million dollars in EBE funds from Vera, which increases the cost of those vehicles to Vera, notwithstanding that Vera has attempted to comply with GM's program. Vera's "noncompliance" is due to GM's refusal and/or inability to design and approve a facility that can, and will be, approved by the City of Pembroke Pines.

93. Furthermore, GM's system of distribution has placed Vera at a competitive disadvantage since it has effectively paid more for similarly equipped vehicles than its competitor Cadillac dealers and lost sales as a result.

94. GM's system of distribution violates section 320.64(18), and has damaged Vera.

WHEREFORE, Vera, pursuant to section 320.697, requests entry of a judgment against GM for treble damages, attorney's fees and costs, and such other relief this Court deems just and equitable.

COUNT VII
Violation of F.S. §320.64(19) (Allocation of Vehicles)

95. Vera realleges and incorporates paragraphs 1-94 as set forth fully herein.

96. Section 320.64(19) makes it unlawful for a manufacturer to fail "to provide a supply of motor vehicles by series in reasonable quantities, including models publicly advertised by the applicant or licensee as being available."

97. At various points in time from 2010 to the present, GM has failed to provide a supply of certain Cadillac vehicles in reasonable quantities. Although there is a distinct import luxury bias in South Florida, two Cadillac models have been in high demand (Escalade and CTS coupes). Vera repeatedly requested additional Cadillac Escalades and base model CTS coupes to meet customer demand, but GM has failed to provide a reasonable quantity of either model. GM's failure to provide a reasonable quantity of those models has caused Vera to lose new vehicle sales, and also negatively impacted Vera's sales performance.

98. The plain language of the statute makes clear that a manufacturer must provide a reasonable quantity of vehicles to its dealers if it is advertising those vehicles as being available. This is, in part, to prevent a manufacturer from starving a dealer out of business, or claiming that the dealer did not make enough sales, while at the same time not providing the dealer enough vehicles to sell. Here, GM advertised the Escalade and CTS coupe models as being available at GM dealerships during the relevant time frame, but Vera did not have reasonable quantities of the vehicles to meet customer demand. Yet, GM alleges that Vera failed to sell a sufficient amount of new Cadillac vehicles. GM's failure to provide a reasonable quantity of new Escalades and CTS coupes has damaged Vera.

WHEREFORE, Vera, pursuant to section 320.697, requests entry of a judgment against GM for treble damages, attorney's fees and costs, and such other relief as this Court deems just and equitable.

COUNT VIII
Breach of Contract (EBE Program)

99. Vera realleges and incorporates paragraphs 1-98 as set forth fully herein.

100. Vera agreed to and enrolled in GM's EBE program. Pursuant to the program, Vera is entitled to certain benefits as long as it meets the various program requirements.

Likewise, GM is obligated to provide the benefits pursuant to the program, and also has certain obligations to assist the dealer in the facility components of the program. The EBE program is a contract as it was offered by GM and accepted by Vera for consideration.

101. Vera has attempted to comply with the EBE program, and the facility component in particular. GM is obligated to provide the dealer certain services upon payment by the dealer for those services. The services include a site consultation and design documents (D.I.D.), that ultimately enable the dealer to produce construction drawings that serve as the basis for the dealer's facility modification. Vera paid GM for these services.

102. Vera has complied with the phases of EBE that are within its control. However, GM has not produced a design document for Cadillac or Buick-GMC that enables Vera to move to the next phase in EBE (construction drawings, and ultimately, construction). GM has breached its obligations under the EBE program.

103. GM has also withheld the funds that are due to Vera under the EBE program. Vera has complied with each Phase, but Vera is still waiting (almost two years) for a design document from GM so that Vera can move forward with EBE. GM has withheld EBE funds from Vera, and as justification has stated that it was because "Vera never submitted final, EBE-compliant construction drawings." But, it was GM that breached its obligations to provide the necessary pre-requisite to the construction drawings (D.I.D. documents), which has prevented Vera from moving to the next phase.

104. GM has breached its obligations under the EBE program, which has damaged Vera monetarily.

WHEREFORE, Vera requests entry of a judgment against GM for damages, attorney's fees and costs, and such other relief as this Court deems just and equitable.

COUNT IX
Unjust Enrichment(In the Alternative to Count VIII)

105. Vera realleges and incorporates paragraphs 1-105 as set forth fully herein.

106. Vera pleads this Count in the alternative to Count VIII.

107. Vera enrolled in the EBE program, paid GM for its services, has attempted to comply with the EBE program and in so doing, has conferred a benefit on GM. GM is, and at all relevant times, has been aware of Vera's enrollment in the EBE program, its payment of funds as part of the program, and its efforts to comply with the program.

108. The EBE program requires a per-vehicle payment to those dealers enrolled in the program and in compliance with the program. GM has retained the per-vehicle payment rather than providing it to Vera. GM claims its retention of the benefits of the EBE program is because Vera has not complied with the construction drawing requirement of the program. However, GM's failure to produce a D.I.D. document for Cadillac and Buick-GMC has prevented Vera from moving to the next phase (construction drawings).

109. GM has accepted Vera's enrollment in the program, Vera's payments of funds to participate in the program, and yet has retained the per-vehicle amount due to Vera under the program. GM's retention of the per-vehicle EBE payments is inequitable and has unjustly enriched GM.

110. GM plans for the EBE funds to be paid to dealers that are in EBE. GM's retention of the EBE funds that should be paid to Vera amounts to a windfall for GM, as GM has prevented Vera from complying with the EBE program and yet, retained the funds that should go to Vera under the program. GM's receipt of the funds is inequitable.

WHEREFORE, Vera requests entry of a judgment against GM for damages, attorney's fees and costs, and such other relief as this Court deems just and equitable.

Vera demands a trial by jury as to all actions and claims so triable.

Dated: August 17, 2015.

Respectfully Submitted,

BASS SOX MERCER

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JS 44 (Rev. 12/12) (Modified by FLSD - April 29, 2013)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS Vera-Williamson Investments, Inc. dba Vera Cadillac Buick GMC; and the State of Florida and the Florida Department of Highway Safety

DEFENDANTS General Motors, LLC

(b) County of Residence of First Listed Plaintiff Broward, Florida
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Wayne, Michigan
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Richard N. Sox/Bass Sox Mercer/2822 Remington Green Cir,
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Attorneys (If Known)

(d) Check County Where Action Arose: ☐ MIAMI-DADE ☐ MONROE ☒ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff

☐ 3 Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

Citizen of This State ☐ PTF ☐ DEF ☐ 1 ☐ 1

Citizen of Another State ☐ 2 ☐ 2

Citizen or Subject of a Foreign Country ☐ 3 ☐ 3

Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4

Incorporated and Principal Place of Business In Another State ☐ 5 ☒ 5

Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance	PERSONAL INJURY	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act
☐ 120 Marine	☐ 310 Airplane	☐ 690 Other	☐ 423 Withdrawal 28 USC 157	☐ 400 State Reapportionment
☐ 130 Miller Act	☐ 315 Airplane Product Liability		PROPERTY RIGHTS	☐ 410 Antitrust
☐ 140 Negotiable Instrument	☐ 320 Assault, Libel & Slander		☐ 820 Copyrights	☐ 430 Banks and Banking
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 330 Federal Employers' Liability		☐ 830 Patent	☐ 450 Commerce
☐ 151 Medicare Act	☐ 340 Marine		☐ 840 Trademark	☐ 460 Deportation
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)	☐ 345 Marine Product Liability		SOCIAL SECURITY	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 350 Motor Vehicle	☐ 710 Fair Labor Standards Act	☐ 861 HIA (1395ff)	☐ 480 Consumer Credit
☐ 160 Stockholders' Suits	☐ 355 Motor Vehicle Product Liability	☐ 720 Labor/Mgmt. Relations	☐ 862 Black Lung (923)	☐ 490 Cable/Sat TV
☐ 190 Other Contract	☐ 360 Other Personal Injury	☐ 740 Railway Labor Act	☐ 863 DIWC/DIWW (405(g))	☐ 850 Securities/Commodities/Exchange
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☒ 196 Franchise		☐ 790 Other Labor Litigation	☐ 865 RSI (405(g))	☐ 891 Agricultural Acts
		☐ 791 Empl. Ret. Inc. Security Act	FEDERAL TAX SUITS	☐ 893 Environmental Matters
REAL PROPERTY	CIVIL RIGHTS		☐ 870 Taxes (U.S. Plaintiff or Defendant)	☐ 895 Freedom of Information Act
☐ 210 Land Condemnation	☐ 440 Other Civil Rights	PRISONER PETITIONS	☐ 871 IRS—Third Party 26 USC 7609	☐ 896 Arbitration
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☐ 240 Torts to Land	☐ 443 Housing/Accommodations	☐ 510 Motions to Vacate Sentence		
☐ 245 Tort Product Liability	☐ 445 Amer. w/Disabilities - Employment	Other:		
☐ 290 All Other Real Property	☐ 446 Amer. w/Disabilities - Other	☐ 530 General	IMMIGRATION	
	☐ 448 Education	☐ 535 Death Penalty	☐ 462 Naturalization Application	
		☐ 540 Mandamus & Other	☐ 465 Other Immigration Actions	
		☐ 550 Civil Rights		
		☐ 555 Prison Condition		
		☐ 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Re-filed (See VI below)

☐ 4 Reinstated or Reopened

☐ 5 Transferred from another district (specify)

☐ 6 Multidistrict Litigation

☐ 7 Appeal to District Judge from Magistrate Judgment

☐ 8 Remanded from Appellate Court

VI. RELATED/RE-FILED CASE(S) (See instructions):

a) Re-filed Case ☐ YES ☒ NO

b) Related Cases ☐ YES ☒ NO

JUDGE

DOCKET NUMBER

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Sections 1332 & 1391; Complaint for violation of Fla. Statutes 320.64 & 320.697

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE

SIGNATURE OF ATTORNEY OF RECORD

August 17, 2015

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

IFP

JUDGE

MAG JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

VERA-WILLIAMSON INVESTMENTS, INC.	)	
d/b/a Vera Cadillac Buick GMC; and the STATE	)	
OF FLORIDA and the FLORIDA	)	
DEPARTMENT OF HIGHWAY SAFETY	)	
AND MOTOR VEHICLES	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.:
	)	
GENERAL MOTORS, LLC	)	
	)	
Defendant	)	
	)	
	)	
	)	

SUMMONS IN A CIVIL ACTION

TO: General Motors, LLC
c/o Corporation Service Company
1201 Hays Street
Tallahassee, FL 32301-2525

A Lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States describe in Fed. R. Civ. P. 12(a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

Richard N. Sox
Jason T. Allen
Bass Sox Mercer
2822 Remington Green Cir.
Tallahassee, FL 32308

If you fail to respond, judgement by default will be entered against you for the relief demand in the complaint. You must also file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

GENERAL MOTORS LLC
Dealer Sales And Service Agreement(s)

EXHIBIT A

Effective November 1, 2010, General Motors LLC, a Delaware Limited Liability Company, is entering into a Dealer Sales and Service Agreement ("Agreement") for each box checked: ☐ Chevrolet Passenger Vehicles and Light Duty Trucks, ☒ Buick Motor Vehicles and GMC Light Duty Trucks, ☒ Cadillac Motor Vehicles, with VERA-WILLIAMSON INVESTMENTS, INC., ☐ a proprietorship, ☐ a partnership, ☒ a FLORIDA corporation, ☐ a limited liability company, ☐ other business entity, doing business as VERA CADILLAC-BUICK-GMC and located at 300 S UNIVERSITY DRIVE, PEMBROKE PINES, FLORIDA, 33025-2236, ("Dealer"). The Motor Vehicles that Dealer is authorized to sell and service under this Agreement are listed in the Motor Vehicle Addendum(s) as provided in Article 6.1 of this Agreement.

FIRST: TERM OF AGREEMENT

This Agreement shall expire October 31, 2015, unless earlier terminated. Dealer is assured of an opportunity to enter into a new Agreement at the expiration date if General Motors LLC determines that Dealer has fulfilled its obligations under this Agreement.

SECOND: STANDARD PROVISIONS AND RELATED ADDENDA

The Standard Provisions and all of the related Addenda are hereby incorporated as part of this Agreement. The Dealer acknowledges that these documents have been brought to its attention, and Dealer accepts their form, content and amendments thereto, in the prescribed manner, from time to time.

THIRD: DEALER OPERATOR AND DEALER OWNER

Dealer agrees that the following Dealer Operator will provide personal services in accordance with Article 2 of the Standard Provisions:

LOUIS VERA

The following Dealer Owner(s) agree that they will comply in all respects with Article 3 of the Standard Provisions:

N/A

FOURTH: EXECUTION OF AGREEMENT AND RELATED DOCUMENT(S)

This Agreement and related agreement(s) are valid only if signed:

- (a) on behalf of Dealer by its duly authorized representative, and in the case of this Agreement, by its Dealer Operator; and
- (b) this Agreement as set forth below on behalf of General Motors LLC by the Director, Industry Dealer Affairs, and an authorized General Motors LLC representative. All related agreements will be signed by an authorized General Motors LLC representative.

FIFTH: ADDITIONAL AGREEMENTS AND UNDERSTANDINGS

The following agreement(s) are hereby incorporated by reference into this Agreement:

VERA-WILLIAMSON INVESTMENTS, INC.
dba VERA CADILLAC-BUICK-GMC
Dealer Firm Name

GENERAL MOTORS LLC

By: Louis Vera 10/14/2010
Dealer Operator and Date
This Document Is Electronically Signed.

By: Eric E. Peterson
Director, Industry Dealer Affairs
By: John M. Martin 10/15/2010
Authorized Representative and Date
This Document Is Electronically Signed.

GMMS 1013
11 2010 USA

Dealer Sales and Service Agreement

Standard Provisions

GENERAL MOTORS LLC

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Standard Provisions

The following Standard Provisions are part of the General Motors Dealer Sales and Service Agreement(s) (Form GMMS 1012).

PURPOSE OF AGREEMENT

The purpose of this Agreement is to promote a relationship between General Motors and its Dealers which encourages and facilitates cooperation and mutual effort to satisfy customers, and permits General Motors and its dealers to fully realize their opportunities for business success. General Motors has established a network of authorized dealers operating at approved locations to effectively sell and service its Products and to build and maintain consumer confidence and satisfaction in Dealer and General Motors. Consequently, General Motors relies upon each Dealer to provide appropriate skill, capital, equipment, staff and facilities to properly sell, service, protect the reputation, and satisfy the customers of General Motors Products in a manner that demonstrates a caring attitude toward those customers. At the same time, Dealer relies upon General Motors to provide sales and service support and to continually strive to enhance the quality and competitiveness of its Products.

This mutual dependence requires a spirit of cooperation, trust and confidence between General Motors and its dealers. To facilitate attainment of cooperation, trust and confidence, and to provide General Motors with the benefit of dealer advice regarding many decisions which affect dealer business operations, General Motors has established dealer councils, dealer advisory boards, and other mechanisms to obtain dealer input in the decision making process.

This Agreement (i) authorizes Dealer to sell and service General Motors Products and represent itself as a General Motors Dealer; (ii) states the terms under which Dealer and General Motors agree to do business together; (iii) states the responsibilities of Dealer and General Motors to each other and to customers; and (iv) reflects the mutual dependence of the parties in achieving their business objectives.

ARTICLE 1. APPOINTMENT AS AUTHORIZED DEALER

General Motors appoints Dealer as a non-exclusive dealer of General Motors Products. Dealer has the right to buy

Products and the obligation to market and service those Products in accordance with this Agreement and related documents.

ARTICLE 2. DEALER OPERATOR

This is a Personal Services Agreement, entered into in reliance on the qualifications, integrity and reputation of Dealer Operator identified in Paragraph Third, and on Dealer's assurance that Dealer Operator will provide personal services by exercising full managerial authority over Dealership Operations. Dealer Operator is responsible for developing and implementing policies, practices and procedures necessary for the Dealer to meet its obligations under this Agreement with respect to sales, service, customer satisfaction, facilities, and capitalization. Dealer Operator will have an unencumbered ownership interest in Dealer of at least 15 percent at all times. A Dealer

Operator must be a competent business person, an effective manager, must have demonstrated a caring attitude toward customers, and should have a successful record as a merchandiser of automotive products and services or otherwise have demonstrated the ability to manage a dealership. The experience necessary may vary with the potential represented by each dealer location. Although this Agreement is entered into in reliance on the personal services of the Dealer Operator, the Dealer entity specified in this Agreement is the only party to this Agreement with General Motors.

ARTICLE 3. DEALER OWNER

General Motors enters into this Agreement in reliance on the qualifications, integrity and reputation of dealer owner(s) identified in the Dealer Statement of Ownership. General Motors and Dealer agree

each dealer owner will continue to own, both of record and beneficially, the percentage stated in the Dealer Statement of Ownership, unless a change is made in accordance with Article 12.

ARTICLE 4. AUTHORIZED LOCATIONS

4.1 Dealer Network Planning

Because General Motors distributes its Products through a network of authorized dealers operating from approved locations, those dealers must be appropriate in number, located properly, and have proper facilities to represent and service General

Motors Products competitively and to permit each dealer the opportunity to achieve a reasonable return on investment if it fulfills its obligations under its Dealer Agreement. Through such a dealer network, General Motors can maximize the convenience of customers in purchasing

Products and having them serviced. As a result, customers, dealers, and General Motors all benefit.

To maximize the effectiveness of its dealer network, General Motors agrees to monitor marketing conditions and strive, to the extent practicable, to have dealers appropriate in number, size and location to achieve the objectives stated above. Such marketing conditions include General Motors sales and registration performance, present and future demographic and economic considerations, competitive dealer networks, the ability of General Motors existing dealers to achieve the objectives stated above, the opportunities available to existing dealers, the alignment of Line-Makes, General Motors dealer network plan, and other appropriate circumstances.

4.2 Area of Primary Responsibility

Dealer is responsible for effectively selling, servicing and otherwise representing General Motors Products in the Area designated in a Notice of Area of Primary Responsibility. The Area of Primary Responsibility is used by General Motors in assessing performance of dealers and the dealer network. General Motors retains the right to revise Dealer's Area of Primary Responsibility at General Motors sole

discretion consistent with dealer network planning objectives. If General Motors determines that marketing conditions warrant a change in Dealer's Area of Primary Responsibility, it will advise Dealer in writing of the proposed change, the reasons for it, and will consider any information the Dealer submits. Dealer must submit such information in writing within thirty 30 days of receipt of notice of the proposed change. If requested by Dealer within the thirty days, General Motors will extend the time for an additional 30 days for Dealer to obtain and submit relevant information. If General Motors thereafter decides the change is warranted, it will issue a revised Notice of Area of Primary Responsibility.

4.3 Establishment of Additional Dealers

General Motors reserves the right to appoint additional dealers but General Motors will not exercise this right without first analyzing dealer network planning considerations with respect to the Line-Make under consideration. Prior to establishing an additional same Line-Make dealer within Dealer's Area of Primary Responsibility, General Motors will advise Dealer in writing and give Dealer thirty days

to present relevant information before General Motors makes a final decision. If requested by Dealer within the thirty days, General Motors will extend the time for an additional thirty days for Dealer to obtain and submit relevant information. General Motors will advise Dealer of the final decision concerning the establishment of an additional dealer, which will be made solely by General Motors pursuant to its business judgment. Nothing in this Agreement is intended to require Dealer's consent to the establishment of an additional dealer, nor is this Agreement intended to give Dealer a right to object to the establishment of a different Line-Make.

The appointment of a dealer at or within three miles of a former dealership location as a replacement for the former dealer ("dealer replacement") or the relocation of an existing dealer point ("relocation") shall not be considered the establishment of an additional Dealer for purposes of this Article 4.3. General Motors shall not have any obligation to provide notice under Article 4 for a dealer replacement or relocation, and such events are within the sole discretion of General Motors pursuant to its business judgment.

4.4 Facilities

4.4.1 Location

Dealer agrees to conduct Dealership Operations only from the approved location(s) within its Area of Primary Responsibility. The Location and Premises Addendum identifies Dealer's approved location(s) and facilities ("Premises"). If more than one location is approved, Dealer agrees to conduct from each location only those Dealership Operations authorized in the Addendum for such location.

4.4.2 Change in Location or Use of Premises

If Dealer wants to make any change in location(s) or Premises, or in the uses previously approved for those Premises, Dealer will give General Motors written notice of the proposed change, together with the reasons for the proposal, for General Motors evaluation and final decision in light of dealer network planning considerations. No change in location or in the use of Premises, including addition of any other vehicle lines, will be made without General Motors prior written authorization pursuant to its business judgment.

Before General Motors requires any changes in Premises, it will consult with Dealer, indicate the rationale for the change,

and solicit Dealer's views on the proposal. If, after such review with Dealer, General Motors determines a change in Premises or location is appropriate, the Dealer will be allowed a reasonable time to implement the change. Any such changes will be reflected in a new Location and Premises Addendum or other written agreement executed by Dealer and General Motors.

Nothing herein is intended to require the consent or approval of any dealer to a proposed relocation of any other dealer.

4.4.3 Size

Dealer agrees to provide Premises at its approved location(s) that will promote the effective performance and conduct of Dealership Operations, and General Motors image and goodwill. Consistent with General Motors dealer network planning objectives and General Motors interest in maintaining the stability and viability of its dealers, Dealer agrees that its facilities will be sized in accordance with General Motors requirements for that location.

General Motors agrees to establish and maintain a clearly stated policy for determining reasonable dealer facility space requirements and to periodically

re-evaluate those requirements to ensure that they continue to be reasonable.

4.4.4 Dealership Image and Design

The appearance of Dealer's Premises is important to the image of Dealer and General Motors, and can affect the way customers perceive General Motors Products and its dealers generally. Dealer therefore agrees that its Premises will be properly equipped and maintained, clean, and appealing to customers. The interior and exterior retail environment and signs also will comply with any reasonable requirements General Motors may establish to promote and preserve the image of General Motors and its dealers.

General Motors will monitor developments in automotive and other retail industries to ensure that General Motors image and facility requirements are responsive to changes in the marketing environment.

General Motors will take into account existing economic and marketing conditions and consult with the appropriate dealer council in establishing such requirements.

4.4.5 Dealership Equipment

Effective performance of Dealer's responsibilities under this Agreement requires that the dealership be reasonably equipped to communicate with customers and General Motors and to properly diagnose and service Products. Accordingly, Dealer agrees to provide for use in the

Dealership Operations any equipment reasonably designated by General Motors as necessary for Dealer to perform effectively under this Agreement. General Motors will make such designations only after having consulted with the appropriate dealer council.

ARTICLE 5. DEALER'S RESPONSIBILITY TO PROMOTE, SELL, AND SERVICE PRODUCTS

5.1 Responsibility to Promote and Sell

5.1.1 Dealer agrees to effectively, ethically and lawfully sell and promote the purchase, lease and use of Products by consumers located in its Area of Primary Responsibility. To achieve this objective, Dealer agrees to:

- (a) maintain an adequate staff of trained sales personnel;
- (b) explain to Product purchasers the items which make up the purchase price and provide purchasers with itemized invoices;
- (c) not charge customers for services for which Dealer is reimbursed by General Motors;
- (d) include in customer orders only equipment or accessories requested by customer or required by law;
- (e) ensure that the customer's purchase and delivery experience are satisfactory; and

- (f) comply with the retail sales standards established by General Motors, as amended from time to time. General Motors will consult with the appropriate dealer council and the national dealer council before amending the retail sales standards.

If Dealer modifies or sells a modified new Motor Vehicle, or installs any equipment, accessory, recycled part or part not supplied by General Motors, or sells any non-General Motors service contract for a Motor Vehicle, Dealer will disclose this fact on the purchase order and bill of sale, indicating that the modification, equipment, accessory or part is not warranted by General Motors or, in the case of a service contract, the coverage is not provided by General Motors or an affiliate.

5.1.2 Dealer located in the United States is authorized to sell new Motor Vehicles only to customers located in the United States. Dealer agrees that it will not sell new Motor Vehicles for resale or principal use outside the United States. Dealer also agrees not to sell any new Motor Vehicles which were not originally manufactured for sale and distribution in the United States. For this section, United States includes the fifty states and the District of Columbia.

5.1.3 Dealer located in Puerto Rico or the US Virgin Islands is authorized to sell new Motor Vehicles only to customers located in Puerto Rico or the US Virgin Islands respectively. Dealer in Puerto Rico or the US Virgin Islands agrees that it will not sell new Motor Vehicles to customers located outside Puerto Rico or the US Virgin Islands respectively, or to customers for resale or principal use outside of Puerto Rico or the US Virgin Islands. Dealer agrees not to sell any new Motor Vehicles which were not originally manufactured for sale and distribution in Puerto Rico or the US Virgin Islands respectively.

5.1.4 It is General Motors policy not to sell or allocate new Motor Vehicles to dealers for resale to persons or parties (or their agents) engaged in the business of reselling, brokering (including but not limited to buying services) or wholesaling Motor Vehicles. The dealer distribution organizations that General Motors has established in the United States, Puerto Rico and US Virgin Islands are best suited for the distribution of Motor Vehicles in the United States, Puerto Rico and the US Virgin Islands respectively, and are in the best position to arrange for the proper performance of Motor Vehicle warranty repairs, field actions and inspections, pre-delivery inspections, and ongoing maintenance and compliance with government requirements. Therefore, unless otherwise authorized in writing by General Motors, Dealer agrees that this Agreement authorizes Dealer to purchase Motor Vehicles only for resale to customers for personal use or primary business use other than resale. Dealer is not authorized by this Agreement to directly or indirectly sell Motor Vehicles to persons or parties (or their agents) engaged in the business of

reselling, brokering (including but not limited to buying services) or wholesaling of Motor Vehicles. Nothing in this Article 5.1.4 is intended to restrict Dealer from selling Motor Vehicles to other General Motors dealers of the same Line-Make in the same country or territory.

5.1.5 General Motors will conduct general advertising programs to promote the sale of Products for the mutual benefit of General Motors and Dealers. General Motors will make available to Dealer advertising and sales promotion materials from time to time and advise Dealer of any requirements or applicable charges.

5.1.6 Dealer agrees to advertise and conduct promotional activities that are lawful and enhance the reputation of Dealer, General Motors and its Products. Dealer will not advertise or conduct promotional activities in a misleading or unethical manner, or that is harmful to the reputation of Dealer, General Motors, or its Products.

5.2 *Responsibility to Service*

5.2.1 Dealer agrees to maximize customer satisfaction by providing courteous, convenient, prompt, efficient and quality service to owners of Motor Vehicles,

regardless of from whom the Vehicles were purchased. All service will be performed and administered in a professional manner and in accordance with all applicable laws and regulations, this Agreement, and the Service Policies and Procedures Manual, as amended from time to time. Dealer also will comply with the retail service standards established by General Motors, as amended from time to time. General Motors will consult with the appropriate dealer council and the national dealer council before amending the retail service standards.

5.2.2 Dealer agrees to maintain an adequate service and parts organization as recommended by General Motors, including a competent, trained service and parts manager(s), trained service and parts personnel and, where service volume or other conditions make it advisable, a consumer relations manager.

5.2.3 Dealer and General Motors will each provide the other with such information and assistance as may reasonably be requested by the other to facilitate compliance with applicable laws, regulations, investigations and orders relating to Products.

5.2.4 To build and maintain consumer confidence in, and satisfaction with, Dealer and General Motors, Dealer will comply with General Motors procedures for the investigation and resolution of Product-related complaints.

5.2.5 General Motors will make available to Dealer current service and parts manuals, bulletins, and technical data publications relating to Motor Vehicles.

5.3 *Customer Satisfaction*

Dealer and General Motors recognize that appropriate care for the customer will promote customer satisfaction with General Motors Products and its dealers, which is critically important to our current and future business success. Dealer therefore agrees to conduct its operations in a manner which will promote customer satisfaction with the purchase and ownership experience. General Motors agrees to provide Dealer with reasonable support to assist Dealer's attainment of customer satisfaction, but Dealer remains responsible for promoting and maintaining customer satisfaction at the dealership.

General Motors will provide Dealer with a written report at least annually pursuant to the procedures then in effect evaluating

Dealer's purchase and delivery customer satisfaction and Dealer's service customer satisfaction. The report will compare Dealer's performance to other same Line-Make dealers in the Region. General Motors will provide a written explanation of the customer satisfaction review process to Dealer.

General Motors may revise the customer satisfaction evaluation process from time to time. General Motors will consult with the appropriate dealer council before making any changes.

5.4 *Business Planning*

General Motors has established a business planning process to assist dealers, although Dealer remains responsible for satisfying its performance obligations under the Agreement. Dealer agrees to prepare and implement a reasonable business plan if requested by General Motors. General Motors agrees to provide Dealer with information specific to its dealership, and if requested, to assist Dealer in its business planning as agreed upon by Dealer and General Motors.

5.5 *Dealer Council*

General Motors agrees to establish such dealer councils as appropriate to foster and

maintain a positive business relationship between General Motors and its dealers, and to obtain dealer input in General Motors decision-making process. These councils may be established on a national, regional or local basis, and General Motors will consult with dealers in establishing or changing such dealer councils. These councils are intended to provide General Motors with the benefit of dealer advice regarding various decisions which affect dealership operations.

5.6 Electronic Communications, Data Interchange, and Electronic Transactions

To provide for effective and efficient communication, data interchange and electronic transactions between General Motors, its dealers, and its customers, General Motors may establish reasonable requirements for Dealer's acquisition and use of certain computer software, computer hardware, and systems in Dealership Operations, including but not limited to use involving or relating to the Internet. General Motors will take into consideration factors such as market conditions, competitive circumstances, and costs in establishing such reasonable requirements. Dealer agrees to comply with those requirements and all restrictions and limitations applicable to

such computer software, computer hardware or systems. General Motors will consult with the appropriate dealer council in establishing such requirements, and such requirements shall be listed in GM Dealer World under publications, or such other website(s) as General Motors may designate.

5.7 Exchange of Information, and the Handling of Customer Information

General Motors may provide Dealer from time to time certain customer information or other information or data. Dealer agrees to use such information or data only as designated by General Motors, and not to otherwise disclose such information or data without General Motors written permission, unless otherwise required by law. This restriction only applies to information and data provided by General Motors to its dealers, and does not apply to data or information Dealer obtains from its customers or other sources.

To protect the security and confidentiality of customer information Dealer shares with General Motors, General Motors implements and maintains technical, physical and administrative safeguards in accordance with the law. General Motors shall provide privacy statements to its customers that explain how General Motors handles customer personal information, including that it shares customer personal

information with General Motors affiliates and dealers as permitted by law. General Motors privacy statement(s) for U.S. consumers shall be made available at www.gm.com, or such other website(s) as General Motors may designate.

To protect the security and confidentiality of customer information General Motors shares with Dealer, Dealer agrees to implement and maintain technical, physical and administrative safeguards in accordance with the law. Further, Dealer agrees to familiarize dealership employees that handle or have access to customer information

received from General Motors with General Motors privacy requirements, and the GM privacy statements found at www.gm.com, or such other website(s) as GM may designate. Dealer shall provide privacy statements to its customers that explain how the dealership handles customer personal information, including that it shares customer personal information with non-affiliated third parties as permitted by law. Dealer's privacy statement shall be made available at the dealership and at any Dealer websites that collect customer personal information.

ARTICLE 6. SALE OF PRODUCTS TO DEALERS

6.1 Sale of Motor Vehicles to Dealer

General Motors will periodically furnish Dealer one or more Motor Vehicle Addenda specifying the current model types or series of new Motor Vehicles which Dealer may purchase under this Agreement. General Motors may change a Motor Vehicle Addendum by furnishing a superseding one, or may cancel an Addendum at any time.

General Motors will endeavor to distribute new Motor Vehicles among its dealers in a fair and equitable manner. Many factors affect the availability and distribution of Motor Vehicles to dealers, including component availability and available production capacity, sales potential in

Dealer's Area of Primary Responsibility, varying consumer demand, weather and transportation conditions, governmental regulations, and other conditions beyond the control of General Motors. General Motors reserves to itself discretion in accepting orders and distributing Motor Vehicles, and its judgments and decisions are final. Upon written request, General Motors will advise Dealer of the total number of new Motor Vehicles, by allocation group, sold to dealers in Dealer's Market Area or Region during the preceding month.

6.2 Sale of Parts and Accessories to Dealer

New, reconditioned or remanufactured automotive parts and accessories marketed by General Motors and listed in current Dealer Parts and Accessories Price Schedules or supplements furnished to Dealer are called Parts and Accessories. Orders for Parts and Accessories will be submitted and processed according to written or electronic procedures established by General Motors or other designated suppliers.

6.3 Prices and Other Terms of Sale

6.3.1 Motor Vehicles

Prices, destination charges, and other terms of sale applicable to purchases of new Motor Vehicles will be those established according to Vehicle Terms of Sale Bulletins furnished periodically to Dealer.

Prices, destination charges, and other terms of sale applicable to any Motor Vehicle may be changed at any time. Except as otherwise provided in writing or electronically, changes apply to Motor Vehicles not shipped to Dealer at the time the changes are made effective. Dealer will receive written or electronic notice of any price increase before any Motor Vehicle to which such increase applies is shipped,

except for initial prices for a new model year or for any new model or body type. Dealer has the right to cancel or modify the affected orders by delivering written or electronic notice to General Motors within 10 days after its receipt of the price increase notice in accordance with procedures established by General Motors.

If General Motors offers any incentives to customers or dealers, and payment is conditioned upon the purchase or lease of a new Motor Vehicle, Dealer agrees to comply with the then current applicable policies and procedures in the General Motors Incentive Manual, as amended from time to time.

6.3.2 Parts and Accessories

Prices and other terms of sale applicable to Parts and Accessories are established by General Motors according to the Parts and Accessories Terms of Sale Bulletin furnished to Dealer. Prices and other terms of sale applicable to Parts and Accessories may be changed by General Motors at any time.

6.4 Inventory

6.4.1 Motor Vehicle Inventory

Dealer recognizes that customers expect Dealer to have a reasonable quantity and

variety of current model Motor Vehicles in inventory. Accordingly, Dealer agrees to purchase and stock and General Motors agrees to make available, subject to Article 6.1, a mix of models and series of Motor Vehicles identified in the Motor Vehicle Addendum in quantities adequate to enable Dealer to fulfill its obligations in its Area of Primary Responsibility.

6.4.2 *Parts and Accessories*

Dealer agrees to stock sufficient Parts and Accessories made available by General Motors to perform warranty repairs and policy adjustments and meet customer demand.

6.5 *Warranties on Products*

General Motors warrants new Motor Vehicles and Parts and Accessories (Products) as explained in documents provided with the Products or in the Service Policies and Procedures Manual.

EXCEPT AS OTHERWISE PROVIDED BY LAW, THE WRITTEN GENERAL MOTORS WARRANTIES ARE THE ONLY WARRANTIES APPLICABLE TO PRODUCTS. WITH RESPECT TO DEALERS, SUCH WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES

OR LIABILITIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY LIABILITY FOR COMMERCIAL LOSSES BASED UPON NEGLIGENCE OR MANUFACTURER'S STRICT LIABILITY EXCEPT AS MAY BE PROVIDED UNDER AN ESTABLISHED GENERAL MOTORS PROGRAM OR PROCEDURE, GENERAL MOTORS NEITHER ASSUMES NOR AUTHORIZES ANYONE TO ASSUME FOR IT ANY OTHER OBLIGATION OR LIABILITY IN CONNECTION WITH PRODUCTS, AND GENERAL MOTORS MAXIMUM LIABILITY IS TO REPAIR OR REPLACE THE PRODUCT.

ARTICLE 7. SERVICE OF PRODUCTS

7.1 Service for Which General Motors Pays

7.1.1 New Motor Vehicle Pre-Delivery Inspections and Adjustments

Because new vehicle delivery condition is critical to customer satisfaction, Dealer agrees to perform specified pre-delivery inspections and adjustments on each new Motor Vehicle and verify completion according to procedures identified in the Service Policies and Procedures Manual.

7.1.2 Warranty and Special Policy Repairs

Dealer agrees to perform (i) required warranty repairs on each qualified Motor Vehicle at the time of pre-delivery service and when requested by owner, and (ii) special policy repairs approved by General Motors. When the vehicle is returned to the owner, Dealer will provide owner a copy and explanation of the repair document reflecting all services performed.

7.1.3 Field Actions and Corrections

General Motors will notify Dealer of suspected unsatisfactory conditions on

Products, issue field action instructions, and make available a system that Dealer will use to check if a Product is subject to a field action. Dealer agrees to inspect and correct suspected unsatisfactory conditions on Products as instructed. For new and used Motor Vehicles in its inventory and for vehicles in its service facility, Dealer agrees to check the system for open field actions and to complete applicable field action inspections and corrections as instructed.

General Motors may ship, and Dealer agrees to accept, unordered parts and materials required for product field actions. Upon product field action completion, Dealer will receive credit for excess parts and materials so shipped if they are returned or disposed of in accordance with instructions from General Motors.

7.1.4 Payment for Pre-Delivery Adjustments, Warranty, Field Action and Transportation Damage Work

For Dealer's performance of services, pre-delivery inspections and adjustments, warranty repairs, special policy repairs, field action inspections and corrections, and transportation damage repairs, General Motors will provide or pay Dealer for the

Parts and other materials required and will pay Dealer a reasonable amount for labor. Payment will be made according to policies in the Service Policies and Procedures Manual. Dealer will not impose any charge for such service on owners or users except where a deductible or pro-rata charge applies.

7.2 *Parts, Accessories, and Body Repairs*

7.2.1 *Warranty and Policy Repairs*

Dealer agrees to use only genuine GM or General Motors approved Parts and Accessories in performing warranty repairs, special policy repairs, and any other repairs paid for by General Motors, in accordance with the applicable provisions of the Service Policies and Procedures Manual.

7.2.2 *Representations and Disclosures as to Parts and Accessories*

In servicing vehicles marketed by General Motors, Dealer agrees to disclose the use of recycled and non-General Motors parts and accessories as set forth in Article 5. 1. 1.

7.2.3 *Body Repairs*

Dealer agrees to provide quality body repair service for Motor Vehicles. Dealer can provide this service through its own body shop, or by arrangement with an alternate repair establishment approved by General Motors.

7.2.4 *Tools and Equipment*

Dealer agrees to provide and maintain on Dealership Premises essential service tools as required by General Motors, and such other tools and equipment as reasonably necessary to fulfill its responsibilities to properly diagnose and service Products. Dealer also agrees to allow General Motors or its designated representative to survey or inspect Dealer's tools and equipment to ensure that they are in good repair and proper calibration to enable Dealer to meet its service responsibilities. In the event a dispute arises from such a survey or inspection, General Motors personnel agree to discuss the matter with the Dealer in order to resolve the dispute.

ARTICLE 8. TRAINING

Properly trained personnel are essential to the success of Dealer and General Motors, and to providing customers with a satisfactory sales and service experience. General Motors agrees to make available or recommend to Dealer product, sales, service and parts, accounting, business management, finance and insurance, and systems training courses for Dealer personnel. General Motors will make such training available through training sites, interactive distance learning, or other appropriate medium as determined by General Motors. General Motors will assist Dealer in determining training requirements and periodically will require that Dealer have personnel attend or participate in specific courses held as conveniently as

practicable. Dealer agrees to comply with any such reasonable training requirements and pay any specified training charges. General Motors will consult with the appropriate dealer council prior to determining the training courses or programs from which an individual Dealer's requirements under this Article may be established. Specific minimum service training requirements will be described in General Motors Service Policies and Procedures Manual.

General Motors will make available personnel to advise and counsel Dealer personnel on sales, service, parts and accessories, and related subjects.

ARTICLE 9. REVIEW OF DEALER'S SALES PERFORMANCE

General Motors willingness to enter into this Agreement is based in part on Dealer's commitment to effectively sell and promote the purchase, lease and use of Products in Dealer's Area of Primary Responsibility. The success of General Motors and Dealer depends to a substantial degree on Dealer taking advantage of available sales opportunities.

Given this Dealer commitment, General Motors will provide Dealer with a written report at least annually pursuant to the procedures then in effect evaluating Dealer's sales performance. The report will compare Dealer's retail sales to retail sales opportunities by segment in Dealer's Area of Primary Responsibility or Area of Geographical Sales and Service Advantage,

whichever is applicable. General Motors will provide a written explanation of the sales review process to Dealer. Satisfactory performance of Dealer's sales obligations under Article 5.1 requires Dealer to achieve a Retail Sales Index equal or greater than 100. If Dealer's Retail Sales Index is less than 100, Dealer's sales performance will be rated as provided in the General Motors Sales Evaluation process. General Motors expects Dealer to pursue available sales opportunities exceeding this standard. Additionally, General Motors expectations of its sales and registration performance for a Line-Make in a particular area may exceed this standard for individual dealer compliance.

In addition to the Retail Sales Index, General Motors will consider any other relevant factors in deciding whether to proceed under the provisions of Article 13.2 to address any failure by Dealer to adequately perform its sales responsibilities. General Motors will only pursue its rights under Article 13.2 to address any failure by Dealer to adequately perform its sales responsibilities if General Motors determines that Dealer has materially breached its sales performance obligations under this Dealer Agreement.

General Motors may modify the sales evaluation process from time to time and will consult with the appropriate dealer council before adopting such modifications.

ARTICLE 10. CAPITALIZATION

10.1 Net Working Capital

The Capital Standard Addendum reflects the minimum net working capital necessary for Dealer to effectively conduct Dealership Operations. Dealer agrees to maintain at least this level of net working capital. General Motors will issue a new Addendum if changes in operating conditions or General Motors guidelines indicate capital needs have changed materially.

10.2 Wholesale Floorplan

To avoid damage to goodwill which could result if Dealer is financially unable to fulfill its commitments, Dealer agrees to have and maintain a separate line of credit from a creditworthy financial institution reasonably acceptable to General Motors and available to finance the Dealer's purchase of new vehicles in conformance with the policies and procedures established by General Motors. The amount of the line of credit will

be sufficient for Dealer to meet its obligations under Article 6.4.

ARTICLE 11. ACCOUNTS AND RECORDS

11.1 Uniform Accounting System

A uniform accounting system facilitates an evaluation of Dealer business management practices and the impact of General Motors policies and practices. General Motors therefore agrees to maintain, and Dealer agrees to use and maintain records in accordance with a uniform accounting system set forth in an accounting manual furnished to Dealer. Dealer further agrees to submit to General Motors data in a manner specified by General Motors and on a timely basis.

11.2 Submission of Accurate Applications and Information

Dealer also agrees to timely submit true and accurate applications or claims for payments, discounts or allowances; true and correct orders for Products and reports of sale and delivery; and any other reports or statements required by General Motors, in the manner specified by General Motors,

and to retain such records for at least two years.

11.3 Examination of Accounts and Records

Dealer agrees to permit any designated representative of General Motors to access, examine, audit, and take copies of any of the accounts and records Dealer is to maintain under the accounting manual and this Agreement. Dealer agrees to make such accounts and records readily available at its facilities during regular business hours. General Motors agrees to furnish Dealer with a list of any reproduced records.

11.4 Confidentiality of Dealer Data

General Motors agrees not to furnish any personal or financial data submitted to it by Dealer to any non-affiliated entity unless authorized by Dealer, required by law, or in connection with judicial or administrative proceedings, or to proceedings under the Dispute Resolution Process.

ARTICLE 12. CHANGES IN MANAGEMENT AND OWNERSHIP

The parties recognize that customers and authorized dealers, as well as shareholders and employees of General Motors, have a vital interest in the continued success and efficient operation of General Motors dealer network. Accordingly, General Motors has the responsibility of continuing to administer the network to ensure that dealers are owned and operated by qualified persons able to meet the requirements of this Agreement.

12.1 Succession Rights Upon Death or Incapacity

12.1.1 Successor Addendum

Dealer can apply for a Successor Addendum designating a proposed dealer operator and/or owners of a successor dealer to be established if this Agreement is to expire or be terminated because of death or incapacity. General Motors will execute the Addendum provided Dealer is meeting its obligations under this Agreement and under any Dealer Agreement which Dealer may have with General Motors for the conduct of Dealership Operations at the approved location; and the proposed dealer operator is, and will continue to be, employed full-time by Dealer or a comparable automotive dealership, and is already

qualified or is being trained to qualify as a dealer operator; and provided all other proposed owners are acceptable.

Upon expiration of this Agreement, General Motors will, upon Dealer's request, execute a new successor addendum provided a new and superseding dealer agreement is executed with Dealer, and Dealer, the proposed dealer operator and dealer owners are then qualified as described above.

12.1.2 Absence of Successor Addendum

If this Agreement is to expire or be terminated because of death or incapacity of Dealer Operator, and Dealer and General Motors have not executed a Successor Addendum, any remaining Dealer Operator or, if there is not a remaining Dealer Operator, the remaining dealer owners may propose a successor dealer to continue the operations identified in this Agreement. If there are more than one dealer owners remaining, these persons may only propose a successor dealer if they can agree on such proposal.

12.1.3 Successor Dealer

Requirements

General Motors will accept a proposal to establish a successor dealer submitted by a proposed dealer operator under this Article 12.1 provided:

(a) the proposed successor dealer and the proposed dealer operator are ready, willing and able to meet the requirements of a new dealer agreement at the approved location(s).

(b) General Motors approves the proposed dealer operator and all proposed owners not previously approved for the existing Dealership Operations.

(c) all outstanding monetary obligations of Dealer to General Motors have been satisfied.

12.1.4 Term of New Dealer

Agreement

The dealer agreement offered a successor dealer will be for a three-year term. General Motors will notify the successor dealer in writing at least 90 days prior to the expiration date whether the successor dealer has performed satisfactorily and, if so, that General Motors will offer a new Dealer Agreement.

12.1.5 Limitation on Offers

Dealer will be notified in writing of the decision on a proposal to establish a successor dealer submitted under Article 12.1 within 60 days after General Motors has received from Dealer all applications and information reasonably requested by General Motors. General Motors may condition its offer of a dealer agreement on the relocation of dealership operations to an approved location by successor dealer within a reasonable time. General Motors offer of a new dealer agreement under this Article 12.1 will automatically expire if not accepted in writing by the proposed successor dealer within 60 days after it receives the offer.

12.1.6 Cancellation of Addendum

Dealer may cancel an executed Successor Addendum at any time prior to the death of a Dealer Operator or the incapacity of Dealer Operator. General Motors may cancel an executed Successor Addendum only if the proposed dealer operator is no longer qualified under Article 12. 1. 1.

12.2 Other Changes in Ownership or Management

If Dealer proposes a change in Dealer Operator, a change in ownership, or a

transfer of the dealership business or its principal assets to any person conditioned upon General Motors entering into a Dealer Agreement with that person, General Motors will consider Dealer's proposal and not unreasonably refuse to approve it, subject to the following:

12.2.1 Dealer agrees to give General Motors prior written notice of any proposed change or transfer described above. Dealer understands that if any such change is made prior to General Motors approval of the proposal, termination of this Agreement will be warranted and General Motors will have no further obligation to consider Dealer's proposal.

12.2.2 General Motors agrees to consider Dealer's proposal, taking into account factors such as (a) the personal, business, and financial qualifications of the proposed dealer operator and owners, and (b) whether the proposed change is likely to result in a successful dealership operation with acceptable management, capitalization, and ownership which will provide satisfactory sales, service, and facilities at an approved location, while promoting and preserving competition and customer satisfaction.

12.2.3 General Motors will notify Dealer in writing of General Motors decision on Dealer's proposal within 60 days after General Motors has received from Dealer all applications and information reasonably requested by General Motors. If General Motors disagrees with the proposal, it will specify its reasons. General Motors may request that Dealer submit such applications and information in writing or electronically.

12.2.4 Any material change in Dealer's proposal, including change in price, facilities, capitalization, proposed owners, or dealer operator, will be considered a new proposal, and the time period for General Motors to respond shall recommence.

12.2.5 General Motors prior written approval is not required where the transfer of equity ownership or beneficial interest to an individual is (a) less than ten percent in a calendar year, and (b) between existing dealer owners previously approved by General Motors where there is no change in majority ownership or voting control. Dealer agrees to notify General Motors within 30 days of the date of the change and

to execute a new Dealer Statement of Ownership.

12.2.6 General Motors is not obligated to approve any proposed changes in management or ownership under this Article unless Dealer makes arrangements acceptable to General Motors to satisfy any indebtedness of Dealer to General Motors and other commitments of Dealer to General Motors.

12.3 Right of First Refusal to Purchase

12.3.1 Creation and Coverage

If Dealer submits a proposal for a change of ownership under Article 12.2, General Motors will have a right of first refusal to purchase the dealership assets or stock and such other rights proposed to be transferred regardless of whether the proposed buyer is qualified to be a dealer. If General Motors chooses to exercise this right, it will do so in its written response to Dealer's proposal. General Motors will have a reasonable opportunity to inspect the assets, including real estate, and corporate records before making its decision.

12.3.2 Purchase Price and Other Terms of Sale

(a) Bona Fide Agreement

If Dealer has entered into a bona fide written buy/sell agreement, the purchase price and other terms of sale will be those set forth in such agreement and any related documents, unless Dealer and General Motors agree to other terms.

Upon General Motors request, Dealer agrees to provide all documents relating to the proposed transfer. If Dealer refuses to provide such documentation or state in writing that such documents do not exist, it will be presumed that the agreement is not bona fide.

(b) Absence of Bona Fide Agreement

In the absence of a bona fide written buy/sell agreement, the purchase price of the dealership assets or stock and such other rights as proposed to be transferred will be determined by good faith negotiations by Dealer and General Motors. If agreement cannot be reached within a reasonable time, the price and other terms of sale will be established by arbitration according to the rules of the American Arbitration Association.

12.3.3 Consummation

Dealer agrees to transfer the property by Warranty Deed, where possible, conveying marketable title free and clear of liens and encumbrances. The Warranty Deed will be in proper form for recording and Dealer will deliver complete possession of the property when the Deed is delivered. Dealer will also furnish copies of any easements, licenses or other documents affecting the property and assign any permits or licenses necessary for the conduct of Dealership Operations.

12.3.4 Assignment

General Motors rights under this section may be assigned to any third party ("Assignee"). If there is an assignment, General Motors will guarantee full payment of the purchase price by the Assignee. General Motors shall have the opportunity to discuss the terms of the buy/sell agreement with the potential Assignee(s).

General Motors rights under this Article are binding on and enforceable against any assignee or successor in interest of Dealer or purchaser of Dealer's assets or stock and such other rights as proposed to be transferred.

12.3.5 Transfer Involving Family Members and Dealer Management

When the proposed change of ownership involves a transfer by a dealer owner solely to a member or members of his or her immediate family, or to a qualifying member of Dealer's Management, and such member or members meet General Motors' qualification requirements under Article 12.2, General Motors right of first refusal will not apply. An "immediate family member" shall be the spouse, child, grandchild, spouse of a child or grandchild, brother, sister or parent of the dealer owner. A "qualifying member of Dealer's Management" shall be an individual who has been employed by Dealer for at least two years and otherwise qualifies as a dealer operator.

12.3.6 Expenses

If General Motors exercises its right of first refusal, General Motors agrees to pay the proposed owner the reasonable expenses, including reasonable attorney fees, that do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients, and that are incurred by the proposed owner in negotiating and implementing the contract

for the proposed change in Dealer ownership before General Motors gives notice of its exercise of its right of first refusal. The proposed owner must provide a

reasonable accounting and documentation of such expenses to receive such reimbursement.

ARTICLE 13. BREACHES AND OPPORTUNITY TO REMEDY

13.1 Certain Acts or Events

The following acts or events, which are within the control of Dealer or originate from action taken by Dealer or its management or owners, are material breaches of this Agreement. If General Motors learns that any of the acts or events has occurred, it may notify the Dealer in writing. If notified, Dealer will be given the opportunity to respond in writing within 30 days of receipt of the notice, explaining or correcting the situation to General Motors satisfaction.

13.1.1 The removal, resignation, withdrawal, or elimination from Dealer for any reason of any Dealer Operator or dealer owner without General Motors prior written approval.

13.1.2 Any attempted or actual sale, transfer, or assignment by Dealer of this Agreement or any of the rights granted Dealer hereunder, or any attempted or actual transfer, assignment or delegation by Dealer

of any of the responsibilities assumed by it under this Agreement contrary to the terms of this Agreement.

13.1.3 Any change, whether voluntary or involuntary, in the record or beneficial ownership of Dealer as set forth in the Dealer Statement of Ownership furnished by Dealer, unless permitted by Article 12.2.5 or pursuant to General Motors written approval.

13.1.4 Any undertaking by Dealer or any of its owners to conduct, either directly or indirectly, any of the Dealership Operations at any un-approved location.

13.1.5 Any sale, transfer, relinquishment, discontinuance, or change of use by Dealer of any of the Dealership Premises or other principal assets required in the conduct of the Dealership Operations, without General Motors prior written approval.

13.1.6 Any dispute among the owners or management personnel of Dealer which, in General Motors judgment, may adversely affect the Dealership Operations or the interests of Dealer or General Motors.

13.1.7 Refusal by Dealer to timely furnish sales, service or financial information and related supporting data, or to permit General Motors examination or audit of Dealer's accounts and records.

13.1.8 A finding by a government agency or court of original jurisdiction or a settlement arising from charges that Dealer, Dealer Operator, or a predecessor of Dealer owned or controlled by the same person, had committed an unfair or deceptive business practice which, in General Motors judgment, may adversely affect the reputation or interests of Dealer or General Motors.

13.1.9 Willful failure of Dealer to comply with the provisions of any laws or regulations relating to Dealership Operations.

13.1.10 Submission by Dealer of false applications or reports, including false orders for Products or reports of delivery or transfer of Products.

13.1.11 Failure of Dealer to maintain the line of credit required by Article 10.

13.1.12 Failure of Dealer to timely pay its obligations to General Motors.

13.1.13 Refusal by Dealer to permit General Motors or any designated representative of General Motors to access, examine, audit, or take copies of any of the accounts or records Dealer is to maintain under the accounting manual and this Agreement.

13.1.14 Any other material breach of Dealer's obligations under this Agreement not otherwise identified in this Article 13 or in Article 14, or any other fraudulent conduct not specifically mentioned above.

If Dealer's response demonstrates that the breach has been corrected, or otherwise explains the circumstances to General Motors satisfaction, then General Motors shall confirm this fact in writing to Dealer. If, however, Dealer's response does not demonstrate that the breach has been corrected, or explain the circumstances to General Motors satisfaction, termination is warranted and General Motors may terminate this Agreement upon written

notice to Dealer. Termination will be effective

60 days following Dealer's receipt of the notice.

13.2 Failure of Performance by Dealer

If General Motors determines that Dealer's Premises are not acceptable, or that Dealer has failed to adequately perform its sales or service responsibilities, including those responsibilities relating to customer satisfaction and training, General Motors will review such failure with Dealer.

As soon as practical thereafter, General Motors will notify Dealer in writing of the nature of Dealer's failure and of the period of time (which shall not be less than six months) during which Dealer will have the opportunity to correct the failure.

If Dealer does correct the failure by the expiration of the period, General Motors will so advise the Dealer in writing. If, however, Dealer remains in material breach of its obligations at the expiration of the period, General Motors may terminate this Agreement by giving Dealer 90 days advance written notice.

ARTICLE 14. TERMINATION OF AGREEMENT

14.1 By Dealer

Dealer has the right to terminate this Agreement without cause at any time upon written notice to General Motors. Termination will be effective 30 days after General Motors receipt of the notice, unless otherwise mutually agreed in writing.

14.2 By Agreement

This Agreement may be terminated at any time by written agreement between General Motors and Dealer. Termination assistance

will apply only as specified in the written termination agreement.

14.3 Failure to be Licensed

If General Motors or Dealer fails to secure or maintain any license required for the performance of obligations under this Agreement or such license is suspended or revoked, either party may terminate this Agreement by giving the other party fifteen days written notice. Dealer may only conduct Dealership Operations if permitted by law.

14.4 Death or Incapacity of Dealer Operator

Because this is a Personal Services Agreement, General Motors may terminate this Agreement by written notice to Dealer upon the death of the Dealer Operator or if Dealer Operator is so physically or mentally incapacitated that the Dealer Operator is unable to actively exercise full managerial authority. The effective date of termination will be stated in such written notice and will be not less than three months after receipt of such notice. Prior to issuing a written notice of termination under Article 14.4, General Motors will provide Dealer with sixty days to submit a proposal for a replacement dealer operator by submitting the application forms and such other information reasonably requested by General Motors. General Motors will evaluate the candidate's qualification requirements under Article 12.2.

14.5 Acts or Events

If General Motors learns that any of the following has occurred, it may terminate this Agreement by giving Dealer written notice of termination. Termination will be effective on the date specified in the notice.

14.5.1 Conviction in a court of original jurisdiction of Dealer, or a

predecessor of Dealer owned or controlled by the same person, or any Dealer Operator or dealer owner of any felony.

14.5.2 Insolvency of Dealer; or filing by or against Dealer of a petition in bankruptcy; or filing of a proceeding for the appointment of a receiver or trustee for Dealer, provided such filing or appointment is not dismissed or vacated within thirty days; or execution by Dealer of an assignment for the benefit of creditors or any foreclosure or other due process of law whereby a third party acquires rights to the operation, ownership or assets of Dealer.

14.5.3 Failure of Dealer to conduct customary sales and service operations during customary business hours for seven consecutive business days.

14.5.4 Any misrepresentation to General Motors by Dealer or by any Dealer Operator or owner in applying for this Agreement, or in identifying the Dealer Operator, or record or beneficial ownership of Dealer.

14.5.5 Submission by Dealer of false applications or claims for any payment, credit, discount, or allowance, including false applications in connection with incentive activities, where the false information was submitted to generate a

payment to Dealer for a claim which would not otherwise have qualified for payment.

Termination for failure to correct other breaches will be according to the procedures outlined in Article 13.

***14.6 Reliance on Any Applicable
Termination Provision***

The terminating party may select the provision under which it elects to terminate without reference in its notice to any other provision that may also be applicable. The terminating party subsequently also may assert other grounds for termination.

14.7 Transactions After Termination

14.7.1 Effect on Orders

If Dealer and General Motors do not enter into a new Dealer Agreement when this Agreement expires or is terminated, all of Dealer's outstanding orders for Products will be automatically canceled except as provided in this Article 14.7.

Termination of this Agreement will not release Dealer or General Motors from the obligation to pay any amounts owing the other, nor release Dealer from the obligation

to pay for Special Vehicles if General Motors has begun processing such orders prior to the effective date of termination.

14.7.2 Termination Deliveries

If this Agreement is voluntarily terminated by Dealer or expires or is terminated because of the death or incapacity of a Dealer Operator, without a termination or expiration deferral, General Motors will use its best efforts consistent with its distribution procedures to furnish Dealer with Motor Vehicles to fill Dealer's bona fide retail sold orders with customers as of the effective date of termination or expiration, not to exceed, however, the total number of Motor Vehicles invoiced to Dealer for retail sale during the three months immediately preceding the effective date of termination.

***14.7.3 Effect of Transactions After
Termination***

Neither the sale of Products to Dealer nor any other act by General Motors or Dealer after termination of this Agreement will be construed as a waiver of the termination.

ARTICLE 15. TERMINATION ASSISTANCE

15.1 Deferral of Effective Date

If this Agreement is scheduled to expire or terminate because of the death or incapacity of a Dealer Operator and Dealer

requests an extension of the effective date of expiration or termination thirty days prior to such date, General Motors will defer the effective date for up to a total of eighteen

months after such death or incapacity occurs to assist Dealer in winding up its Dealership Operations.

15.2 Purchase of Personal Property

15.2.1 General Motors

Obligations

If this Agreement: a) expires or is terminated by Dealer, and General Motors does not offer Dealer or a replacement dealer a new dealer agreement, or b) is terminated by General Motors for cause under the Dealer Agreement, General Motors will offer to purchase the following items of personal property (herein called Eligible Items) from Dealer at the prices indicated:

(a) New and unused Motor Vehicles of the current model year purchased by Dealer from General Motors, and of the previous model year if purchased by Dealer from General Motors within one hundred twenty days before the effective date of termination, at a price equal to the net prices and charges that were paid to General Motors;

(b) Any signs owned by Dealer of a type recommended in writing by General Motors and bearing any Marks at a price agreed upon by General Motors and Dealer. If General Motors and Dealer cannot agree on

a price, they will select a third party who will set the price;

(c) Any essential tools recommended by General Motors and designed specifically for service of Motor Vehicles that General Motors offered for sale during the three years preceding termination at prices established in accordance with the applicable pricing formula in the Service Policies and Procedures Manual; and

(d) Unused and undamaged Parts and Accessories that (i) are still in the original, re-salable merchandising packages and in unbroken lots (in the case of sheet metal, a comparable substitute for the original package may be used); (ii) are listed for sale in the then current Dealer Parts and Accessories Price Schedules (except those items marked **NOT ELIGIBLE** Parts and Accessories); and (iii) were purchased by Dealer either directly from General Motors or from an outgoing dealer as a part of Dealer's initial Parts and Accessories inventory. Prices will be those dealer prices in effect at the time General Motors receives the Parts and Accessories, less any applicable allowances whether or not any such allowances were made to Dealer when Dealer purchased the Parts and Accessories. In addition, an allowance of five percent of dealer price for packing costs and

reimbursement for transportation charges to the destination specified by General Motors will be credited to Dealer's account.

15.2.2 Dealer's Responsibilities

General Motors obligation to purchase Eligible Items is subject to Dealer fulfilling its responsibility under this subsection.

Within fifteen days following the effective date of termination or expiration of this Agreement, Dealer will furnish General Motors with a list of vehicle identification numbers and such other information as General Motors may request pertaining to eligible Motor Vehicles. Dealer will deliver the eligible Motor Vehicles to a destination determined by General Motors that will be in a reasonable proximity to Dealer's Premises.

Within two months following the effective date of termination or expiration of this Agreement, Dealer will mail or deliver to General Motors a complete and separate list of each of the Eligible Items other than Motor Vehicles. Dealer will retain the Eligible Items until receipt of written shipping instructions from General Motors. Within thirty days after receipt of instructions, Dealer will ship the Eligible

Items, transportation charges prepaid, to the destinations specified in the instructions.

Dealer will take action and execute and deliver such instruments as necessary to (a) convey to General Motors good and marketable title to all Eligible Items to be purchased, (b) comply with the requirements of any applicable state law relating to bulk sales or transfer, and (c) satisfy and discharge any liens or encumbrances on Eligible Items prior to their delivery to General Motors.

15.2.3

Subject to Article 17.10, General Motors will pay for the Eligible Items as soon as practicable following their delivery to the specified destinations. Payment may be made directly to anyone having a security or ownership interest in the Eligible Items.

If General Motors has not paid Dealer for the Eligible Items within two months after delivery, and if Dealer has fulfilled its termination obligations under this Agreement, General Motors will, at Dealer's written request, estimate the purchase price of the unpaid Eligible Items and all other amounts owed Dealer by General Motors. After deducting the amounts estimated to be owing General Motors and its subsidiaries

by Dealer, General Motors will pay Dealer 75 percent of the net amount owed Dealer and will pay the balance, if any, as soon as practicable thereafter.

15.2.4 Replacement Dealer

If Dealer intends to terminate its Dealer Agreement and General Motors has approved a replacement dealer, the Dealer or replacement dealer may submit electronically to General Motors prior to the closing a listing of the Dealer's parts inventory, and General Motors will advise the Dealer or replacement dealer within thirty days what parts General Motors is willing to repurchase under General Motors policies and procedures then in effect upon Dealer's termination of its Dealer Agreement. General Motors will assist the replacement dealer in establishing an appropriate Motor Vehicle inventory as provided in Article 6.4.1.

15.3 Assistance on Premises

15.3.1 General Motors Obligation

Subject to Article 17.10, General Motors agrees to give Dealer assistance in disposing of the Premises as provided below if (i) this Agreement expires for any reason or is terminated by General Motors under Articles 13.2 or 14.4 and (ii) Dealer is not

offered a new Dealer Agreement. Such assistance shall be given only on Premises that are described in the Location and Premises Addendum and only if:

(a) they are used solely for Dealership Operations (or similar dealership operations under other agreements with General Motors which will be terminated simultaneously with this Agreement); and

(b) they are not substantially in excess of space requirements at the time of termination or, if they are substantially in excess, they became excessive because of a reduction in the requirements applicable to Dealer's facilities.

Any Dealer request for such assistance must be in writing and received by General Motors within thirty days of the expiration or termination of this Agreement.

Premises that consist of more than one parcel of property or more than one building, each of which is separately usable, distinct and apart from the whole or any other part with appropriate ingress or egress, shall be considered separately under this Article 15.3.

15.3.2 Owned Premises

General Motors will provide assistance on owned Premises by either (a) locating a purchaser who will offer to purchase the Premises at a reasonable price, or (b) locating a lessee who will offer to lease the Premises. If General Motors does not locate a purchaser or lessee within a reasonable time, General Motors will itself either purchase or, at its option, lease the Premises for a reasonable term at a reasonable rent. If the cause of termination or expiration is a death or the incapacity of the Dealer Operator, General Motors may instead pay Dealer a sum equal to a reasonable rent for a period of twelve months immediately following the effective date of termination or expiration of this Agreement.

15.3.3 Leased Premises

General Motors will provide assistance on leased Premises by either:

- (a) locating a tenant(s), satisfactory to lessor, who will sublet for the balance of the lease or assume it; or
- (b) arranging with the lessor for the cancellation of the lease without penalty to Dealer; or
- (c) reimbursing Dealer for the lesser of the rent specified in the lease or settlement agreement or a reasonable rent for a period

equal to the lesser of twelve months from the effective date or termination or expiration of the balance of the lease term.

Upon request, Dealer will use its best efforts to effect a settlement of the lease with the lessor subject to General Motors prior approval of the terms. General Motors is not obligated to reimburse Dealer for rent for any month during which the Premises are occupied by Dealer or anyone else, after the first month following the effective date of termination or expiration.

15.3.4 Rent and Price

General Motors and Dealer will fix the amount of a reasonable rent and a reasonable price for the Premises by agreement at the time Dealer requests assistance. The factors to be considered in fixing those amounts are:

- (a) the adequacy and desirability of the Premises for a dealership operation; and
 - (b) the fair market value of the Premises.
- If General Motors and Dealer cannot agree, the fair market value will be determined by the median appraisal of three qualified real estate appraisers, of whom Dealer and General Motors will each select one and the two selected will select the third. The cost of

appraisals will be shared equally by Dealer and General Motors.

15.3.5 Limitations on Obligation to Provide Assistance

General Motors will not be obligated to provide assistance on Premises if Dealer:

- (a) fails to accept a bona fide offer from a prospective purchaser, sub-lessee or assignee;
- (b) refuses to execute a settlement agreement with the lessor if the agreement would be without cost to Dealer;
- (c) refuses to use its best efforts to effect a settlement when requested by General Motors; or
- (d) refuses to permit General Motors to examine Dealer's books and records if

necessary to verify claims of Dealer under this Article.

Any amount payable by General Motors as rental reimbursement or reasonable rent shall be proportionately reduced if the Premises are leased or sold to another party during the period for which such amount is payable. Payment of rental reimbursement or reasonable rent is waived by Dealer if it does not file its claim therefor within two months after the expiration of the period covered by the payment. Upon request, Dealer will support its claim with satisfactory evidence of its accuracy and reasonableness.

ARTICLE 16. DISPUTE RESOLUTION PROCESS

Dealer and General Motors recognize that it is desirable to resolve disputes in a fair, prompt, and cost efficient manner. Therefore, except for the matters specified below, and except as otherwise specifically agreed upon in writing between Dealer and General Motors, Dealer and General Motors agree to mediate any dispute arising under this Agreement or applicable law using the General Motors Dispute Resolution Process

then in effect, a copy of which has been provided to Dealer, before using other remedies available under federal, state or local law. The matters ineligible for mediation include: (i) terminations due to insolvency, a dealer's failure to conduct customary sales and service operations during customary business hours for at least seven consecutive business days, license revocation, fraud or felony convictions, (ii)

disputes requiring participation by a third party who does not agree to participate in the mediation, and (iii) disputes of General Motors Policies or Procedures as applied to dealers generally. Dealer or General Motors may file simultaneously with a court or administrative agency if necessary to retain its rights under applicable law. Mediation under the General Motors Dispute Resolution Process is mandatory, but mediation is not binding on the parties unless the parties agree upon a solution. If a dispute is not resolved through mediation, Dealer and General Motors may agree to

resolve this dispute through voluntary binding arbitration available under the General Motors Dispute Resolution Process.

The General Motors Dispute Resolution Process is set forth in a separate booklet, and this Process will be administered by a Joint Mediation/Arbitration Committee composed of dealers and General Motors representatives. General Motors may amend the Process from time to time, but will consult with the Joint Mediation/Arbitration Committee before making any changes.

ARTICLE 17. GENERAL PROVISIONS

17.1 No Agent or Legal Representative Status

This Agreement does not make either party the agent or legal representative of the other for any purpose, nor does it grant either party authority to assume or create any obligation on behalf of or in the name of the others. No fiduciary obligations are created by this Agreement.

17.2 Responsibility for Operations

Except as provided in this Agreement, Dealer is solely responsible for all expenditures, liabilities and obligations

incurred or assumed by Dealer for the establishment and conduct of its operations.

17.3 Taxes

Dealer is responsible for all local, state, federal, or other applicable taxes and tax returns related to its dealership business and will hold General Motors harmless from any related claims or demands made by any taxing authority.

17.4 Indemnification by General Motors

General Motors will assume the defense of Dealer and indemnify Dealer against any

judgment for monetary damages or rescission of contract, less any offset recovered by Dealer, in any lawsuit naming Dealer as a defendant relating to any Product that has not been altered when the lawsuit concerns:

17.4.1 Breach of the General Motors warranty related to the Product, bodily injury or property damage claimed to have been caused solely by a defect in the design, manufacture, or assembly of a Product by General Motors (other than a defect which should have been detected by Dealer in a reasonable inspection of the Product);

17.4.2 Failure of the Product to conform to the description set forth in advertisements or product brochures distributed by General Motors because of changes in standard equipment or material component parts unless Dealer received notice of the changes prior to retail delivery of the affected Product by Dealer; or

17.4.3 Any substantial damage to a Product purchased by Dealer from General Motors which has been repaired by General Motors unless Dealer has been notified of the repair prior to retail delivery of the affected Product.

If General Motors reasonably concludes that allegations other than those set forth in 17.4.1, 17.4.2, or 17.4.3 above are being pursued in the lawsuit, General Motors shall have the right to decline to accept the defense or indemnify dealer or, after accepting the defense, to transfer the defense back to Dealer and withdraw its agreement to indemnify Dealer.

Procedures for requesting indemnification, administrative details, and limitations are contained in the Service Policies and Procedures Manual under "Indemnification." The obligations assumed by General Motors are limited to those specifically described in this Article and in the Service Policies and Procedures Manual and are conditioned upon compliance by Dealer with the procedures described in the Manual. This Article shall not affect any right either party may have to seek indemnification or contribution under any other contract or by law and such rights are hereby expressly preserved.

17.5 Trademarks and Service Marks

General Motors, its subsidiaries or other affiliated companies are the exclusive owners or licensees of the various trademarks, service marks, names and

designs (Marks) used in connection with Products and services.

Dealer is granted the non-exclusive right to display Marks in the form and manner approved by General Motors in the conduct of its dealership business. Dealer agrees to permit any designated representative of General Motors upon the Premises during regular business hours to inspect Products or services in connection with Marks.

Dealer will not apply to register or maintain a registration for any Marks either alone or as part of another mark, and will not take any action which may adversely affect the validity of the Marks or the goodwill associated with them. Dealer will not apply to register or maintain a registration for any name which includes a Mark as an Internet domain name without General Motors prior written approval. Upon written notice by General Motors of any such applications or registrations by Dealer, Dealer will, at the election of General Motors, expressly abandon or assign the name to General Motors no later than 30 days from receipt of such notice.

Dealer agrees to purchase and sell goods bearing Marks only from parties authorized or licensed by General Motors.

Marks may be used as part of the Dealer's name with General Motors written approval. Dealer agrees to change or discontinue the use of any Marks upon General Motors request.

Dealer agrees that no company owned by or affiliated with Dealer or any of its owners may use any Mark to identify a business without General Motors written permission.

Upon termination of this Agreement, Dealer agrees to immediately discontinue, at its expense, all use of Marks, including but not limited to removal of all Marks from any and all Dealer owned signs. Thereafter, Dealer will not use, either directly or indirectly, any Marks or any other confusingly similar marks in a manner that General Motors determines is likely to cause confusion or mistake or deceive the public.

Dealer will reimburse General Motors for all legal fees and other expenses incurred in connection with action to require Dealer to comply with this Article 17.5.

17.6 Notices

Any notice required to be given by either party to the other in connection with this Agreement will be in writing and delivered personally or by first class or express mail or by facsimile, or electronically as provided in this Agreement. Notices to Dealer will be directed to Dealer or its representatives at Dealer's principal place of business and, except for indemnification requests made pursuant to Article 17.4, notices by Dealer will be directed to the appropriate Regional General Manager of General Motors.

17.7 No Implied Waivers

The delay or failure of either party to require performance by the other party or the waiver by either party of a breach of any provision of this Agreement will not affect the right to subsequently require such performance.

17.8 Assignment of Rights or Delegation of Duties

Dealer has not paid any fee for this Agreement. Neither this Agreement nor any right granted by this Agreement is a property right.

Except as provided in Article 12, neither this Agreement nor the rights or obligations of Dealer may be sold, assigned, delegated,

encumbered or otherwise transferred by Dealer.

General Motors may assign this Agreement and any rights, or delegate any obligations, under this Agreement to any affiliated or successor company, and will provide Dealer written notice of such assignment or delegation. Such assignment or delegation shall not relieve General Motors of liability for the performance of its obligations under this Agreement.

17.9 No Third Party Benefit Intended

This Agreement is not enforceable by any third parties and is not intended to convey any rights or benefits to anyone who is not a party to this Agreement.

17.10 Accounts Payable

All monies or accounts due Dealer are net of Dealer's indebtedness to General Motors and its subsidiaries. In addition, General Motors may deduct any amounts due or to become due from Dealer to General Motors or its subsidiaries, or any amounts held by General Motors, from any sums or accounts due or to become due from General Motors, or its subsidiaries.

17.11 *Sole Agreement of Parties*

Except as provided in this Agreement or in any other unexpired written agreements executed by both parties, General Motors has made no promises to Dealer, Dealer Operator, or dealer owner and there are no other agreements or understandings, either oral or written, between the parties affecting this Agreement or relating to any of the subject matters covered by this Agreement.

Except as otherwise provided herein, this Agreement cancels and supersedes all previous agreements between the parties that relate to any matters covered herein, except as to any monies which may be owing between the parties and any other unexpired written agreements executed by both parties.

No agreement between General Motors and Dealer which relates to matters covered herein, including the grant or amendment of any Dealer Agreement and no change in, addition to (except the filling in of blank lines) or modification of this Agreement, will be binding unless approved in a written agreement executed by an authorized person. Approvals required or provided for under this Agreement must be in writing by an authorized person. No General Motors

representative is authorized to orally grant, waive or revise any terms of this Agreement or any rights conferred under this Agreement. General Motors and Dealer expressly waive application of any local, state or federal law, statute, or judicial decision allowing oral grant, modifications, amendments, or additions of a Dealer Agreement notwithstanding an express provision requiring a writing signed by the Parties.

17.12 *Applicable Law*

This agreement is governed by the laws of the State of Michigan. The provisions of this Agreement will be deemed severable, and if any provision of this Agreement is held illegal, void, or invalid under applicable law effective in the resident jurisdiction of Dealer as of the effective date of this agreement, such provision shall be interpreted as amended to the extent reasonably necessary to make the provision legal, valid, and binding. If any provision of this Agreement is held illegal, void, or invalid in its entirety, the remaining provisions of this Agreement will not be affected but will remain binding in accordance with their terms.

17.13 Superseding Dealer Agreements

If General Motors offers a superseding form of dealer agreement or an amendment to the dealer agreement to General Motors dealers generally at any time prior to expiration of this Agreement, General Motors may terminate this Agreement by ninety days prior written notice to Dealer, provided General Motors offers Dealer a dealer agreement in the superseding form for a term of not less than the un-expired term of this Agreement.

Unless otherwise agreed in writing, the rights and obligations of Dealer that may otherwise become applicable upon termination or expiration of the term of this Agreement shall not be applicable if General Motors and Dealer execute a superseding dealer agreement, and the matured rights and obligations of the parties hereunder shall continue under the new agreement.

Dealer's performance under any prior agreement may be considered in an evaluation of Dealer's performance under this or any succeeding agreement.

GLOSSARY

Area of Primary Responsibility — The geographic area designated by General Motors from time to time in a Notice of Area of Primary Responsibility.

Dealer — The corporation, partnership, proprietorship, limited liability corporation, or limited liability partnership that signs the Dealer Agreement with General Motors.

Dealer Agreement — The Dealer Sales and Service Agreement, including the Agreement proper that is executed, the Standard Provisions, and all of the related Addenda.

Dealership Operations — All operations contemplated by the Dealer Agreement. These operations include the sale and service of Products and any other activities undertaken by Dealer related to Products, including rental and leasing operations, used vehicle sales and body shop operations, finance and insurance operations, any electronic commerce, and any service of other General Motors motor vehicles authorized by General Motors, whether conducted directly or indirectly by Dealer.

General Motors — General Motors LLC

Incentives Manual — The Manual issued periodically which details certain policies and procedures related to dealer or customer incentives or promotions.

Line-Make — A brand of General Motors Motor Vehicles, or a brand used to badge motor vehicles for another manufacturer. For this Dealer Agreement, the General Motors brands are Chevrolet Passenger Vehicles and Light Duty Trucks, Buick Motor Vehicles, Cadillac Motor Vehicles, and GMC Light Duty Trucks.

Products — Motor Vehicles, Parts and Accessories.

Motor Vehicles — All current model types or series of new motor vehicles specified in any Motor Vehicle Addendum incorporated into this Agreement and all past General Motors motor vehicles marketed through Motor Vehicle Dealers.

Service Policies and Procedures Manual — The Manual issued periodically which details certain administrative and performance requirements for Dealer service under the Dealer Agreement.

Special Vehicles — Motor Vehicles that have limited marketability because they differ from standard specifications or incorporate special equipment.

EXHIBIT B





EXHIBIT C

General Motors Corporation

June 1, 2009

Vera-Williamson Investments, Inc.
300 S University Drive
Pembroke Pines, FL 33025

Attention: Louis Vera

On behalf of the entire GM team, as GM embarks on an exciting new future, I am extremely pleased that Vera-Williamson Investments, Inc. has been identified by GM as one of its key dealers for the Cadillac brand. As a result, subject to the execution of the enclosed letter agreement, GM intends to seek bankruptcy court approval to assume your existing Dealer Agreement for the Cadillac brand and assign such Dealer Agreement to the purchaser of certain of GM's assets in the bankruptcy (the "363 Acquirer"). While recent times in the industry have been challenging to all of us, we believe that this new structure presents an exciting new opportunity for all involved.

Part of GM's restructuring efforts include plans for a dealer network consisting of fewer, stronger and more properly located dealers which we hope will allow for higher through-put and enhanced business potential. Your selection as a dealer for the Cadillac brand shows the confidence we have in your dealership being part of the new GM. Accordingly, it is critically important that key dealers, like you, are fully committed to, and fully supportive of, GM's restructuring efforts. In order for your Dealer Agreement to be assigned to the 363 Acquirer, you must execute the enclosed letter agreement.

The letter agreement addresses several key areas of dealership performance going forward. These key areas are addressed in detail in the enclosed letter agreement, which you should carefully read, but highlights include:

- Introduction of the new concept of essential brand elements
- Increased sales performance
- Increased inventory responsibilities
- Exclusive facilities for GM operations
- A release of claims against GM, the 363 Acquirer and their related parties
- Agreement to fulfill certain dealer networking actions

A critical part of our dealer network plan is proper channel alignment and dealer focus on the correct brands at the right location. As a result, some retained dealers may receive additional brands. Also, some retained dealers will continue with fewer brands than they currently operate. If your dealership is continuing with fewer brands, enclosed is a separate cover letter and a wind-down agreement, designed to assist you in the orderly winding down of that brand's operations. Please understand that, going forward, GM strongly believes it needs your dealership, as a top performer, in the Cadillac dealer network.

Due to extremely short court deadlines in the bankruptcy process, the enclosed letter agreement must be signed by you and received by GM no later than June 12, 2009. We have enclosed a return Federal Express envelope, addressed to GM, for your convenience. If you have any questions, please direct them to our Dealer Call Center at 877.868.8071

In closing, please know that GM has great respect for, and appreciation of, your past efforts as a GM dealer. We are enthusiastic about the prospects of our mutual success under this new structure.

Sincerely,

GENERAL MOTORS CORPORATION

EXHIBIT D



General Motors LLC

Hand Delivered and Certified Mail

Personal & Confidential

May 28, 2015

Vera Cadillac-Buick-GMC
300 S University Drive
Pembroke Pines, FL 33025

Attn: Mr. Louis Vera

Re: Notice of Termination of GM Dealer Sales and Service Agreement

Dear Mr. Vera:

This letter concerns the long-standing failure of Vera Cadillac-Buick-GMC's ("Dealer") to fulfill its obligations under its GM Dealer Sales and Service Agreement (the "Dealer Agreement") for Cadillac, despite notice from GM and an opportunity to cure its deficiencies. Because of these continued failures, GM has decided to terminate the Dealer Agreement, effective August 26, 2015

On May 20, 2014, General Motors notified Dealer that it was in breach of the Dealer Agreement for its failure to meet its obligations. Pursuant to the Dealer Agreement and Florida Statute § 320.641(3), Dealer was thus afforded an opportunity – during the period July 1, 2014 through December 31, 2014 (the "Cure Period") – to correct its deficiencies. This letter provides Dealer with the results of its performance during the Cure Period.

Sales Performance

Article 5.1.1 of the Dealer Agreement, entitled "Responsibility to Promote and Sell," reads in part:

"Dealer agrees to effectively, ethically and lawfully sell and promote the purchase, lease and use of Products by consumers located in its Area of Primary Responsibility."

As provided in Article 9 of the Dealer Agreement, a Retail Sales Index ("RSI") of 100 is the minimum level of retail sales performance required for Dealer to satisfy its commitment under Article 5.1.1 of the Dealer Agreement. Dealer's RSI for calendar year 2014 was 54.4, leaving it with a rank of 44 out of 44 Cadillac dealers in Florida. For the "Cure Period," Dealer's RSI was 59.9.

Dealer has thus failed to achieve the level of retail sales performance required by the Dealer Agreement and has failed to correct this deficiency during the Cure Period.

Vera
May 28, 2015
Page 2

Customer Satisfaction Performance

Article 5.3 of the Dealer Agreement, entitled "Customer Satisfaction," reads in part:

"Dealer and General Motors recognize that appropriate care for the customer will promote customer satisfaction with General Motors Products and its dealers, which is critically important to our current and future business success. Dealer therefore agrees to conduct its operations in a manner which will promote customer satisfaction with the purchase and ownership experience. General Motors agrees to provide Dealer with reasonable support to assist Dealer's attainment of customer satisfaction.

General Motors will provide Dealer with a written report at least annually pursuant to the procedures then in effect in evaluating Dealer's purchase and delivery customer satisfaction and Dealer's service customer satisfaction. The report will compare Dealer's performance to other same Line-Make dealers in the Region."

Dealer's "Cure Period" Customer Satisfaction Index scores, as compared to the region, were as follows:

	PDS Region	PDS Dealer	SSS Region	SSS Dealer
Top Box Score	89.5	84.7	85.1	86.7
Blended Score	91.3	87.2	87.0	88.9

Dealer has failed to provide acceptable customer satisfaction as required by the Dealer Agreement and has failed to correct this deficiency during the Cure Period.

Net Working Capital Requirement

Pursuant to Article 10.1 of the Dealer Agreement, Dealer is required to maintain the minimum net working capital set forth in the Capital Standard Addendum to the Dealer Agreement. Dealer's net working capital requirement and actual net working capital (as reflected on Dealer's December 2014 operating report submitted to GM) are as follows:

NWC Required	NWC Actual
\$3,226,000	\$3,184,620

Dealer has thus failed to maintain the net working capital required by the Dealer Agreement and has failed to correct this deficiency during the Cure Period.

Vera
May 28, 2015
Page 3

Breach of the Dealer Agreement

Article 13.2 of the Dealer Agreement reads:

"If General Motors determines . . . that Dealer has failed to adequately perform its sales or service responsibilities, including those responsibilities related to customer satisfaction and training, General Motors will review such failure with Dealer.

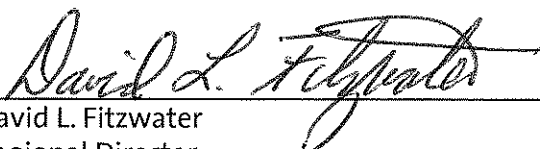
As soon as practical thereafter, General Motors will notify Dealer in writing of the nature of Dealer's failure and of the period of time (which shall not be less than six months) during which Dealer will have the opportunity to correct the failure.

If the Dealer does correct the failure by the expiration of the period, General Motors will so advise the Dealer in writing. If, however, Dealer remains in material breach of its obligations at the expiration of the period, General Motors may terminate this Agreement by giving Dealer 90 days advance written notice."

As described above, despite notice from GM of its failure to achieve its sales performance obligations under the Dealer Agreement and being afforded an opportunity to correct its deficiencies during the Cure Period, Dealer remains in substantial and material breach of the Dealer Agreement. GM therefore exercises its contractual and statutory rights to terminate the Dealer Agreement, effective August 26, 2015.

If you have any questions regarding this matter, please let me know.

GENERAL MOTORS LLC



David L. Fitzwater
Regional Director
Cadillac Sales and Service

cc: Regional Dealer – Business Operations – Southeast Region
Zone Manager
Dealer Contractual Group

Florida Department of Highway Safety and Motor Vehicles
Attn: Nalini Vinayak, Dealer License Section, Division of Motor Vehicles
2900 Apalachee Parkway, Room A-312
Tallahassee, FL 32399-0500