

If you are a GM dealer who has been given a Participation Agreement to continue, you have either received or you will receive a clarification letter from General Motors. This letter serves as a clarification of GM's intent with respect to several portions of the Participation Agreement as well as an amendment of the Participation Agreement.

Here are the key terms for you.

1. You may have been concerned that the language concerning enhanced sales requirements of paragraph 2 of the Participation Agreement was unclear about how the new standards would be determined and applied. The clarification letter makes clear that the sales performance requirements of paragraph 2 of the Participation Agreement are designed to take into account the ability of continuing dealers to sell a greater number of cars because of a reduced dealer body. The letter notes that in the first quarter of 2010, GM will hold a Reinvention business plan meeting with each continuing dealer where "appropriate" sales targets will be agreed upon. Those increased sales expectations will be implemented in the second half of 2010 or in the 2011 calendar year, based upon overall market factors.
2. You may have been concerned that the inventory provisions of paragraph 3 seemed to give GM a "blank check" to require dealers to accept large numbers of new vehicles. GM has provided a clarification of the increased inventory requirements of paragraph 3 of the Participation Agreement to note that GM will expect inventories to match the updated sales expectations based upon the plans adopted at the Reinvention business plan meeting.
3. The clarification letter amends the exclusivity language of paragraph 4 of the Participation Agreement. The amendment does the following:
 - It clarifies that all dealers will be expected to have an exclusive GM showroom by December 31, 2009.
 - In some markets, GM will expect totally exclusive GM facilities, while in other markets there may be dual use facilities other than the showroom allowed.
 - GM will meet with dealers to develop a plan as to whether a dealer is to have exclusive facilities or facilities where there may be shared elements.
 - The clarification letter expresses the willingness of GM to work with dealers reasonably with respect to exclusivity decisions and if a dealer cannot meet the date or dates established for exclusivity.
 - The clarification letter removes the provisions for accelerated terminations of dealers who are not in compliance with the exclusivity provisions and instead relies on the procedures of the Dealer Agreement that better protect the rights of dealers.

4. The clarification letter amends section 5(a) of the Participation Agreement by noting that the dealer's waiver of protest is not designed to allow GM to add new dealers into an existing dealer's area of responsibility. GM intends only to realign dealers, not add dealers to a market.
5. You may have had serious concerns about the rights GM inserted in the Participation Agreement in paragraph 8 to penalize a dealer in the event of an alleged breach. This paragraph seemed to sweep away dealers' rights under the Dealer Agreement and state law. GM has agreed to eliminate paragraph 8 of the Participation Agreement. As a result, in the event of a claim of a dealer breach, GM can only seek a remedy under the terms of the Dealer Agreement construed according to state law.
6. The Participation Agreement provides that Michigan law applies. This could affect a dealer's rights under the laws of its state. The clarification letter will remove that language applying Michigan law so that the law applicable will be the language of the Dealer Agreement that Michigan law applies except where the dealer's state law would make that inapplicable in which case the dealer's state law would apply.
7. The clarification letter is to be signed by the dealer to supplement the Participation Agreement.
8. Because of these changes, GM is extending the time for returning your Participation Agreement over the coming weekend. Rather than requiring that the Participation Agreement with this letter of clarification and amendment must be received by June 12, the clarification letter provides that they must be received by GM no later than June 15.

We urge you to consider the provisions of the Participation Agreement in light of the clarification letter so that you may respond in time to return Participation Agreement and clarification letter so that they may be received by GM no later than June 15, if you so choose.