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Labor and Workforce Development Agency /
Department of Industrial Relations
Private Attorneys General Act (PAGA) – Filing New PAGA Claim Notice

Via Certified U.S. Mail

Oremor Automotive Group, LLC
C/O Paracorp Incorporated
2804 Gateway Oaks Dr.
Sacramento, CA 95833

Dear Representative:

We have been retained to represent Mark Berman against Oremor Automotive Group, LLC dba Lexus of Woodland Hills (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-100 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, for violations of California wage-and-hour laws (hereinafter collectively referred to as the "Dealership").

Mr. Berman is pursuing his California Labor Code sections 2698, et seq., the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. Berman may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

The Dealership is a California Limited Liability located at 21701 Ventura Blvd, Woodland Hills, California 91364.

The Dealership employed Mr. Berman as Finance Director/Manager from on or about June 1, 2020 through on or about February 1, 2025 as an exempt commissioned salesperson.

The "Aggrieved Employees" that Mr. Berman may seek penalties on behalf of are all current and former commissioned salespeople, hourly-paid or non-exempt employees of the Dealership within the State of California.

Mr. Berman and other Aggrieved Employees, were not compensated consistent with the terms of the Finance Director Pay Plan ("Pay Plan") (or similar pay plans), a copy of which is attached as **Exhibit A**. As detailed in the Pay Plan, Mr. Berman was entitled to "Commissionable Back-End Gross Profit" as defined below:

DEFINITIONS

Commissionable Gross Profit (Back-End) - "Commissionable Back-End Gross Profit" is defined as the difference between the amount charged to the customer over the actual cost of finance and insurance products and the costs incurred by the Dealership. Subject to validation for accuracy by the Dealership, the total Commissionable Back-End Gross Profit on each vehicle sold/leased for purposes of computing your compensation shall be found on the final deal transaction documents kept by the Accounting Department.

However, throughout his employment, the Dealership paid Mr. Berman's commission based on the difference between the amount charged to the customer and the price of the finance/insurance products listed on iBook, not the actual and lesser cost of the products incurred by the Dealership. As a result, Mr. Berman was paid considerably less in commission than what he was owed because the listed iBook price was much higher than the actual cost to the Dealership. On several occasions, Mr. Berman complained to General Manager Sean Forte about being paid these commissions improperly and was consistently told to "take it or leave it."

Additionally, per the Pay Plan, the Dealership was also required to pay Mr. Berman minimum wage for "Non-Sales Activity," which included required department and Dealership meetings. However, during the last several years of his employment, Mr. Berman did not receive consistent payment for all of those hours he worked.

Based on our initial investigation, it appears that Finance Managers, Sales Managers and Salespeople were subject to the same error in how their commissions were determined and that they were not paid wages for all "non-sales activity" worked during the relevant statutory period. As such, the Dealership failed to properly pay its commissioned salespeople, hourly-paid, or non-exempt employees for all earned commissions, failed to provide compensation for all hours worked, failed to issue compliant wage statements, and failed to issue wages in a legally permissible manner, thus resulting in other Labor Code violations as stated below.

Further, Mr. Berman and other Aggrieved employees allege the Dealership is liable for the following: failure to provide meal and rest periods to non-exempt employees in violation of Labor Code sections 226.7, 510, 512, 1194, 1197 and Wage Order No. 5-2001, sections 11-12; failure to pay one additional hour of compensation to non-exempt employees at their regular rate of pay for each workday that a meal or rest period is not provided in violation of Labor Code section 226.7; failure to pay non-exempt employees overtime wages at their regular rate of pay and failure to properly calculate overtime and minimum wages in violation of Labor Code sections 510, 1194, 1198 and Wage Order No. 5-2001, section 3. Additionally, failure to timely pay non-exempt employees all wages due in violation of Labor Code section 204; willful failure to pay discharged or quitting non-exempt employees all wages due, in violation of Labor Code sections 201-203; failure to provide accurate itemized wage statements to non-exempt employees in violation of Labor Code sections 226 ; and failure to maintain required records of non-exempt employees in violation of Labor Code sections 1174 and 1174.5.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal.App.5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Berman has standing to pursue penalties

on behalf of the state for violations affecting all the aggrieved employees at the Dealership regardless of their classification, job title, or location.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

During the relevant time period, the Dealership failed to pay Mr. Berman and other aggrieved employees all wages due to them, including for earned commissions, within any time period specified by California Labor Code section 204.

California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

During the relevant time period, the Dealership failed to pay Mr. Berman and other Aggrieved Employees all wages, including commissions, due to them within any time period specified by California Labor Code sections 201 and 203 and is liable under California Labor Code section 203.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees.

During the relevant time period, the Dealership did not provide Mr. Berman and other Aggrieved Employees with complete and accurate itemized wage statements as they failed to include accurate itemizations of the commissions owed and total hours worked. The wage statements they received from the Dealership were in violation of California Labor Code section 226(a).

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double-time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at employees' regular rate of pay.

During the relevant time period, Mr. Berman and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. The Dealership failed to compensate aggrieved employees for all hours worked and performing off-the-clock work, including non-sales related work, and during meal and rest breaks. The Dealership also failed to include non-discretionary compensation in Mr. Berman and other aggrieved employees' regular rate of pay for purposes of overtime compensation, paid

sick leave, and meal/rest premiums. Therefore, Mr. Berman and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided.

During the relevant time period, The Dealership routinely required Mr. Berman and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with The Dealership's policies and expectations. The Dealership failed to provide coverage to Mr. Berman and other aggrieved employees so they may be relieved of all work duties and take legally mandated meal and rest breaks. Lastly, The Dealership also failed to authorize and permit Mr. Berman and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, The Dealership failed to compensate Mr. Berman and other aggrieved employees all the premium wages they were owed, including failing to pay premium wages at Mr. Berman and other aggrieved employees' regular rate of pay. Further, the applicable wage order, states that "authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages." Here, commissioned employees' rest breaks were not properly compensated because pay plan's minimum wage guarantee operated as a draw against commissions. The minimum wage paid by the Dealership was just an advance that was subject to claw back, or deduction, from future commission wages. Because of this, the Dealership violated California law and did not properly compensate employees for rest break time.

California Labor Code section 558 allows recovery of penalties: (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (3) Wages recovered pursuant to this section shall be paid to the affected employee. During their employment, Mr. Berman and other Aggrieved Employees were denied their wages and therefore, are entitled to penalties.

California Labor Code sections 1174, subdivision (d), requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid-to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. During the relevant time period, the Dealership failed to keep accurate and complete payroll records showing the hours worked and commissions paid to Mr. Berman and other Aggrieved Employees.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, the Dealership did not provide aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work or non-sales related work.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of

the employer. During their employment, aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by the Dealership, including but not limited to mileage for use of their personal vehicle to carry out business tasks and for their cell phone and or cell phone data plans.

We believe that Mr. Berman and other current and former hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code sections 2698, *et seq.* (PAGA) for violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.2, 226.7, 510, 512, 1174, 1194, 1197 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Mr. Berman will seek these penalties on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of the Dealership within one year of the date of this letter, as allowed by law.

Please let me know should you have any questions or should you require any additional information.

Sincerely,



Jeffrey A. Dinkin
Of Counsel
Stradling Yocca Carlson & Rauth LLP

EXHIBIT A

FINANCE DIRECTOR PAY PLAN

Job Title: Finance Director		Department: Finance & Insurance
Employee: Mark Berman	Emp. Number: 427	Effective Date: 6/01/2020

This "Pay Plan" describes the terms and conditions by which your compensation as a Finance Manager shall be earned and calculated. It supersedes any and all prior written or oral compensation agreements, arrangements or representations regarding your compensation.

INTRODUCTION

This pay plan lays out the general terms by which you will be eligible for compensation as a Finance Manager. As Finance Manager, you will be responsible for handling sales transactions in the finance department including funding of all contracts and completing paperwork, which includes selling financing, service warranties, after-market products, and other products and services offered by the finance department. This is a key sales position in the Dealership, whereby financing may be secured on otherwise unaffordable but highly sought-after vehicles, and other valuable products may be added to the transaction. Under the compensation plan, you will be paid commissions plus hourly pay and other pay supplements to satisfy regulatory requirements.

The amounts and rates of potential commissions, draws, and other compensation will be established by the General Manager, and they are incorporated as part of this Pay Plan. These rates and compensation amounts can vary from time to time, therefore, you should confer with your General Manager for the rates and amounts applicable for a given time period.

COMPENSATION STRUCTURE

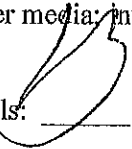
Your compensation under this Pay Plan is based on "commissions" that you earn on sales and leasing transactions. Such commissions are strictly limited to those amounts defined herein below, including provisions for "minimum commissions," except that the Dealership may make periodic amendments and/or additions (including short-term incentive commissions related to specific promotions and programs). You may also be paid supplemental pay, among other things, for non-sales activity, if applicable. You will receive at least the minimum wage for your Sales Activity and for your Non-Sales Activity, respectively, regardless of what method of compensation applies in each instance. No provision for compensation is valid unless contained in this Pay Plan, unless superseded, or provided as a written supplement thereto.

"You are on a monthly pay cycle, although all statutorily required semi-monthly wages will be paid on the 7th and 22nd of the month (with an interim draw on the 22nd). Your monthly commissions, less outstanding draws, are paid on the 7th of the following month."

Your compensation shall consist of the following elements:

- 1. Commission Compensation ("Sales Activity"):** You shall earn commissions for Sales Activity which are calculated based on a percentage of the Commissionable Gross Profit or a Flat Commission Fee for finance programs and aftermarket products sold by you, subject to certain adjustments, as provided herein. The source of your compensation for Sales Activity comes through commissions earned by funded sales transactions. Your commissions are not deemed earned based on the point of sale only, but require your completion of a number of conditions and prerequisites in order to be a commissionable sale. If your effective hourly rate from your earned commissions for your Sales Activity is not at least the state minimum wage, you shall be guaranteed at least the minimum wage for your Sales Activity. The Dealership, in its discretion, may offer a higher earnings guarantee.

"Sales Activity" is defined to include all activities reasonably calculated for a Finance Manager to develop and service actual or potential sales prospects and will include, but shall not necessarily be limited to, a broad range of activities such as solicitation of actual or prospective customers; stationing or positioning oneself in, or moving about, various locations in the Dealership in order to meet actual or prospective customers without regard to whether such customers have arrived on site; communicating with actual or prospective customers telephonically or by other media; introducing products or services to actual or prospective customers; negotiating with actual or

Employee Initials: 

potential customers; coordinating with sales managers, closers, or desk managers regarding issues related to actual or prospective sales prospects; servicing or delivering sales products related to a sales transaction; and/or other activity calculated to maximize customer satisfaction scores, service an account, or develop prospects for future sales. The above definition of "Sales Activity" will apply to the allocation of working hours as Sales Activity without regard to whether any particular defined activity thereunder results in a commissionable sale or Earned Commission (e.g., Sales Activity not leading to fruitful prospects or which results in aborted, void, or unwound sales transactions is nonetheless still counted as "Sales Activity").

Commission Rate. You shall be paid Earned Commissions each month as set forth in **Exhibit "A."**

2. **Hourly Compensation ("Non-Sales Activity"):** As a Finance Manager, your duties and job requirements will require you to spend nearly all of your working time engaged in Sales Activity. You will receive compensation at the state minimum wage for all time actually spent in Non-Sales Activity which you report. You therefore are required to carefully document your time each pay period so that all such Non-Sales Activity is accounted for in your time record. "Non-Sales Activity" is defined as working time or "hours worked" during which periods a Finance Manager is not free to engage in "Sales Activity," including but not necessarily limited to periods when engaged in training or sales meetings. "Non-Sales Activity" does not include periods when (a) the Finance Manager is free to meet or communicate with actual or prospective customers but when the Finance Manager does not successfully meet with or communicate with such customers due to low traffic volume or any other reason; or (b) the Finance Manager actually has met with or communicated with actual or prospective customers but the time spent on such activity has not resulted in a closed sale or the sales transaction has unwound for any reason (this time is still treated as "Sales Activity").
3. **Rest Period Supplement:** Rest periods are not documented or paid as part of Non-Sales Activity (see above), but you shall be paid a rest period supplement under the following schedule at the rate of required minimum wage.

<i>Hours Worked during a work day</i>	<i>Rest Period Time for the Day (Non-Cumulative)</i>
3.5 and up to 6 hours	One (1) rest period (1 x 10 minutes)
More than 6 hours and up to 10 hours	Two (2) rest periods (2 x 10 minutes = 20 minutes)
More than 10 hours and up to 14 hours	Three (3) rest periods (3 x 10 minutes = 30 minutes)
More than 14 hours and up to 18 hours	Four (4) rest periods (4 x 10 minutes = 40 minutes)
Additional hours under same schedule	See above (continue schedule)

4. **Overtime Premium Pay (If Applicable):** Productive Finance Managers generally will be exempt as commissioned salespersons from overtime laws. Your eligibility for overtime will depend on the level and structure of your compensation.
 - A. **Overtime Exemption.** If commissions are more than 50% of your total wages and your effective ("regular") hourly rate from your total compensation (hourly wages, commissions, and bonuses) exceeds 1.5 times the required minimum wage (currently $\$14.25 \times 1.5 = \21.38 per hour), you will be exempt from (or not eligible for) overtime compensation. If overtime applies, you will be paid overtime as follows:
 - (1) **Hourly Pay:** You will be paid 1.5 times your applicable hourly rate for all hours worked over 8 in a day, or 40 in a week (whichever is greater), and for the first 8 hours worked on the 7th consecutive day of work in the work week. If applicable, double time is paid for all hours worked over 12 in a work day, or all hours worked over 8 on the 7th consecutive day of work in a work week.
 - (2) **Commissions and Bonuses:** You will be paid one-half of the regular rate from your earned commissions and bonuses as a 50% premium for all hours worked over 8 in a day, or 40 in a week (whichever is greater), and for the first 8 hours worked on the 7th consecutive day of work in the work week. If applicable, you will be paid double time at your full regular rate as a 100% premium from your earned commissions and bonuses for all hours worked over 12 in a work day, or all hours worked over 8 on the 7th consecutive day of work in a work week.
 - (3) **Blended Regular Rate:** Overtime also may be calculated and paid as a blended rate by dividing total compensation from hourly-supplemental pay and incentive pay by the total hours worked for the pay period, then paying the overtime at one-half the blended regular rate for regular overtime hours worked and the full blended regular rate for any double time hours worked.

Employee Initials:



- B. **Overtime Scheduling:** All overtime worked must be approved by your supervisor in advance. Failure to obtain approval to work overtime may result in discipline up to and including discharge.
5. **Monthly Draw:** You will be paid a monthly draw in the amount set forth in Exhibit "A." As detailed in Exhibit "A," all draws may be recovered from estimated or actual commissions as determined at settlement or reconciliation after the minimum compensation levels are satisfied for the pay period.
6. **Minimum Requirements:** You are required to meet the CSI levels established by the Dealership in its sole discretion. Your failure to satisfy the performance standards determined by the General Manager could result in disciplinary action up to and including termination of employment. The current minimum performance standards are set forth in Exhibit "A".

DEFINITIONS

Commissionable Gross Profit (Back-End) - "Commissionable Back-End Gross Profit" is defined as the difference between the amount charged to the customer over the actual cost of finance and insurance products and the costs incurred by the Dealership. Subject to validation for accuracy by the Dealership, the total Commissionable Back-End Gross Profit on each vehicle sold/leased for purposes of computing your compensation shall be found on the final deal transaction documents kept by the Accounting Department.

Flat Fee Commission: Flat Fee Commission is the dollar amount you earn for the sale of a particular product. The amount of the Flat Fee Commission may vary depending on the number of certain products you sell in any particular month. Flat Fee Commissions are available from time to time on certain products in the Dealership's sole discretion.

Earned Commissions - The Finance Manager must be a current, full-time employee at the time a product becomes a "Closed Sale" and/or "Cleared for Commission" by the Accounting Department in order to "earn" a commission on a sale or lease. A vehicle or product is a "Closed Sale" when it has (a) been delivered, there was been a "report of sale" and the customer is in receipt of the vehicle; and (b) the sale has been "fully funded," regardless of the work done or the fact that the Finance Manager was employed when the product was sold, when the order was taken, or when the vehicle was delivered. A sale is considered "fully funded" when the customer has paid the sales price in full and/or when the dealership has received all funds from the lending or financial institution. Under certain circumstances authorized by the General Manager the business office may designate a sale as "Cleared for Commission" before all funds have been received. No commission, bonuses, or unit credits will be earned on any deal until the transaction is a "Closed Sale" and/or "Cleared for Commission."

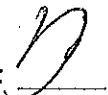
Split Commissions: A split commission occurs when two or more salespersons or Finance Managers are involved in the sale of a vehicle and management decides to split the commission, and unit credit on the sale of a unit between two or more salespeople. Management reserves the right to determine who gets credit for the deal, and to also split all relevant commissions, and unit credits by any percentages it deems appropriate. Management shall also have sole discretion as to what amount, if any, credit should be utilized for the calculation of bonuses. Any disputes regarding the commission and/or bonus credit will be settled by the General Manager, and the decision of the General Manager shall be final.

ADVANCES AGAINST COMMISSIONS

All commission or incentive payments may be treated as estimates or advances against the actual Earned Commissions or Bonuses, and to that extent, may be treated as loans which can be deducted from any future payment of Earned Commission wages and/or any spiffs/bonuses to the extent of any overpayment of your commissions and spiffs/bonuses as determined at times of reconciliation. You acknowledge that such advances are for your benefit, and you authorize such deductions. As permitted by law, any overpaid commissions or advances must be repaid upon your separation from the Dealership and you hereby authorize such deduction from any pay or benefits (including vacation) you have coming. If you are terminated, voluntarily or involuntarily, prior to month end, you are only entitled to be paid for the hours you actually worked pursuant to the federal and state minimum wage requirements, taking into account any actual Earned Commissions and bonuses you may have earned.

ADJUSTMENTS

You agree that the Earned Commissions and Bonuses may be adjusted at any time, (1) to correct any error in the calculation, whether that error is the result of miscalculations by the Company, the Employee, any Sales Manager or any other person; (2) if any sale or lease is subsequently determined not to have been a Closed Sale, (3) if a Closed Sale is rescinded, reversed, rolled back or otherwise unwound for any reason (e.g., a returned product, policy adjustment or cancelled warranty) within 180 days of the payment of the Commission for such Closed Sale; (4) if there are any finance

Employee Initials: 

and insurance related returns and/or charge backs including, but not limited to, prepaid loans and warranty cancellations, or (5) customer receivables not collected (including, but not limited to, down payments, drive-off fees, insurance coverage, or penalties on trade in). You also agree that any overpayment of your base wages on account of an error in timekeeping or pay calculation may be adjusted so long as you receive at least the minimum wage for each pay period as provided herein. Any adjustment that results in decreased Earned Commissions or compensation will be treated as recovery of an advance, as described herein. Any adjustment that results in an increased Earned Commission or compensation will be paid at the next payday.

WORKDAY, WORKWEEK, AND PAY PERIOD

For the purpose of computing compensation under this Pay Plan, the "workday" is the 24-hour period ending at 12:00 midnight; the "workweek" begins on Sunday at 12:00 a.m. and ends at midnight (end of) Saturday. All statutorily required semi-monthly wages will be paid on the 7th and 22nd of the month (with an interim draw on the 22nd). Monthly commissions, less outstanding draws, are paid on the 7th of the following month. These pay dates are subject to modification for weekends and holidays.

TIMEKEEPING, REST BREAKS, AND MEAL PERIODS

Because of state and federal timekeeping requirements, you are responsible for keeping accurate time records, including recording each day when you (1) start and end work, and (2) when you start and end your meal periods. Your compensation cannot be correct unless your working time is properly recorded, including all time spent in Non-Sales Activity as described above. Meal periods should be at least 30 uninterrupted and duty free minutes, to commence before working more than 5 hours each day for the first meal period, and 10 hours each day for the second meal period. Certain exceptions to the meal period rules exist based on the number of hours worked and/or the nature of an employee's duties, but such exceptions are not common. Unless an on-duty meal period is approved in writing, you are relieved of all duty and not expected to respond to work-related telephone calls or other communications (email, text messages, etc.) during meal breaks, and are not to perform work of any kind during a meal break. You are permitted to leave Company premises during meal breaks. You will be notified by the General Manager of the length of your meal periods if they are greater than 30 minutes. In no circumstances will they be less than 30 minutes.

Rest breaks are included as hours worked, so employees are not required to document separately on their time records the time they take specifically for paid rest periods (10 minutes for each 4 hours of work or major fraction (over 2 hours) thereof). However, the Dealership generally will not authorize a rest period for employees whose total daily work time is less than three and one-half (3 ½) hours for the day. You are authorized and instructed to take an uninterrupted ten (10) minute rest break if you work more than 3 ½ hours in a day but not more than 6 hours, two 10 minute breaks if you work more than 6 hours but not more than 10 hours, and three 10 minute breaks if you work more than 10 hours but not more than 14 hours, and so forth. It is your obligation to determine an appropriate time, as close to the middle of each four hour period of work as possible, to take your break(s). Employees are required to certify the accuracy of their time records each pay period including documentation regarding meal periods. All changes must be signed and initialed by you and an assigned supervisor.

You understand that you are to do nothing to incentivize, discourage, coerce, or dissuade any employee from taking meal and rest periods that are provided by law. If you learn that any other employee, including managers, attempt to incentivize, discourage, coerce, or dissuade any employee from taking meal and rest periods that are required by law, you are to immediately notify the General Manager and/or the Human Resources Department. Failure to comply with these requirements, or honor this policy, can result in discipline up to and including termination.

PAYMENT AT TERMINATION

Unless otherwise provided in writing and signed by the General Manager, separation pay shall consist of:

- (a) Your earned hourly wages, supplemental payments, commissions, plus bonuses (if any) or other compensation due by the date of separation, PLUS
- (b) Any accrued but unused/ unpaid vacation in accordance with the Dealership's vacation accrual policy.

Commissions and bonuses earned by a Finance Manager as of the date of separation shall be paid either at the time of termination within the time frames fixed by law, or as reasonably calculable thereafter, as permitted by law.



Employee Initials: _____

Acknowledgment:

By signing this Pay Plan, I acknowledge that I have read it and understand that the terms and conditions herein described are the general method by which my earnings are calculated. Additionally, I understand that continuing to work after being presented with this Pay Plan shall signify my acceptance of the Pay Plan's terms and conditions. I also understand that this Pay Plan is for no fixed term and may be altered or rescinded in whole or in part at any time with or without notice at the sole option of management. I agree to keep accurate time records, including recording my time at the beginning and end of my work shift and at the beginning and end of my meal periods, and to sign periodic certifications regarding my time cards and compliance with Dealership policy. Any change in the Pay Plan, or any term or condition thereof, must be in writing and signed by the General Manager to be binding on the Dealership. Furthermore, I understand that this Pay Plan does not constitute a contract, express or implied, for a term of employment and that my employment is for no definite period, regardless of any provision for payment of wages while employed. I further understand that both the Dealership and I have the right to terminate the employment relationship at any time, for any reason, with or without cause, and without notice. I further acknowledge and agree that any disputes regarding this Pay Plan, or any other aspect of my employment relationship will be decided by binding arbitration pursuant to the procedures outlined in the arbitration agreements I have executed with the Dealership.

Employee's Signature

Date Signed

6/21/20

Supervisor's Signature

Date Signed

6/25/20

Employee Initials: 

Finance Manager Pay Plan Exhibit A

Draw: You will be paid a monthly draw of \$2000.00 on the 22nd of each month. That amount may be recovered from estimated or actual commissions as determined at settlement or reconciliation after the minimum compensation levels are satisfied for the pay period.

Commission Rates:

You will be paid a **15%** base commission on back-end gross profit for your sales of products, contracts, reserve, and for running the Finance Department: CIT's, Contracts, Funding, etc.

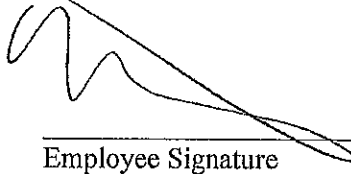
You will receive an additional **2%** of New and Used Vehicle Department Month End Commissionable Finance Gross Profit less the amount of Finance Gross Profit you generate on your individual production.

Minimum Performance Standard: You are required to meet the CSI levels established by the Dealership in its sole discretion. The current CSI levels are set forth above. Your failure to satisfy the performance standards determined by the General Manager could result in disciplinary action up to and including termination of employment. You will only be paid Earned Commissions on sales that are deemed "Closed Sales" by the Accounting Department.

I acknowledge receipt of the above and understand and agree to its provisions.

6/23/20

Date Signed



Employee Signature


Employee Initials