

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.
5. This agreement contemplates that, if it is accepted by the Commission, nt,

3. “Clearly and conspicuously” means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

- a. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be made through the same means through which the representation requiring the disclosure is presented.
- b. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
- c. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
- d. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
- e. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
- f. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
- g. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

4. “Material” shall mean likely to affect a person’s choice of, or conduct regarding, goods or services.

5. “Motor vehicle” shall mean:

- a. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
- b. Recreational boats and marine equipment;

- c. Motorcycles;
- d. Motor homes, recreational vehicle trailers, and slide-in campers; and
- e. Other vehicles that are titled and sold through dealers

I.

IT IS HEREBY ORDERED that Respondent and its officers, agents, representatives, and employees, directly or indirectly, in connection with the marketing or advertising of used motor vehicles shall not, in any manner, expressly or by implication:

A. Represent that used motor vehicles that Respondent advertises are safe, have been repaired for safety issues, or have been subject to a rigorous inspection, unless:

- 1. The used motor vehicles are not subject to any open recalls relating to safety, and the representation is otherwise not misleading, or
- 2. Respondent discloses, clearly and conspicuously, and in close proximity to such representation, any qualifying information related to open recalls, including but not limited to:
 - i. the fact that used motor vehicles that it advertises may be subject to recalls for safety issues that have not been repaired, and
 - ii. how consumers can determine whether an individual used motor vehicle has been subject to a recall for safety issues that has not been repaired,

and the representation is otherwise not misleading.

B. Misrepresent the following:

- 1. Whether there is or is not an open recall for safety issues on any used motor vehicle;
- 2. Whether Respondent or GM dealers have repaired used motor vehicles for open safety recalls; and
- 3. Any other material fact about the safety of the used motor vehicles it advertises for sale.

II.

IT IS FURTHER ORDERED that Respondent, within sixty (60) days of the entry of this order, must provide, by first class mail to the last known address of every consumer who purchased a Certified Pre-Owned motor vehicle with an open recall for a safety issue from a GM dealership between July 1, 2013 and the entry date of this order, and whose vehicle has not had the open recall repaired, a notice bearing Respondent's name and corporate logo that clearly and conspicuously notifies the consumer (i) that the consumer's vehicle has been recalled for safety issues that have not been repaired and (ii) how to get the vehicle repaired.

Respondent shall not include any advertising, marketing, or other promotional information in the notice. Moreover, the mailing shall not include any other documents.

If Respondent has sent such a notice after August 1, 2015, it shall be deemed to meet the requirements of this proviso.

III.

IT IS FURTHER ORDERED that Respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Commission for inspection and copying:

A. Each advertisement or other marketing material that makes any representation covered by the order unless, in comparison to an advertisement or other marketing material already maintained by Respondent pursuant to this Section, the advertisement or marketing material: (i) is a duplicate, or (ii) differs only in the description of the vehicle or other ways not related to any representations covered by this order, including a website which differs only with respect to individual vehicle details displayed in inventory or search page(s) of the site;

B. All materials that were relied upon in disseminating the representation;

C. All evidence in its possession or control that relates to used vehicle advertising and that contradicts, qualifies, or calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and

D. Any documents reasonably necessary to demonstrate full compliance with each provision of this order, including but not limited to all documents obtained, created, generated, or that in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order.

VII.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of this order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order’s application to any Respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that Respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this _____ day of _____, ____.

GENERAL MOTORS LLC

Dated: _____ By: _____

Name:
Title:

FEDERAL TRADE COMMISSION

Dated: _____

By: _____

MICHAEL WHITE
EVAN R. ZULLOW
Counsel for the Federal Trade Commission

APPROVED:

MALINI MITHAL
Acting Associate Director
Division of Financial Practices

JESSICA L. RICH
Director
Bureau of Consumer Protection