

AS A CONDITION TO THE GRANT RENEWAL OR CONTINUATION OF A FRANCHISE AGREEMENT, TO: ~~UNDERUTILIZE FACILITIES OWNED BY THE DEALER IF THE UNDERUTILIZATION WOULD HAVE A MATERIAL ADVERSE IMPACT ON THE BUSINESS OF THE DEALER~~

(1) ELIMINATE FROM THE USE OF THE DEALER'S FACILITIES A DEALERSHIP FOR WHICH THE DEALER HAS A FRANCHISE AGREEMENT TO UTILIZE THE FACILITIES AS OF MARCH 1, 1996; OR

(2) MATERIALLY CHANGE THE DEALER'S FACILITIES OR METHOD OF CONDUCTING BUSINESS IF THE CHANGE WOULD IMPOSE SUBSTANTIAL FINANCIAL HARDSHIP ON THE BUSINESS OF THE DEALER.

(E) (1) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH, WHETHER DIRECTLY OR THROUGH AN AGENT, EMPLOYEE, OR REPRESENTATIVE, MAY NOT REQUIRE OR COERCE A DEALER TO ADHERE TO PERFORMANCE STANDARDS THAT ARE NOT APPLIED UNIFORMLY TO OTHER DEALERS FRANCHISED IN THE STATE BY THAT MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH SIMILARLY SITUATED DEALERS.

(2) A PERFORMANCE STANDARD OR PROGRAM FOR MEASURING DEALERSHIP PERFORMANCE THAT MAY HAVE A MATERIAL EFFECT ON A DEALER AND THE APPLICATION OF THE STANDARD OR PROGRAM BY A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH SHALL BE FAIR, REASONABLE, EQUITABLE, AND BASED ON ACCURATE INFORMATION.

(3) (I) IF THE PERFORMANCE STANDARD IS BASED ON A SURVEY, IT MUST BE SHOWN THAT:

1. THE SURVEY WAS DESIGNED WITH EXPERTS;
2. THE PROPER UNIVERSE WAS EXAMINED;
3. A REPRESENTATIVE SAMPLE WAS CHOSEN; AND
4. THE DATA WAS ACCURATELY REPORTED.

(II) THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH SHALL ESTABLISH THE OBJECTIVITY OF THE SURVEY PROCESS AND PROVIDE THIS INFORMATION TO ANY DEALER OF THE SAME LINE MAKE COVERED BY THE SURVEY ON REQUEST.

(F) A FRANCHISE AGREEMENT OR OTHER CONTRACT OFFERED TO A DEALER BY A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH MAY NOT CONTAIN ANY PROVISION REQUIRING:

- ~~(1) ARBITRATION OF DISPUTES AT THE SOLE OPTION OF A PARTY;~~
- ~~(2) REFERRAL OF DISPUTES TO A DEALER BOARD OR COURT IN ANOTHER JURISDICTION;~~
- ~~(3) PAYMENT BY THE DEALER OF LEGAL EXPENSES INCURRED BY THE MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH; OR~~