

Dealership Information

Dealership Legal Name		DBA Name	
Physical Address	City	State	Zip Code
Phone Number	Billing Contact Name	Billing E-mail Address	
Billing Address	City	State	Zip Code
General Manager Name	E-mail Address	Phone Number	
General Sales Manager Name	E-mail Address	Phone Number	
IT Manger Name	E-mail Address	Phone Number	
Franchises Represented ☐ Acura ☐ Alfa Romero ☐ Audi ☐ BMW ☐ Buick ☐ Cadillac ☐ Chevrolet ☐ Chrysler ☐ Dodge ☐ Fiat ☐ Ford ☐ Genesis ☐ GMC ☐ Honda ☐ Hyundai ☐ Infiniti ☐ Isuzu ☐ Jaguar ☐ Jeep ☐ Kia ☐ Land Rover ☐ Lexus ☐ Lincoln ☐ Maserati ☐ Mazda ☐ Mercedes-Benz ☐ Mini ☐ Mitsubishi ☐ Nissan ☐ Porsche ☐ Pre-Owned Only ☐ RAM ☐ Subaru ☐ Toyota ☐ Volkswagen ☐ Volvo			

Multi-Franchise Sales Contact Information

Dealership Name	Franchise Sales Contact	E-mail Address	Phone Number
Dealership Name	Franchise Sales Contact	E-mail Address	Phone Number
Dealership Name	Franchise Sales Contact	E-mail Address	Phone Number

New and Pre-Owned Vehicle Inventory Feed

Name of Data Provider Company	Contact Name	E-mail Address	Phone Number
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Marketing & Advertising Services

- ☒ Dealer Advertisement on participating Credit Union Car Buying Websites
☒ Dealer New vehicle inventory displayed on participating Credit Union Car Buying Websites
☒ Dealer Pre-owned vehicle inventory displayed on participating Credit Union Car Buying Websites
☒ Electronic vehicle price and information requests from participating Credit Union member shoppers

Marketing & Advertising Monthly Fee Schedule

Dealer Program Level	Monthly Rate	Banner Ad (optional)	Fee Per Sold Vehicle Viewed	Price Per Lead Submission (PQR)	Auto Receive	KLA Rate Discount	Selection (Check Box)
Platinum	\$399 ¹	Free	Free	Free	Included	.15% ²	
Premier	\$299 ¹	\$35	\$15	\$10	Included	.10% ²	
Preferred	\$199	\$70	\$30	\$20	Included	.05% ²	
Prospector	\$99	\$100	\$45	\$30	Yes / No	-	

¹10% Discount if pay annually

²If permissible up to max KLA discounts

Marketing & Advertising Fees

_____ Monthly Base Rate	<u>\$99.00 per feed</u> Set-up Fee (one time)	_____ Billing Begins (15 th of following month via ACH)
_____ Authorized Representative Name (printed)	_____ Authorized Representative Signature	_____ Date
_____ Authorized Reseller Name (printed)	_____ Authorized Reseller Signature	_____ Date
_____ Authorized FocusOne Marketing Name (printed)	_____ Authorized FocusOne Marketing Signature	_____ Date

WHEREAS:

A. FocusOne Marketing, LLC (FOM) and participating credit unions (Credit Union) desire for Dealer to participate in FOM's Member Auto Center™ (MAC™) program, that provides licensed motor vehicle dealers with a Credit Union member marketing and advertising platform and to manage Credit Union sales leads through seamless technology (the "MemberAutoCenter.com Services"). The motor vehicle dealer is able to use the Program Services to generate car sales business and enhance its relationship with participating Credit Unions, easily offer its new and pre-owned vehicle inventory to members of participating Credit Unions, and attract incremental sales of new and pre-owned vehicles.

B. Program marketing and advertising with the MemberAutoCenter.com Services provided by the Credit Union with a branded website and marketing support to attract new and pre-owned vehicle sales inquiries. Each vehicle sales inquiry receives an e-mail response, identification of the participating dealer able to fulfill the sales inquiry, and direct transfer of a Credit Union member sales inquiry to a designated enrolled dealer representative for the sale of the vehicle.

C. Dealer desires to join the MAC™ program and to implement and utilize the MemberAutoCenter.com Services under the terms contained in this Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:**1. FOM'S OBLIGATIONS**

1.01 MemberAutoCenter.com Services: During the term of this Agreement, FOM will provide the MemberAutoCenter.com Services to Dealer in the manner described in this Agreement.

1.02 *MemberAutoCenter.com for the Dealer:* Dealer will interact with the MemberAutoCenter.com Services through FOM's MAC™ web-based Dealer system ("The MAC™ Dealer System"). Any further customization of the MAC™ Dealer System that Dealer desires must be done by FOM and will be subject to FOM's approval and will be contracted and billed separately to the dealer in a manner acceptable to both parties. FOM reserves the unrestricted right, but shall have no obligation, to modify the MAC™ Dealer System.

1.03 Priority for the MemberAutoCenter.com Dealer Network: Dealer, as a participant in FOM's MAC™ Program, and all other MAC™ MemberAutoCenter.com Dealer Network participants will receive the first right to fulfill any vehicle sales leads generated by members of a FOM Credit Union through FOM's MAC™ MemberAutoCenter.com system.

1.04 Advertising and marketing efforts through the Credit Union, as described on page 1 under "Marketing and Advertising Services" section.

2. DEALER'S OBLIGATIONS

2.01 *MAC™ Dealer Network and MemberAutoCenter.com Services Participation Fee:*

- (a) A one-time set-up fee as outlined on the signature page of the agreement; and
- (b) A monthly marketing and advertising fee based on enrollment of dealership(s) and Service(s) as outlined on the signature page (page 1) of the agreement.

2.02 *Dealer's New and Pre-Owned Vehicle Inventory Database (optional, based on selection on page 1 under "Marketing and Advertising Services" section):* Dealer agrees to provide an electronic database of Dealer's new and pre-owned vehicle inventory, and will provide no less than weekly updates of Dealer's new and pre-owned vehicle inventory. The specific information required for each new and pre-owned vehicle and the manner in which the electronic database is to be delivered by Dealer will be specified by FOM in writing from time to time. Dealer responsible for new and pre-owned inventory feed ability and content; any customization cost for feed to transfer to MAC™ system will be the responsibility of the dealer.

2.03 Designated Enrolled Dealer Representative: To facilitate the servicing of Credit Union members, Dealer agrees to designate the appropriate dealer representative(s) ("Dealer Representative(s)") to whom all vehicle leads will be transferred through the MACTM Program. The Dealer Representative(s) or any other agent or employee of Dealer who interact with a member of a MACTM participating Credit Union will provide such service in a manner commensurate with FOM's superior member service standards.

2.04 Financing Opportunities: Dealer agrees to use its best efforts to ensure that all motor vehicle financing opportunities presented to Dealer by a member of participating Credit Unions through the use of the MACTM Program will be directed through the Credit Union's indirect program or on a direct lending basis with the Credit Union.

2.05 Compliance with Law: Dealer will comply with all applicable state and federal laws, rules and regulations including, without limitation, Department of Motor Vehicles requirements with respect to licensure, dealer bonding and insurance. Dealer will promptly inform FOM if it becomes the subject of any disciplinary or license revocation proceeding, or it is otherwise the subject of any governmental order that materially affects its right or ability to perform its obligations under this Agreement.

2.06 FOM Indemnification: Dealer will indemnify, defend and hold harmless FOM and its directors, officers, representatives and employees against all losses, claims (whether or not valid), damages and liability (including reasonable attorney's fees) they incur arising out of the sale by Dealer of any new or pre-owned vehicle pursuant to this Agreement, or the violation by Dealer or its employees and agents of any law, rule or regulation applicable to Dealer or its affiliates, or to the extent caused by the fault or neglect of Dealer or its affiliates. If a claim should arise with respect to which FOM contends that it is entitled to indemnity hereunder, FOM shall immediately advise Dealer in writing of the nature of the claim and cooperate with Dealer in determining the factual basis of the claim. Dealer may defend such claim with counsel of its choice. FOM at its own expense may retain its own counsel to participate in the action.

2.07 Credit Union Indemnification: Dealer will indemnify, defend and hold harmless Credit Union and its directors, officers, representatives and employees against all losses, claims (whether or not valid), damages and liability (including reasonable attorney's fees) they incur arising out of the sale by Dealer of any new or pre-owned vehicle pursuant to this Agreement, or the violation by Dealer or its employees and agents of any law, rule or regulation applicable to Dealer or its affiliates, or to the extent caused by the fault or neglect of Dealer or its affiliates. If a claim should arise with respect to which Credit Union contends that it is entitled to indemnity hereunder, Credit Union shall immediately advise Dealer in writing of the nature of the claim and cooperate with Dealer in determining the factual basis of the claim. Dealer may defend such claim with counsel of its choice. Credit Union at its own expense may retain its own counsel to participate in the action.

3. LICENSING OF THE MACTM DEALER SYSTEM

MemberAutoCenter.com Intellectual Property: FOM hereby grants a sublicense to Dealer to access the web-based MACTM Dealer System during the term of this Agreement. This sub-license is nonexclusive and FOM will be free at all times to sub-license the MACTM Dealer System absent any data, information or intellectual property related to Dealer.

3.01 Sublicense: Subject to the terms and conditions of this License, FOM hereby grants to Dealer a non-exclusive, non-transferable, revocable sublicense, under common law and any registrations covering the intellectual property of third parties, licensed to FOM and incorporated on any page which displays or uses such property in connection with the Extranet System. FOM and its licensors retain the right to use such intellectual property and to sublicense or license its use to any other designee. Dealer shall not represent in any manner that it has any ownership in the intellectual property licensed or sublicensed under this Agreement.

3.02 Conditions of Use: The grant of this sub-license and the use of the MACTM Dealer System is subject to the terms and conditions of this Agreement. Dealer shall cooperate with FOM to facilitate the preservation of the

intellectual property rights associated with the MAC™ Dealer System. The parties agree to keep confidential all data, information or reports regarding Dealer's use of the MAC™ Dealer System.

3.03 *Limitations*: Dealer shall not (i) use or permit the use of, any portion of the MAC™ Dealer System except as authorized by this Agreement; (ii) sublicense any of its rights in the MAC™ Dealer System to any third party without the prior written consent of FOM (iii) authorize any third party to access the MAC™ Dealer System without the prior written permission of FOM; (iv) modify any part of the MAC™ Dealer System; or (v) use any part of the MAC™ Dealer System software to create a derivative or similar work.

3.04 *Ownership*: FOM and its Licensors are the owner of and retains all right, title and interest, including all copyright, patent, trade secret, trademark, and any other intellectual property rights, in and to the Member Auto Center Dealer System, including all updates, derivative works and modifications thereto. Dealer shall gain no right, title or interest in the Member Auto Center Dealer System by virtue of this sub-license, other than the non-exclusive license granted hereunder.

4. TERM AND TERMINATION

4.01 *Term*: This Agreement shall become effective as of the Effective Date when fully executed by all of the parties. The term of this Agreement shall be for a period of one (1) year beginning on the Effective Date. At the end of each term, this Agreement shall automatically renew for an additional year, unless either party gives written notice of its election not to renew at least thirty (30) days in advance of the end of the current term. Notwithstanding the foregoing, this Agreement will also terminate upon the expiration of FOM's license of the MemberAutoCenter.com Services.

4.02 *Termination*: Either party shall have the right, in addition and without prejudice to any other rights or remedies, to terminate this Agreement as follows:

- (a) Immediately upon written notice if (i) all or a substantial portion of the assets of the other party are transferred to an assignee for the benefit of creditors, to a receiver or to a trustee in bankruptcy, or (ii) a proceeding is commenced by or against the other party for relief under bankruptcy or similar laws and such proceeding is not dismissed within thirty (30) days; or
- (b) Upon the occurrence of an uncured material default by either party, the non-defaulting party shall have the option to terminate this Agreement by giving written notice of the exercise of such right to the defaulting party. As used herein, "uncured material default" shall mean a default that materially interferes with the benefits of this Agreement reasonably anticipated by such party at the time of execution of this Agreement with respect to which the non-defaulting party has given the defaulting party written notice specifying the default and the default has not been cured within thirty (30) days of the delivery of the notice; or
- (c) Immediately by FOM if Dealer knowingly and intentionally fails to provide a FOM MAC™ participating Credit Unions with a financing opportunity in violation of Section 2.04 of this Agreement.

5. REPRESENTATIONS AND DISCLAIMERS OF WARRANTY

5.01 *General Representations*. Each Party represents and warrants to the other Party that (a) it has the right and power to perform its obligations and to grant the rights granted herein; (b) its performance under this Agreement shall not violate any agreement or obligation between it and a third party or any applicable law, ordinance or regulation; and (c) no content or materials that are provided to the other Party do now or will in the future infringe upon or violate any intellectual property right or proprietary or non-proprietary right of any third party.

5.02 *MemberAutoCenter.com Services – Disclaimer of Warranty*. EXCEPT AS EXPRESSLY PROVIDED IN THIS PARAGRAPH, THE MEMBERAUTOCENTER.COM SERVICES ARE PROVIDED AND MEMBER AUTO CENTER DEALER SYSTEM IS SUB-LICENSED "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, PERFORMANCE, OR FITNESS FOR A PARTICULAR PURPOSE. FOM does not warrant THE ACCURACY OF THE VEHICLE INFORMATION

PROVIDED THROUGH THE MEMBERAUTOCENTER.COM SYSTEM, that the MEMBERAUTOCENTER.COM SERVICES will meet Dealer's requirements or that operation will be uninterrupted or error free.

6. **MISCELLANEOUS**

6.01 Notices: Any notices to be given hereunder by either party to the other shall be in writing and may be transmitted by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change that address by written notice in accordance with this section. Notices delivered personally shall be deemed communicated as of the date of actual receipt; mailed notices shall be deemed communicated as of the third day following the date of mailing.

6.02 Assignment: Neither party to this Agreement may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party to this Agreement, which consent may not be unreasonably withheld. Consent to an assignment shall be deemed automatically granted if said assignment is made in conjunction with the sale or other transfer of a controlling percentage of the stock of either party. Any attempted assignment or delegation in violation of this provision shall be void.

6.03 Applicable Law and Venue: This Agreement shall be governed by federal law and the laws of the State of Texas. Any legal action related to this Agreement shall be initiated in a state or federal court in Houston, Texas.

6.04 Entire Agreement: This Agreement, including any addenda attached hereto, supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter of this Agreement and contains all of the covenants and agreements between the parties with respect to that. Each party to this Agreement acknowledges that no representation, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any parties, which are not embodied herein, and that no other agreement, statement, or promise not contained in this agreement shall be valid or binding on either party. Notwithstanding the foregoing, the FOM MACTM Dealer Agreement shall remain in full force and effect and this Agreement shall not modify the obligations and rights of the parties pursuant to the FOM MACTM Dealer Agreement.

6.05 Modifications: Any modification of this agreement will be effective only if it is in writing and signed by the party to be charged.

6.06 Effect of Waiver: The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

6.07 Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.