



Harley-Davidson Motor Company
3700 West Juneau Ave., Milwaukee, WI 53208

Guidelines for Buying/Selling a Dealership Effective September 1, 2015

I. OVERVIEW

Pursuant to the terms of the Harley-Davidson® Motorcycle Dealer Contract, a dealer may not change its approved ownership structure, including the full sellout of a dealership, i.e., a majority ownership change, without obtaining prior written consent from Harley-Davidson Motor Company (HDMC). Therefore, a purchase agreement relating to the purchase of all or substantially all of the assets or stock of a dealership may not be consummated (i.e., closed) until HDMC's approval is received by both the selling dealer and the buyer. Additionally, pursuant to HDMC's Dealer Ownership Policy (Effective 12/1/2013), HDMC completes a background review on each proposed new individual owner, who must meet all applicable Owner requirements and qualifications under such Policy.

The purpose of this document is to provide some guidelines and direction for current dealers wishing to sell out or for buyers wishing to become an owner of a dealership to follow to meet HDMC's contractual and policy requirements and to expedite the review process. This document is not intended to address every possible eventuality of a buy/sell transaction or to cover all HDMC requirements pertaining thereto. Instead, this document presents a synopsis of the buy/sell process and a "roadmap" for dealers and buyers to meet the necessary requirements to obtain HDMC's written approval.

As discussed in more detail below, the first step to obtaining HDMC's approval of a sellout is to submit (1) a fully executed purchase agreement and (2) a completed Dealer Application on any proposed new owner. After the receipt of the purchase agreement and the Dealer Application(s), it generally takes on average **60-90 days** for HDMC to complete its review and to approve or disapprove a proposed buy/sell transaction. In this process, HDMC will comply with any applicable state motor vehicle dealer laws. **Furthermore, please be advised that HDMC does not represent either party of a dealership buy/sell, and all terms and conditions of such sale are negotiated solely between the current dealer and the buyer(s).**

II. DOCUMENTS REQUIRED TO COMMENCE THE HDMC REVIEW

A. Prospective Dealer Inquiry & Confidentiality Agreement

If you are new to the Harley-Davidson® family, i.e., not a current owner of an H-D dealership, and are looking to purchase an H-D dealership in the United States, it is advisable to complete a Prospective Dealer Inquiry. This Inquiry form may be found on www.h-d.com/BecomeADealer. After you complete and submit this form to us, provided you meet our minimum dealer/owner requirements (see Dealer Ownership Policy), we will use this information to match you with a current selling dealer(s). As part of this process, prior to providing you information on our dealer network, you will also be required to sign a Confidentiality Agreement. Ultimately, it will be up to you and the selling dealer to complete a definitive buy/sell agreement acceptable to both parties. At which time, a full Dealer Application must be completed by each proposed new owner of this dealership.

B. Fully Executed Purchase Agreement

The first step to selling or buying a dealership is to complete a buy/sell or purchase agreement. Besides including the appropriate terms and conditions agreed upon by the parties, the purchase agreement must also comply with the terms of the selling dealer's Harley-Davidson Motorcycle Dealer Contract (and any supplemental agreements) with HDMC. As such, we will complete a review of the fully executed purchase agreement to ensure it complies with the Dealer Contract. If the purchase agreement has provisions contrary to the Dealer Contract, the parties will be required to amend their agreement to comply with the Dealer Contract. For example, the terms of a purchase agreement could not state that the parties may close on the transaction without receiving HDMC's permission. In addition, a purchase

agreement may not state that the current dealer may assign its Dealer Contract to the buyer (if approved, the buyer will receive a new Dealer Contract). Similarly, the agreement may not suggest that any Harley-Davidson and/or Buell trademarks or other intellectual property are owned by the dealer or may be assigned or transferred by the dealer to the buyer.

To assist you in complying with HDMC's requirements prior to executing a purchase agreement, we have created a list of items to consider and incorporate in your purchase agreement, which is attached to this document as **Exhibit A**. It may be appropriate to provide this Exhibit to your legal counsel or to whoever is responsible for drafting the terms of the purchase agreement.

C. Prospective Dealer Application

Each new owner of a dealership, regardless of whether such ownership is held directly or indirectly (through a holding company or trust), must complete, sign, and submit a Dealer Application to HDMC, **even if such new owner is already a current Owner of a Harley-Davidson dealership**.

HDMC's current Prospective Dealer Application may be downloaded from www.harley-davidson.com at:

"Company" Tab → "Becoming a Dealer" → "Inquiry"

Alternatively, for current dealers, the Dealer Application may be downloaded from www.h-dnet.com at:

"General Operations" Tab → "Dealership Management" → "Dealer Development" → "Selling & Purchasing Dealerships"

If not previously sent to HDMC, the completed Dealer Application for each proposed new owner should be submitted with the fully executed purchase agreement, or shortly thereafter.

III. HDMC BUY/SELL REVIEW PROCESS

Step 1: Conference Calls

After receiving a fully executed purchase agreement and a completed Dealer Application for each proposed new owner, HDMC will schedule separate conference calls with the selling dealer and the prospective buyer(s) to make introductions, discuss the buy/sell review process, and answer any initial questions.

Step 2: Request for Information

After the initial conference calls, HDMC will send the seller and buyer(s) a separate Request for Information (RFI) letter. The Seller RFI outlines a dealer's buy/sell requirements and their post-contractual requirements, which are effective upon the closing of the purchase agreement. The RFI to the buyer(s) provides a list of documents required for our review, including but not limited to, the following:

- Proforma
- Capitalization Plan and Balance Sheet
- Personal bank and brokerage statements
- Bank Commitment Letter
- Organizational or ownership documentation
- New Dealer Operating Plan

HDMC, in conjunction with Harley-Davidson Credit Corp. (HDCC), will conduct a background review (financial, personal, legal, or otherwise) on each proposed new owner and will also complete an overall financial review based on the above requested documents.

The proposed buyer, or collectively, the buyers, of a dealership must meet the following minimum personal financial requirements:

- a. **\$2,000,000 net worth**
- b. **\$1,000,000 in liquid assets (excluding any real estate equity)**

Notwithstanding the above minimum financial requirements, the actual financial requirements for each individual owner and the dealership overall will be based on the specific purchase price of the dealership.

HDMC also requires an unencumbered or non-debt investment of at least **30%** for the capitalization of the dealership collectively by the proposed owners, including the Dealer Operator (generally, the majority owner). (Note: The capitalization amount will also include the purchase price of any land and building if held by the dealership entity). Essentially, the Beginning Balance Sheet of the dealership must have a sufficient debt/equity ratio, preferably 2:1. **In addition, the Dealer Operator, at a minimum, must invest a proportionate share of the non-debt funds required by HDMC equal to or greater than his or her ownership percentage.** These requirements are also followed for the capitalization (e.g., facility, purchase of furniture, fixtures, equipment, etc.) of new target dealerships.

Below are additional requirements relating to the financial review of a dealership purchase:

- 1st UCC filing position required by HDCC.
- Each Owner with a 10% or more ownership percentage must sign a Personal Guarantee.
- If there is a facility-related requirement as part of the dealership purchase, e.g., relocation or expansion (see Exhibit A, Section 7), the estimated expense associated with this facility improvement must be factored in the 5-year Proforma.

Step 4: Letter of Intent

After the buyer has submitted all requested information and documentation in the RFI and if our initial review does not reveal any issues or concerns, HDMC will issue a Letter of Intent ("LOI"), which **conditionally** approves the buyer as a new dealer provided that all conditions and requirements of the LOI are met by the buyer. The LOI details the remaining requirements that the buyer must meet prior to obtaining final approval from HDMC, including but not limited to the following:

- Investment verifications
- Loan and floor plan commitments
- Insurance
- Verification of operating cash
- Completion of dealership forms, e.g., labor rate, training, tools, etc.
- Execute Harley-Davidson program forms/agreements, e.g., Riding Academy, Authorized Rentals, eCommerce, H.O.G., as applicable
- Commitment to participate in a New Dealer Orientation (NDO) in **Milwaukee, Wisconsin**
- Dealer License**

In most cases, the buyer of a dealership will be required to obtain a new dealer license issued by the State where the dealership is located (including any Additional Location requiring licensure) authorizing such new dealer to receive, sell, and, service new Harley-Davidson and Buell motorcycles. The license application process may take **4-8 weeks to complete depending on the specific State. **Furthermore, HDMC will neither authorize closing (unless required by the State prior to issuing a license) nor ship new Product to the new dealer until a new dealer license is obtained by such new dealer.**

Step 5: Approval to Close & Closing

Upon the satisfaction and completion of all items in the LOI, as determined by HDMC at their sole discretion, HDMC will authorize in writing the dealer and buyer(s) to close on the purchase agreement, which will be memorialized by a written Authorization to Close notification. **The actual closing may occur within a reasonable period of time after receipt of this notification as determined by the selling/buying parties.**

When closing occurs, you must provide documentation to us evidencing the closing, e.g., bill of sale, updated stock certificates, corporate authorizations, outstanding purchase agreement exhibits/schedules, etc. The types of documents required to evidence the closing will depend on whether the buy/sell is an asset sale or a stock sale. Further, at closing, the selling dealer must pay off, usually via wire transfer, any outstanding accounts or remaining debts owed to HDMC, HDFS, or any affiliate. **HDMC will not activate the new dealer's Dealer Number until the requisite closing documents have been provided and all financial obligations have been satisfied by the selling dealer.**

Step 6: Harley-Davidson Motorcycle Dealer Contract

After HDMC has received the documents evidencing closing, HDMC will countersign the new Harley-Davidson Motorcycle Dealer Contract, which authorizes the new dealer(s)/owner(s) to be a Harley-Davidson dealer at the specific location. [Note: The Dealer Contract(s) will be sent to the buyers in advance to review and sign.] If there are any Additional Locations to the main dealership, a separate contract addendum will be completed to authorize these secondary locations (e.g., ARO, SRL). HDMC will send a fully executed copy of each Dealer Contract and Addendum (if applicable) to the new dealer for their records.

[Note: If the selling dealer is also a Buell service provider, the buyer will also be offered a Buell Service Contract to continue to provide Buell service work and to order Buell parts and accessories.]

Step 7: Dealer Number Activation/Open for Business

Concurrently with countersigning the Dealer Contract for the new dealer, HDMC will activate the new dealer number for such new dealer, which will allow the new dealer to order and receive new motorcycles under this number. Furthermore, the dealer will be granted access to www.h-dnet.com, will be able to complete registrations of new motorcycles, and will be able to order and be invoiced for Harley-Davidson Parts & Accessories, General Merchandise, MotorClothes™, and licensed product. [Please be advised that full activation may take up to 12 hours for our systems to fully update to the new dealer number.]

Step 8: Congratulations, you are a new Harley-Davidson® dealer! Welcome to the family!

[Continue to the next Page for [Exhibit A](#)]

Exhibit A
Purchase Agreement Guidelines

1. Identity of Buyer

If the buyer(s) is/are forming a legal entity to acquire the dealership assets or stock, the name of this entity must comply with HDMC's U.S. Dealer Name Policy and be approved by HDMC. **An entity/legal name may not contain any Harley-Davidson trademarks in it.**

As with the current dealer, the buyer will be required to select a trade or d/b/a name, which must include "Harley-Davidson®," and must comply with our Name Policy and be approved by HDMC in advance. **Please be advised that in some instances the selling dealer's d/b/a name(s) may no longer be compliant with our current Name Policy and may not be used by the buyer.**

2. Ownership of Buyer(s)

All proposed new owners of a dealership must complete a Dealer Application, be approved as an Owner under HDMC's Dealer Ownership Policy, and the proposed collective ownership of the dealership must also comply with this Policy. In addition, the Dealer Operator and/or the Onsite Owner, if applicable, must confirm that he/she will be onsite and active at the dealership on a full-time basis and is qualified to operate and manage a dealership. Furthermore, if the buyer is already a Harley-Davidson dealer, such dealer will be required to comply with the Multiple Dealership requirements of the Policy. The Dealer Ownership Policy is available to current dealers on www.h-dnet.com under the Strategies/Policies Tab → Policies → Dealer Development → Ownership/Contracts.

3. HDMC's Legal Name and D/B/A Name

The following are our correct corporate legal names and the corresponding d/b/a names:

Harley-Davidson Motor Company, Inc., d/b/a Harley-Davidson Motor Company (HDMC)

Please ensure that there is always a hyphen between Harley and Davidson.

4. HDMC Trademarks

The Harley-Davidson intellectual property, including all Harley-Davidson trademarks, service marks, trade names, design marks, and logos, is owned by H-D USA, LLC, an affiliate of HDMC. A Harley-Davidson dealer is only licensed to use such trademarks as an authorized Harley-Davidson® dealer pursuant to the Dealer Contract. As such, a selling dealer, under the purchase agreement or otherwise, may not assign or transfer any Harley-Davidson trademarks or trade names, including that dealer's specific trade name or domain name, etc., to the buyer. HDMC will separately approve the buyer, i.e., the new dealer, to use the Harley-Davidson intellectual property, including d/b/a name(s) and domain names, which will be memorialized in a new Dealer Contract. If the purchase agreement does refer to intellectual property, the following language should also be included in the agreement:

For the avoidance of doubt, the Buyer and Seller acknowledge they have no claim nor any rights to any trade name, trademark, service mark and and/or word and design mark and copyright relating to Harley-Davidson Motor Company and/or its affiliates (the "Harley-Davidson Intellectual Property"). The Harley-Davidson Intellectual Property is owned by H-D USA, LLC, a Wisconsin limited liability company, who is the exclusive owner of said Harley-Davidson Intellectual Property. Buyer's rights to utilize the Harley-Davidson Intellectual Property will commence upon Buyer entering into a Harley-Davidson Motorcycle Dealer Contract.

5. No Assignment of Motorcycle Dealer Contract

HDMC does not have a franchisor/franchisee arrangement or a franchise agreement with its dealer network. Instead, each dealer is issued a Harley-Davidson Motorcycle Dealer Contract, which grants dealer the right to purchase and resell at retail Harley-Davidson Products, to identify itself as an authorized Harley-Davidson motorcycle dealer, and to use the name "Harley-Davidson®" and certain other trademarks and service marks owned by an HDMC affiliate (see Number 4 above) in dealer's advertising, promotion, sale, and servicing of Harley-Davidson Products.

A selling dealer may not transfer and/or assign its current Harley-Davidson Motorcycle Dealer Contract or any other HDMC agreement(s) to a buyer. If the ownership transfer is approved by HDMC, the new dealer will receive new Harley-Davidson Motorcycle Dealer Contract. You may integrate the following language to state this as a condition of your purchase agreement:

Buyer will receive a new Harley-Davidson Motorcycle Dealer Contract(s) and related HDMC agreements following closing if all items of the Letter of Intent ("LOI") issued by HDMC to Buyer are satisfied and HDMC authorizes closing. HDMC will countersign the Motorcycle Dealer Contract(s) concurrently with closing.

6. Seller Surrender of Dealer Contract and Relinquishment of H-D Trademarks

Prior to closing, the selling dealer must sign a "Release of Dealer Information and Surrender of Dealer Contract" form provided by HDMC. By signing this form, HDMC will be authorized (a) to disclose to the prospective buyer any Dealer Dashboard™ and/or Performance Consulting information or data, including all motorcycle planning reports, pertaining to the selling dealer and (b) to use such information and data in connection with the analysis of the selling dealer's operations.

In addition, the form effects the voluntary surrender and/or termination of the selling dealer's Dealer Contracts with HDMC and forfeits any and all rights the selling dealer may have to be an authorized Harley-Davidson dealer or to display any Harley-Davidson trademarks or other intellectual property concurrently with closing, if and when closing is authorized by HDMC. This also includes the selling dealership's legal entity name. **In other words, if the selling dealer's entity name contains "Harley-Davidson," this dealer will have to amend this entity name prior to closing or dissolve this company within 30 days of closing.**

7. Real Property

If the dealership land and facility are also being purchased, HDMC will need to review the real estate purchase agreement, if not covered in or included with the asset or stock purchase agreement. Otherwise, if the facility will be leased by the prospective buyer, HDMC must review and approve the terms of such lease. **Furthermore, HDCC will require a Landlord Waiver.**

Relating to the current dealership facility, the selling dealer must inform the prospective buyer of any facility issues or deficiencies represented to the dealer by HDMC. Therefore, if the current dealership facility and/or location do not meet HDMC's current Retail Environment (RE) standards, the prospective buyer will be required to expand and/or relocate the facility to meet such standards and to comply with the Dealer Contract. However, HDMC will provide the new dealer a reasonable period of time after closing, normally eighteen [18] months, to accomplish the required facility expansion/relocation, which will be memorialized in an expansion or relocation agreement.

8. Closing

The closing of the purchase agreement should be conditioned on the final written approval of HDMC, which will be provided upon buyer's satisfaction of all requirements and conditions of the Letter of Intent (LOI). **Please be advised that the closing of any purchase transaction without the prior written consent of HDMC will place the current dealer in material breach of its Dealer Contract with HDMC and could result in the termination of such Dealer Contract.** Upon the satisfaction of all LOI requirements, HDMC will send the buyer a written "Authorization to Close" notification. The closing may occur anytime after the receipt of such notification.