



VEHICLE PROTECTION PLUS, L.L.C.

Dealer Agreement

DEALER AGREEMENT FOR ADMINISTRATIVE SERVICES

THIS AGREEMENT, effective this _____ day of _____, 20 _____, is entered into by and between VEHICLE PROTECTION PLUS, L.L.C., (hereinafter referred to as "Administrator") 268 Christian Church Road, Suite #1, Johnson City, TN 37615, Fax (423) 282-2549, and Dealership _____ (hereinafter referred to as "Dealer")

City, State, Zip: _____ Fax: _____

WHEREAS, Dealer is in the business of selling new and used automobiles and desires to sell vehicle service contracts ("Service Contracts") to its customers under a Service Contract Program ("Contract Program") designed and administered by Administrator,

WHEREAS, Dealer recognizes that Administrator has expertise in administering such Service Contracts; and

WHEREAS, Administrator desires to assist Dealer in maintaining and administering the Contract Program for the benefit of Dealer and the Service Contract purchasers;

NOW THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties hereby agree as follows:

1. DEALER AGREES:

- a. And does hereby appoint Administrator to administer the Contract Program on behalf of Dealer.
- b. To offer to its customers Service Contracts on a form approved in writing by Administrator. Each approved Service Contract shall be sold only with respect to a vehicle qualifying therefore at the fee indicated as the Dealer cost ("Dealer Cost") as set forth on Administrator's then current rate chart ("Rate Chart") and subject to Administrator's current procedures, coverages, rules and regulations. Administrator may at any time revise its procedures, coverages, rules, regulations and fees, and Dealer shall promptly conform to any such revisions. Administrator shall not be obligated to perform administrative services with respect to any Service Contract sold by Dealer on a form which has not been approved by Administrator or the use of which has been discontinued by Administrator or otherwise sold in violation of this Agreement. Dealer shall have no authority to alter, modify, waiver or discharge any terms or conditions of any Contract Program or approved Service Contract, nor to incur any liability on behalf of Administrator, nor to make representations about Service Contract coverage not contained in the Service Contract. Dealer acknowledges that Administrator shall not be a party to, and shall have no direct financial obligation under, any Service Contract sold.
- c. All amounts constituting Dealer Cost which are received by Dealer from the sale of Service Contracts shall be held in trust by Dealer for the benefit of Administrator and the insurance company and shall be promptly paid over or delivered to Administrator on the due dates set forth herein. Dealer agrees and acknowledges that the Dealer Cost collected by it remains at all times the property of Administrator and the insurance company, and that neither Dealer nor any third party claiming under, through, or on behalf of Dealer shall have any interest in, or rights with respect to, such Dealer Cost other than to remit such Dealer Cost to Administrator as set forth in this Section 1(c). Dealer agrees to remit to Administrator funds representing the Dealer Cost relating to each Service Contract sold by the Dealer within ten (10) days after Dealer issues the Service Contract along with a properly executed copy of such Service Contract. Any additional monies due for such Service Contracts will be due immediately upon Dealer's receipt of a Dealer Billing/Confirmation Statement. Dealer further agrees that all funds for Service Contracts sold under this agreement shall be made payable solely to the Insurer listed in the individual contract, and without exception shall be solely responsible for any and all funds payable under this agreement if the Dealer makes payment to any other party.
- d. To refund to any lender who has financed the purchase price of a Service Contract the Dealer's retained portion of the amount financed by the lender in the event of the cancellation of a Service Contract at the lender's request, whether due to a total loss or repossession of the covered vehicle or a default by the Service Contract holder in repayment obligations to the lender. If a canceled Service Contract was not financed, Dealer agrees to return to the purchaser a pro rata portion of that part of the total retail price of the Service Contract retained by Dealer, such pro rata portion to be determined by Administrator in accordance with the terms of the Service Contract and applicable law. Dealer shall pay Administrator a cancellation fee of thirty-five (\$35.00) dollars for each canceled Service Contract, regardless of the reason for cancellation, and Administrator shall be entitled to deduct such amount from the pro rata portion of the Dealer Cost returned to the Dealer or paid directly to the Service Contract holder. If Administrator pays Dealer an amount representing a pro rata portion of the Dealer Cost relating to a canceled Service Contract, Dealer shall be solely responsible for remitting the full amount of any cancellation refund to the purchaser of the canceled Service Contract or any other party entitled to receive such refund under law.
- e. To pay Administrator the Dealer Cost for each Service Contract sold by Dealer, as reflected in the current Rate Chart. The Rate Chart may be periodically adjusted by Administrator and any adjustment shall take effect thirty (30) days after receipt by Dealer. If Dealer fails to properly remit funds to Administrator for any Service Contract issued by it, Dealer shall indemnify and hold Administrator harmless from, and shall promptly reimburse Administrator for, all costs and expenses of Administrator resulting from Dealer's failure to remit such funds. Such costs and expenses may include, without limitation, the cost of vehicle repair, the Dealer Cost and the amount of any cancellation refunds. The failure of Dealer to properly remit funds for any Service Contract issued by it shall constitute a material breach of this Agreement. All payments for Service Contracts shall be payable to the insurance company, as directed, and Dealer shall be solely responsible for monies made payable to any other party.
- f. Until payment is delivered to Administrator, to deduct from the proceeds of each Service Contract sale and hold in fiduciary capacity as trustee for, and under conditions satisfactory to, Administrator and the insurance company, an amount sufficient to pay the applicable Dealer Cost related to such Service Contract. Dealer acknowledges that Administrator shall have no obligation to Dealer to administer any Service Contract sold by Dealer until such time as Administrator receives from the Dealer the Dealer Cost for such Service Contract.
- g. To notify Administrator and receive Administrator's approval prior to making any repairs or replacements under any Service Contract.
- h. To submit to Administrator all claims for reimbursement from the insurance company within sixty (60) days after completion of repairs. No such claim will be submitted for an amount greater than that authorized by Administrator. Dealer further agrees not to submit to Administrator or the insurance company any claims for reimbursement for (i) repairs of components or parts not covered by an approved Service Contract, (ii) repairs or expenses expressly excluded or not covered by the terms and conditions of an approved Service Contract, (iii) repairs or expenses resulting from the failure of Dealer to perform repairs in a good and workmanlike manner, (iv) repairs or replacements of parts or components to correct conditions existing or which may reasonably be

assumed to have existed at the time the covered vehicle was sold, and (v) repairs or expenses which are also covered by a manufacturer's warranty, a Dealer's or repairer's guarantee, or a Service Contract or similar agreement not administered by Administrator. Dealer agrees that any improper claim may be rejected by Administrator, and such claim will be the sole responsibility of Dealer.

- i. To use its best efforts in marketing the Contract Program and faithfully perform in every way its duties in compliance with the instructions of Administrator.
- j. To unconditionally guarantee services provided under Service Contracts against defects in workmanship and materials, under normal use, for a period of 90 days or 4,000 miles after the date of service, whichever comes first.
- k. In the event that Administrator declines to issue a Service Contract to a purchaser, to either correct the error, if any, which caused the declination and to resubmit the Service Contract to Administrator or, if the Service Contract cannot be corrected in accordance with the Administrator's requirements, to refund to the purchaser any money tendered with respect to such Service Contract.
- l. To hold Administrator, its agent, employees, successors and assigns free and harmless from any and all claims, actions, demands or liabilities (including, but not limited to attorney's fees and other legal costs) of any type arising out of or resulting from (i) any act or failure to act by Dealer (including its agents, contractors and employees) which causes harm or damage to any person or property, (ii) any act related to the conduct of Dealer business over which Administrator has no control including failure by the dealer to provide a purchaser the complete vehicle service contract; (iii) any other claim arising out of or related to a Service Contract except to the extent that such claim relates to Administrator's failure to perform its obligations hereunder, or (iv) Dealer's breach of this Agreement or its failure to comply with any and all applicable laws, rules, regulations and ordinances respecting the sales of Service Contracts.

2. ADMINISTRATOR AGREES:

- a. To maintain and administer the Contract Program for Dealer.
- b. Upon receipt of amounts representing the Dealer Cost for Service Contracts sold by Dealer, to forward insurance premiums to the insurance company for the insurance covering Service Contracts sold by Dealer.
- c. To furnish Dealer with Service Contract forms and other supplies approved by Administrator necessary for Dealer to implement the Contract Program, all of which shall remain the property of Administrator and shall be returned to Administrator in the event of the termination of this Agreement or upon demand of Administrator.
- d. To investigate, process and adjust claims covered by the Service Contract in accordance with the then current claims adjusting procedures and to reimburse all such claims which are processed and presented to Administrator by Dealer in the manner required by Administrator and this Agreement.
- e. To compute payment to Dealer on all covered Service Contract claims at the customary retail labor rate for the time required in any of the most current labor manuals (Mitchell, Motor, Chilton, Factory) and manufacturer's suggested retail list for parts except as stated in the claims section of the Procedure Manual. The labor rate must be authorized by the factory for franchised dealers and cannot exceed the average retail rate charged by similar repair facilities in the same area. Administrator reserves the right to change the labor or parts rates, provided that any such change shall be effective upon thirty (30) days written notice to Dealer. Such change shall apply to all claims, which occur subsequent to the effective date of the change. Any request for an increase in labor rates should be submitted to Administrator in writing, accompanied by the factory's authorization for the increased rate, and agreed to by Administrator. Sublet work will be reimbursed at the Dealer's actual cost plus ten percent (10%), except for complete or total sublet repairs which will be reimbursed at Dealer's cost.

3. TERMINATION:

- a. This Agreement shall continue in force until terminated by either party upon no less than thirty (30) days prior written notice to the other party; provided, however, either party may terminate this Agreement immediately upon the discovery of fraud or material breach of the Agreement by the other party, its agents or employees. Termination for fraud or material breach shall be effective immediately upon receipt of written notice by the non-terminating party.
- b. This Agreement shall terminate automatically without notice from Administrator if (i) a petition of bankruptcy is filed by or against Dealer, (ii) Dealer shall have made an assignment for the benefit of creditors or shall have been voluntarily adjudicated as bankrupt by any court of competent jurisdiction, (iii) a petition for reorganization of Dealer, or an arrangement with creditors is filed by or against Dealer, (iv) a receiver shall have been appointed for all or a substantial part of Dealer's business, (v) Dealer shall have permitted or suffered any attachment, levy, or execution agreement, or (vi) at any time Dealer fails to remit to Administrator the full amount of the Dealer Cost due in connection with the issuance of a Service Contract.
- c. Termination of this Agreement shall not alter Administrator's responsibility to administer claims under Service Contracts for which Administrator has received payment prior to the effective date of termination and which, as of the date of termination, are in full force and effect.

4. MISCELLANEOUS:

- a. This Agreement contains the entire Agreement of the parties and supersedes any and all previous or contemporary arrangements between the parties. All future changes must be made in writing and signed by both parties.
- b. The validity, interpretation and performance of the Agreement shall be controlled by and construed under the laws of the State of Tennessee.
- c. All notices, demands, or communications regarding this Agreement shall be in writing, signed by the party serving the same, and deposited, postage prepaid in the United States Postal Service as certified or registered mail or delivered by facsimile to the appropriate address or number indicated herein.
- d. If any provision of this Agreement is held invalid under the law or regulations of any state where used, such provision shall be deemed not to be part of this Agreement in such state, but shall not invalidate any other provision hereof.
- e. Administrator shall at times have full and free access during business hours at Dealer's office(s) or place where Dealer records are kept to inspect books, records, and files relating to the business covered by Dealer's Contract Program and this Agreement.
- f. This Agreement is not assignable by Dealer without the written consent of Administrator and shall not be construed to make Dealer an agent, expressed or implied, or an employee, of Administrator.

Your signature on the reverse side signifies agreement and acceptance to conditions contained herein, as well as acknowledgement that you have received and reviewed the Procedure Manual, regarding vehicle eligibility, how to submit the Service Contracts and how to process and submit claims.

SIGNATURE

DEALER: _____ ADMINISTRATOR: VEHICLE PROTECTION PLUS, L.L.C.

BY: _____ (Signature) BY: _____ (Signature)

TITLE: _____ TITLE: _____

ADDITIONAL DEALER INFORMATION

Dealership Name _____ Phone _____

Address _____ FAX _____

City _____ State _____ Zip Code _____

Franchise(s) Represented _____

Non-Franchised (X) _____ RV (X) _____ Lease Co. (X) _____

Dealer Principal _____ General Manager _____

F & I Manager _____ Office Manager _____

Service Manager _____ Service Phone (_____) _____

Retail Labor Rate \$ _____ Per Hour _____ Shop Manual Used _____

New Cars (Monthly): Sales _____ Current VSC Sales _____ Projected VSC Sales _____

Used Cars (Monthly): Sales _____ Current VSC Sales _____ Projected VSC Sales _____

Lease Cars (Monthly): Sales _____ Current VSC Sales _____ Projected VSC Sales _____

FOR AGENT USE ONLY

Effective Date

_____/_____/_____

TECH SERV

THE SELECTION

SERVICE CONTRACTS under this application will be issued as:

ADMINISTRATOR OBLIGOR DEALER OBLIGOR

RATE CHART CODE (Installed at Dealership) _____

GA#

4091

Agent completing this form Midwest Dealer Services, Inc

Agent telephone number (952) 736-8110

Agent fax number (952) 736-8107

FOR OFFICE USE ONLY

DEALER #
