

AGREEMENT / APPLICATION

SIGNATURE _____

EFFECTIVE DATE: ____/____/____

DEALER: _____ ADMINISTRATOR: Warrantech Automotive, Inc.

By: _____ By: _____

Title: _____ Title: _____

Your signature signifies agreement and acceptance to conditions contained herein, as well as acknowledgement that you have received and reviewed the Vehicle Eligibility Requirements and the Procedure Manual regarding how to submit the Service Contracts and how to process and submit claims.

ADDITIONAL DEALER INFORMATION

Dealership Name _____ Email _____

Address _____

City _____ State* _____ Zip Code _____

Phone _____ Fax _____

Franchise(s) Represented _____

Dealer Principal _____ General Manager _____

F & I Manager _____ Office Manager _____

Please initial here if you have a Service Facility for repairing vehicles: _____

NOTE: If you have a Service Facility for repairing vehicles and do not acknowledge same, you will not be set up for reimbursement of claims.

Service Manager _____ Service Phone _____

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

A completed Product Installation/Change Sheet detailing each program installed is required.

Agent Completing form _____ Agent # _____

Agent Telephone _____ Fax _____

* Some states require specific forms – Washington may have it own Service Contract and Registration Page. This Dealer Agreement/Application is not valid for signing up dealers located in Florida.

If the commission structure for the Rate Code is not standard, please attach a separate sheet showing breakdown of the commission amounts. Any commissions paid to Dealers will require a completed Special Dealer Commission Agreement. If you do not have one, please contact the Sales Department at 800-723-1154.

DEALER #

MAIL ORIGINAL TO: 2200 Hwy 121, Suite 100, Bedford, TX 76021
PHONE: (800) 358-2655
FAX COPY TO: (817) 785-1139



SERVICE CONTRACT DEALER AGREEMENT



THIS AGREEMENT, effective this _____ day of _____, 20_____, is entered into by and between Warrantech Automotive, Inc. (hereinafter referred to as "Administrator"), 2200 Highway 121, Suite 100, Bedford, Texas 76021, Fax: (817) 785-1139, and Dealership, _____ (hereinafter referred to as "Dealer"), Address: _____
City, State, Zip: _____ Fax: _____

WHEREAS, Dealer is in the business of selling new and used vehicles 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, waive 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. That it will not sell, solicit the sale of, or accept requests to purchase Service Contracts via the internet.
- d. All amounts constituting Dealer Cost which are received by Dealer from the sale of Service Contracts shall be held 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(d). Dealer agrees to remit to Administrator funds representing the Dealer Cost relating to each Service Contract sold by the Dealer within a maximum of thirty (30) 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. Additional Amounts due that are not paid upon receipt of Dealer Billing/Confirmation Statement may be deducted from cancellation refunds due Dealer from Administrator or Service Contract may be subject to rejection. Late submission and/or payments of Vehicle Service Contracts may result in a surcharge and a denial of claims.
- e. 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 (unless required by law to return the entire amount) 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 pursuant to the Service Contract terms and conditions 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 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.
- f. 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 no more than 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, Obligor and Insurance Company 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 costs 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 Administrator, as shown on the Registration Page and/or directed herein, and Dealer shall be solely responsible for monies made payable to any other party.

- g. Until payment is delivered to Administrator, to hold from the proceeds of each Service Contract sale and hold 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.
- h. 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.
- i. 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 no later than the following month's due date 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.
- j. 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 attorneys' 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, (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.
- k. To follow the claims guidelines described in the Repair Facility Agreement contained herein (if a repairing dealer).
- l. To keep complete records of all transactions pertaining to the Service Contracts issued pursuant to this Agreement, which may be in electronic format. Such records shall be maintained for a period of time in accordance with regulatory record retention requirements.
- m. If it has a right to recover against another party for anything the Administrator has paid under the Service Contract(s), their rights shall become the Administrator's rights. The Dealer shall do whatever is necessary to enable the Administrator to enforce these rights. The Administrator shall recover only the excess after the Dealer is fully compensated for their loss.

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 the 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.

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, or (v) Dealer shall have permitted or suffered any attachment, levy, or execution agreement.
- c. This Agreement may be terminated by the Administrator immediately if the Dealer consistently fails to remit to the Administrator the full amount of the Dealer Cost due in connection with the issuance of a Service Contract.
- d. 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 Texas.
- 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 have full and free access during business hours at Dealer's office(s) or place where dealer's records are kept to inspect books, records, systems, and files relating to the business covered by the Vehicle Service Contract program and this Agreement. Dealer shall be responsible to the insurance company for any errors detected during the audit process.
- f. Neither this Agreement nor any rights or obligations created hereunder (including, but not limited to, any right to receive payment) are assignable by Dealer without the express written consent of Administrator. Nothing contained herein shall be construed to make Dealer an agent, either express or implied, or employee of Administrator.

REPAIR FACILITY AGREEMENT

This REPAIR FACILITY AGREEMENT ("Agreement") pertains to the Dealer signing this Agreement if Dealer has a Servicing Facility for repairing vehicles.

WHEREAS, Administrator is in the business of administering vehicle service contracts and extended warranties (collectively, "Service Contracts");

WHEREAS, Servicer is in the business of repairing motor vehicles;

WHEREAS, in the course of processing valid claims ("Claims") submitted under Contracts, Administrator desires to authorize Servicer to repair certain vehicles pursuant to the terms and conditions of this Agreement; and

WHEREAS, Servicer desires to accept such authorizations.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements of the parties set forth in this Agreement, the parties agree as follows:

I. CLAIM SUBMISSION AND AUTHORIZATION

1. No vehicle repair shall be eligible for payment by Administrator unless and until a repair order ("Repair Order") has been approved by, and submitted to Administrator in accordance with the terms and provisions of this Agreement.
2. Administrator will not accept a Repair Order for processing that does not contain the following information:
 - (a) Service Contract number;
 - (b) Customer name, address and telephone number;
 - (c) Vehicle make, model, year, VIN number and current mileage;
 - (d) Owner's original complaint, Servicer's diagnosis and description of required repairs;
 - (e) Cost of repair including labor, required parts, cost of each required part and sublet cost; and
 - (f) Administrator's reference number and authorized repair cost.
 - (g) Customer's signature.
3. Before transmitting the completed Repair Order to Administrator, Servicer will contact Administrator at (877) 477-4251 to obtain authorization to commence the repair. Administrator's reference number and approved repair cost must be entered on the Repair Order. When the Repair Order is complete, Servicer will fax the Repair Order to Administrator at (817) 785-6703.

II. REPAIR COST

1. Administrator shall have no responsibility to Servicer for the cost of any parts, labor or other services that are not specifically covered by the applicable Service Contract and/or which have not been specifically authorized by Administrator.
2. Administrator will verify the labor rates and parts prices that will be used for any repair made pursuant to this Agreement. The cost of replacement parts for covered claims cannot exceed the manufacturer's retail list price. Administrator reserves the right, in its sole discretion, to change any such labor rates and/or parts prices; provided, however, that such changes will apply only to repairs commenced thirty (30) or more days after Servicer has received notice of such changes.
3. No matter what labor rate Administrator may have been provided, the actual labor rate charged by Servicer cannot exceed the average retail labor rate charged by similar facilities in the same geographic area. If Servicer believes a higher labor rate is justified, the request must be submitted in writing to Administrator prior to commencing the repair.
4. The time authorized by Administrator to complete a repair will be based on the most current nationally recognized labor manuals. Administrator accepts nationally published labor guides (including factory labor guides) at industry standard times, including, Mitchell, Motor, Chilton, All-Data and Mitchell OnDemand. Administrator reserves the right to require Servicer to use a specific labor manual. Once established, the labor manual cannot be changed without Administrator's written approval.
5. Sublet work will be reimbursed at Servicer's cost plus ten percent (10%) or \$75.00 (whichever is less); provided, however, that if the entire repair has been sublet, it will be reimbursed only at Servicer's cost.
6. There will be no payment or reimbursement for any of the following:
 - (a) No prior authorization obtained from Administrator;
 - (b) Parts, labor or other services not specifically covered by Service Contract;
 - (c) Parts, labor or other services specifically excluded by Service Contract;
 - (d) Additional parts, labor or other services required as a result of Servicer's failure to perform original repairs in a good and workmanlike manner;
 - (e) Any pre-existing conditions for any breakdown occurring before coverage takes effect, or prior to the contract purchase date, or if the information provided by Servicer cannot be verified as accurate or is found to be deceptively inaccurate.
 - (f) Repair covered by a manufacturer's warranty, repairer's guarantee, or service contract or other similar agreement not administered by Administrator, and
 - (g) Shop supplies, hazardous material and/or environmental disposal fees.

Servicer acknowledges and agrees that any repair or other service provided in violation of any of the above shall be the sole responsibility of Servicer.

7. Replacement parts may be new, rebuilt or of "like kind and quality" based on the nature of the repair and the specific vehicle involved at the sole discretion of Administrator.
8. Servicer shall keep complete records of all transactions pertaining to the repairs made under Service Contracts pursuant to this Agreement, which may be in electronic format. Such records shall be maintained for a period of time in accordance with regulatory record retention requirements.

III. SERVICER PAYMENT

1. Servicer will invoice Administrator for completed repairs not more than sixty (60) days after the completion of such repairs. Any invoice submitted in an amount greater than the authorized amount will be paid at the authorized amount only which payment shall constitute payment in full.
2. Servicer will be solely responsible for collecting (i) the Service Contract deductible (if any) for the repair, and (ii) the cost of any non-covered and/or unauthorized parts, labor or other services, directly from the owner of the vehicle.

IV. INSPECTIONS

In some cases, an inspection may be required to document the failure. Inspections are performed by independent companies and are normally completed within forty-eight (48) hours. Servicer will be advised if an inspection has been scheduled. If a scheduled inspector has not arrived within forty-eight (48) hours, Servicer should contact Administrator for instructions.

V. REPAIR WARRANTY

Servicer agrees to unconditionally guarantee all repairs and other services provided pursuant to this Agreement against defects in workmanship and materials, under normal use, for a minimum period of twelve (12) months or twelve thousand (12,000) miles after the service date, whichever comes first.

VI. TERM

1. The term of this Agreement shall commence on the date first set forth herein and continue until terminated by either party upon thirty (30) days prior written notice.
2. In the event a party (i) materially defaults in the performance of any of its duties or obligations hereunder, or (ii) commits any fraud hereunder, then the other party may, by giving written notice to the defaulting or fraudulent party, terminate this Agreement immediately upon receipt.
3. This Agreement shall terminate immediately, without notice, in the event (i) a petition in bankruptcy is filed by or against Servicer, (ii) Servicer shall have made an assignment for the benefit of creditors or takes advantage of any insolvency law, or (iii) a receiver or trustee is appointed for Servicer or any of its property.

VII. ACCESS TO RECORDS

Servicer will allow Administrator or its designated representatives to enter its place of business upon reasonable prior notice, during regular business hours, to review Servicer's records with respect to the conduct of Servicer's business pursuant to the terms and conditions of this Agreement.

Administrator may conduct audits of Servicer's claim submission practices on a monthly basis; provided, however, if any such audit reveals a material error or deficiency in Servicer's claim submission practices, Administrator shall be entitled to perform a follow-up audit prior to the next monthly period for purposes of confirming that said error or deficiency has been corrected. Administrator shall provide Servicer with not less than ten (10) days advance notice of such audits. Administrator may conduct its audits with a random pull and review of physical files, electronic files, phone records and claim handling phone recordings. Administrator audits may include interviewing Servicer's personnel with the presence of Servicer's managerial staff during the interview. Servicer will be responsible for reimbursing the insurance carrier for all erroneous reimbursements that result from incorrect, incomplete or false claim submissions.

VIII. MISCELLANEOUS

1. All notices, demands or other communications required or permitted hereunder shall be in writing, signed by the party serving the same, and sent by facsimile, overnight delivery service, or the United States Postal Service (certified, return receipt requested), to the addresses first set forth above. Notices sent by overnight delivery service will be deemed received on the day following shipping. Mailed notices will be deemed received on the third day following mailing. Facsimile notices will be deemed received upon confirmation of receipt.
2. This Agreement is not intended to, nor does it create, a principal/agent, employer/employee, partnership or joint venture relationship between the parties.
3. This Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the successors and/or proper assigns of the respective parties hereto. This Agreement is not assignable by Servicer without the prior written consent of Administrator. Administrator may assign this Agreement without consent of Servicer but only to a parent or subsidiary of Administrator or any other entity under common control with Administrator.
4. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas without regard to principles of conflicts of laws.
5. This Agreement constitutes the entire and complete agreement between the parties and supersedes all previous oral or written agreements between the parties. This Agreement may not be altered, modified or amended except by written agreement of both parties. Any provision of this Agreement that is invalid or in conflict with any statute, rule of law, or regulation of any governmental jurisdiction in which either party seeks to enforce this Agreement will be deemed null and void to the extent of such invalidity or conflict. In such instance, the remaining terms and provisions of this Agreement will remain in full force and effect.