

Last Updated: November - 2020

# Assured Performance Terms and Conditions

The following general "Terms and Conditions" cover several optional programs offered through Assured Performance. Each section only applies to you if you elect to enroll and participate in a particular program such as Certification-Recognition, Certified Rewards and Co-Op Rebates, etc.

## 1.0 "Certification-Recognition" Terms and Conditions

Upon your election to enroll and participate in Assured Performance Certification and OEM Certification-Recognition, including but not limited to Fiat Chrysler Automobiles (FCA), Hyundai Motor America (HMA), Kia Motors America (KMA), Nissan North America (NNA), and Hyundai Motor America (HMA), you agree to the Certification-Recognition terms and conditions and associated end user agreement:

1.1.

A deposit for Certification is required.

1.2.

Enrollment is not transferable.

1.3.

The certification fee is refundable (less administrative fee) if official cancellation is complete and the refund request is received **prior to the on-site inspection**. The administrative fee will be as follows: \$500 upon cancellation within the first year of enrollment; \$1500 for cancellations after one year of enrollment.

1.4.

No refund will be issued after the on-site inspection has been completed.

1.5.

Initial Term - Certification shall be for the term of three (3) years commencing on the date this agreement is accepted. This is a (3) three year revolving term.

1.6.

Renewal Term - This agreement shall automatically renew and extend one (1) successive year on an annual basis until or unless either party provides written notice at least 90 days prior to the current expiration date.

1.7.

Escape clause - Upon proper written notice as described, the term will not automatically extend and renew at the end of the year following said notice and will terminate at the conclusion of the following full year. Example: At end of Year 1, shop provides 90 day written notice to withdraw from program....in this case, the shop will be removed from the program at the end of Year 2.

1.8.

Certification cancellations must be made in writing to: Assured Performance Network, 16-B Journey, Ste 200, Aliso Viejo, CA 92656, or by email to: [finance@assuredperformance.net](mailto:finance@assuredperformance.net).

1.9.

Certification fee is billed and paid annually. Payment for "Initial" term is due within 30 days of acceptance of this agreement and annual "Renewal" term payment must be received prior to annual expiration date.

1.10.

As a non-profit consumer advocacy organization, Assured Performance Collision Care, acting reasonably and in good faith, may deny, suspend or terminate your Certification-Recognition status as a result of any reasonable and substantiated consumer complaint(s) regarding any unfair, deceptive or fraudulent business practices at its own discretion. No Certification fee or OEM Marketing fee refunds will be issued if your certification status is terminated or cancelled due to any reasonable consumer complaint(s).

1.11.

You agree to adhere to the Assured Performance "Code of Ethics" and recognize that any violations may result in suspension, termination or cancellation of your Certification-Recognition status and loss of any related benefits, rebate rewards, and the rights to market/advertise or promote your Certification-Recognition status including all signage and use of applicable logos, badges and program name(s).

1.12.

You grant permission for related 3rd parties to share proof of compliance for certificationrecognition requirements, this includes I-CAR training status from I-CAR, third party CSI results from companies that may share data with Assured Performance in aggregate format and utilized in reporting, dashboards and marketing. You authorize sharing aggregate information with participating OEM's.

1.13.

Some OEM Certifications or Recognitions may require a dealership sponsor from an authorized dealer to be eligible to participate in their program and/or utilize any marketing or training programs.

1.14.

Official Recognition or Certification by any name provided as an integral part of the Assured Performance program may carry additional fees, requirements, and/or obligations. Each is an elective program that you may select or choose to opt-out of at your discretion.

1.15.

Cancellations must be made in writing to: Assured Performance Network, 16-B Journey,, Ste 200, Aliso Viejo, CA 92656, or by email to: [finance@assuredperformance.net](mailto:finance@assuredperformance.net).

1.16.

You grant permission for an Assured Performance inspector-auditor to reinspect your facility at any time during your term of Certification to validate proof of compliance as necessary (at no additional charge).

1.17.

These Terms and conditions are subject to change without notice.

## **2.0 Certification & Recognition Signage**

2.1.

Automaker Certification and Recognition signage is reserved for building interior use only. Placement of any signage outside of your collision repair facility or in outward facing window displays is strictly prohibited.

2.2.

Assured Performance Certification signage may be used on your property's interior or exterior in accordance with the terms and conditions of your certification.

2.3.

Certification is based upon annual renewals and inspections. Failure to renew your certification by your expiration date will require you to discontinue use of any Certified/Recognized signage and/or logos until your Certification is fully reinstated.

2.4.

The Assured Performance Sign, Trademark and Logos are property of Assured Performance Auto and Collision Care, Inc. and maybe displayed at this location according to the terms and conditions of certification.All Signs, Trademarks and Logos must be surrendered upon demand.

2.5.

All Automotive Original Equipment Manufacturer (OEM) including but not limited to Fiat Chrysler Automobiles (FCA), Hyundai Motor America (HMA), Kia Motors America (KMA), Nissan North America (NNA), and General Motors (GM), and Supplier, Insurer and Strategic PartnerSigns, Trademarks and Logos are the property of the respective OEM,Insurer, Supplier or Strategic Partner and maybe displayed at this location

according to the terms and conditions of certification and the individual owner of the Sign, Trademark or Logos. All Signs, Trademarks and Logos must be surrendered upon demand

2.6. Upon expiration, suspension or termination, you agree to discontinue any and all display or use within your sales, marketing and promotions and return all signage and any materials provided to Assured Performance via prepaid shipment to: Assured Performance Network, 16-B Journey, Ste 200, Aliso Viejo, CA 92656.

2.7. Shops continuing to display Signs, Trademarks and Logos of either Assured Performance or any other OEM, Insurer, Supplier or Strategic Partner after their Certification has been cancelled is infringing on these trademarks and will be pursued via all available legal means. If it becomes necessary for Assured Performance to dispatch an agent to remove signs the shop will be assessed a \$250 non-refundable fee.

2.8. Shops not complying with Assured Performance requests to stop infringing on OEM, Insurer, Supplier or Strategic Partner Signs, Trademarks and Logos will be turned over to the OEM, Insurer, Supplier or Strategic Partner brand enforcement divisions to pursue via their own legal means.

### **3.0 Marketing Materials**

3.1. You are granted limited rights to incorporate your certification status into your marketing and promotions as long as your business is in good standing and currently certified.

3.2. Use of any Assured Performance or automaker logos in any marketing web presence or promotions requires prior written consent from all applicable manufacturers and Assured Performance Network. (Contact your Account Manager for details on this approval process.)

3.3. Once Certified, Certification logos for Assured Performance and participating OEMs will be available through your account on [www.assuredperformance.net](http://www.assuredperformance.net) Each program logo will have separate terms and conditions.

3.4. Custom orders are final upon approval and not eligible for returns or refunds.

3.5. Participating shops are solely responsible for review and approval of all marketing material orders before submission.

3.6. Variations in color or binding are not considered manufacturing defects and do not qualify for replacement product.

3.7. Non-personalized products that are in their original, new, unopened and unused condition may be returned within 30 days. (Contact your Account Manager to replace the product, or to return the product with a refund of the purchase price.)

3.8. Return shipping costs associated with any return due to defective or damaged merchandise is reimbursable.

### **4.0 "Co-op Participation" Terms and Conditions**

Your acceptance of Assured Performance Co-Op terms and conditions is a pre-requisite to allowing your business to earn rebate-rewards provided by the participating OEM Auto Manufacturers, including but not limited to Fiat Chrysler Automobiles (FCA), Nissan North America (NNA), and General Motors (GM) as outlined below:

Only upon your election to enroll and participate in Assured Performance Co-Op, you agree to the

Co-Op terms and conditions and associated end user agreement. Acceptance of the terms and conditions of this agreement is illustrated by your e-signature and is a pre-requisite to allowing your business to earn the rebate rewards provided by the participating OE Manufacturers.

You agree to abide by the organization's Co-Op Bylaws and Standards of Practice. As such, you understand that if your membership is terminated as a result of disciplinary action by Assured Performance's board of directors, you will not be eligible to be reinstated or reapply for membership or Certification, and you forfeit all accrued rebate rewards. Upon your election to participate in the optional Co-op, the following terms and conditions apply. Repair Provider agrees to:

4.1.

Officially enroll in the Assured Performance Network Co-Op and comply with the Co-Op bylaws and Assured Performance Terms and Conditions.

4.2.

The Co-Op enables participating business to earn and receive rebates under the 100% Write Rebate Rewards Program, Certified Rewards program and other rebate programs offered from various vendors.

4.3.

There is no enrollment fee to participate in the Co-Op beyond the administration hold-back fee from rebates generated and earned.

4.4.

Shops must maintain their eligibility requirements at all times which may include Certified status and other such criteria.

4.5.

An administrative fee of up to a maximum of 25% of the transactions will be assessed and deducted from any rebate reward earned to cover the cost of administration and processing.

4.6.

Rebate rewards will be disbursed upon written request after six month maturation and only 2 times each year.

4.7.

For some rebate program eligibility, certification-recognition must be completed and all requirements met within one year (12 months) from enrollment.

4.8.

Wherein Certification is required to participate, rebates may be earned, but not disbursed, until full certification is achieved.

4.9.

Wherein Certification is required to participate, you must maintain your Certified status to earn and retain your accumulated rebates. Failure to maintain your Certified status for longer than a 30-day renewal grace period will result in forfeiture of all rebates calculated following the shops' de-certification date.

4.10.

You may also be required to use a specific electronic parts ordering software or auditing program to submit and process transactions in order to earn rebates and provide the "Certificate of Authenticity" to repair customers as applicable. You hereby acknowledge that all data submitted and totals used, reflect the total amount charged to the customer and it reflects all repair work performed and parts installed. Alterations, double invoicing, supplemental billing or transactions, and any other action that may distort the intended rebate-reward is strictly forbidden. Violations will result in loss of all rebate-reward and termination of your participation in Assured Performance Cooperative (Co-Op).

4.11.

Rebate-rewards transactions will be recorded in your Assured Performance Co-Op Member Reward Account and may be audited at any time. Disbursement of earned rebate-rewards is in accordance with the Bylaws of the Co-op and in compliance based on you being a member in good standing.

4.12.

You acknowledge and understand that all rewards will be received and processed through the Assured Performance Network Co-Op. The agreement for rebate-rewards is between Assured Performance Network and the participating OEM. Your agreement is strictly between

your business and Assured Performance Cooperative (Co-Op). The net total rewards generated will be credited to your rewards account less the administration and processing fee (25% of the total rewards, which is approximately 1.25% of total).

4.13.

Rewards will not become available for withdrawal for six (6) months from the origination date or (6) months from a previous request. Only funds which have reached maturation (be at least 6 months old), have been approved by the vendor and/or provider and where Assured Performance Network has received payment, hereby known as accrued rewards, will be available for disbursement or use. The origination date is defined as the date of the first recorded transaction with any Assured Performance Network approved vendor and/or provider.

4.14.

All rewards are subject to a 25% holdback, in the event of errors, charge-backs or other accounting adjustments based on the available funds at the time of request, up to a maximum holdback of \$5,000.00. Holdback funds will be released and a new holdback amount calculated at the time of the next request.

4.15.

These Terms and Conditions are subject to change without notice.

## **5.0 Non-Compliance**

5.1.

Any shop found to be in non-compliance will be notified in writing and given 90-days to become compliant. If still non-compliant at the end of the 90 day period, the business will be de-certified, ineligible for program benefits, forfeit all rebate revenue calculated effective the date of the initial non-compliance status, and must return any signage immediately.

5.2.

Assured Performance reserves the right to adapt certification requirements and establish new requirements as appropriate to accommodate the development of new technologies by our OE partners. To renew your certification status, you will be required to bring your shop up to date on any new requirements within the compliance period provided and/or upon renewal.

5.3.

Failure to maintain your compliance may result in termination and cancellation and loss of any certification-recognition benefits, rebate rewards, and the rights to market/advertise or promote your status including all signage and use of the logos and program name/s. In addition, non-compliant Shops will be removed from all Certified Shop Locator web sites managed under this program.

## **6.0 Upon Cancellation or Termination**

Assured Performance has an automatic shut-off and rewards harvest process to any rebates that require Certification-Recognition for eligibility. IMMEDIATELY UPON CANCELLATION OR TERMINATION and upon 90 DAYS failure to renew. If the shop is contacted and decline to renew, they are automatically cancelled and lose their rewards, NO EXCEPTIONS.

## **7.0 Data Collection and Privacy**

7.1.

Assured Performance Collision Care recognizes your inherent shop data ownership rights and will zealously protect the security of the data you have agreed to provide to us under the terms of the Certification-Recognition programs administered by Assured Performance. We will never sell or share your data with any third party, and we work hard to ensure that your data is safe, secure, and accessible by only you. All personal information submitted remains totally confidential.

7.2.

Throughout the Certification-Recognition process, your personal information remains private, privileged, and protected. Any personal information you submit, including user names, passwords, contact names, addresses, phone numbers, email addresses, are treated as confidential material. No third party may capture, data-mine, or use this data in any way without your specific authorization. Your personal information is not shared with any unauthorized third party. Further, any personal information is available for your use only and not shared with outside entities including the wholesale parts dealership or vehicle manufacturer.

7.3.

As part of our Certification-Recognition programs' and any participation you may elect for rebates and other benefits, you are required to report certain key performance indicators and estimate, repair order, and customer satisfaction data. Assured Performance, as the administrator of these programs will supply you with special software to process your repair order and estimate data (EMS) automatically for you, but may utilize a third party services to update and/or install the dataMANAGER application. To this end, while the data remains your and your data privacy is maintained, you are authorizing Assured Performance and/or our designated agent to install the specific software and data connector software (dataMANAGER) for managing and processing your estimate and repair order data for reporting to Assured Performance and the participating vehicle manufacturers including but not limited to Fiat Chrysler Automobiles (FCA), Hyundai Motor America (HMA), Kia Motors America (KMA), Nissan North America (NNA), and Hyundai Motor America (HMA) for purposes described under the Certification-Recognition program rules.

7.4.

As part of the services Assured Performance offers Members and Certified shops, by your election and decision to participate in a specific data management service, your data will be maintained in your dataSAFE account and safeguarded in a cloud-based data warehouse allowing you to maintain possession of your historical data. Further, you may elect to use an additional data management service (dataIQ) to process, analyze, generate reports, view KPI benchmarks, and utilize your data in other forms as you choose. You will have exclusive access to your data, but only your data. Your data will not be accessible by any other entities or shared with any other third-party entities without your direct and explicit consent (esignature).

7.5.

To the extent permitted by applicable law, you authorize Assured Performance and/or our designated agent to use this data to compile aggregated regional, national, or other specific statistical information. This data is intended to improve, monitor, and track your performance metrics. It is presented only in aggregate and does not reveal your specific shop's information or performance metrics to others without your permission.

7.6.

Our network is protected with state-of-the-art hardware and software, utilizing redundant hardware and software firewalls. Our security experts keep our software and firmware up-to-date as they stay abreast of current bug fixes, exploits and upgrades. We require validated user access via SSL (Secure Socket Layer) protocols to ensure only authorized users have access and that the data is protected while in transmit. Our architecture helps guarantee that your information is encapsulated and inaccessible to anyone but you.

## **8.0 Indemnification**

You (Collision Repair Provider) shall indemnify, defend and hold harmless, Assured Performance Network, Assured Performance Auto and Collision Care, its affiliates, and each of their respective directors, officers, employees, and agents from and against any and all claims, demands, losses, liabilities, costs and expenses, including attorneys' fees and inhouse counsel fees, to the extent arising from or alleged to arise from any act or omission of Collision Repair Provider or its employees, agents, or representatives, in operating its business or providing any services to its customers, including, but not limited to, claims (i)

alleging negligence or negligent repair; (ii) arising from personal injury, death, or property damage; (iii) relating to any breach of this Agreement or violation of laws, including Privacy Laws (as defined below); (iv) relating to business or employee claims; or (v) alleging that any materials or services supplied hereunder infringe the intellectual property rights of any third party. In addition to the indemnity obligations set forth herein.

## **9.0 Electronic Signature**

By signing with the electronic signature below, you acknowledge reading, understanding, and agreeing to the terms above and agree to pay the fees as described in accordance with the payment terms on your official invoice. Program enrollment, utilization of the services, receiving rebates, and processing transactions imply further acknowledgement and agreement to the terms and conditions as outlined in this document.