



**Manitoba  
Public Insurance**

**COMMERCIAL ACCREDITATION AGREEMENT**

This Agreement made on the 1<sup>st</sup> day of January, 2009

**BETWEEN:**

**THE MANITOBA PUBLIC INSURANCE CORPORATION**

**- AND -**

**(ACCREDITEE)**

## **TERMS AND CONDITIONS OF AGREEMENT**

### **1.00 IDENTIFICATION**

In this agreement “you”, “your” and “yours” refer to the accreditee named above while “MPI or MPIC” refers to The Manitoba Public Insurance Corporation.

### **2.00 DEFINITIONS**

“Commercial Accreditation Committee” means the committee that is set out in paragraph 7.01 of this agreement;

“Alternate Parts Coordinator” is the MPI employee that is assigned the responsibility to monitor the use of aftermarket, O.E.M., and recycled parts.

“ATA” means the Automotive Trades Association of Manitoba Inc.;

“Back-ordered Parts” means any part not available at the time of repair required to complete the repair that is on order from a supplier.

“Estimate” means an outline of proposed work required to place the Insured’s vehicle back into pre-accident condition.

“Finder-fee Cards” means a card designed for the purpose of compensating a third party who refers work to a Repair Shop.

“Giveaways” means an across the board reduction or benefit which affects the true cost of repairs including monetary merchandise or benefits.

“I-CAR” means Inter Industry Conference On Auto Collision Repair.

“MCVRA” means Manitoba Commercial Vehicles Repair Association Inc.

“MMDA” means the Manitoba Motor Dealers Association;

“MPIC” means The Manitoba Public Insurance;

“MPIC Intellectual Property” has the meaning set out in paragraph 4.23;

“MPI Names” means the words “Manitoba Public Insurance”, “Manitoba Public Insurance Corporation”, “MPI”, “MPIC” and “Autopac”;

“OEM” means original equipment manufacturer.

“Parts/Service Credits” means cash allowances to be applied towards the acquisition of parts or services.

“Pattern” means two (2) or more instances of fraudulent actions or behaviour within a 365-day period;

“Probation” means subjection of a repair firm to a period of more strenuous review and reinspection;

“RCO” means the Recycler’s Central Office.

“Signing Officer” means the officer of the accreditee duly authorized by MPI to sign on your behalf;

“Supplier” means provider;

“Surcharging” means a vendor billing MPI above a supplier’s suggested list price for a part or service where the part or service supplier has provided for a reasonable mark-up over the vendor’s cost.

“Trade Committee” – a committee consisting of 4 appointed members from the MCVRA and the equivalent of up to 4 representatives from MPI that will, amongst other things, negotiate an accreditation agreement tailored specifically for Commercial vehicle repair facilities.

### **3.00 PURPOSE**

**3.01** This agreement serves to set out the relationship between you and MPIC and by signing it the parties agree to abide by all of its terms, conditions and to maintain a positive and professional working relationship. The parties understand that any failure on their part to abide by the terms and conditions of this agreement may result in the termination of the agreement.

### **4.00 COLLISION ACCREDITATION**

#### **4.01 Maintain Accreditation Requirements**

You agree to maintain all of the requirements for accreditation outlined in your application for accreditation which is attached to and forms part of this agreement. You understand and agree that if you do not maintain these requirements, then your accreditation may or could be lost. As well, those requirements cannot be changed unless agreed upon by the MCVRA and MPI

#### **4.02 Notice of Loss and Regaining Accreditation**

You understand and agree that your accreditation shall be lost upon receipt of written notice from MPIC informing you of the loss of your accreditation. You further understand and agree that the written notice shall contain reasons for the loss of your accreditation. Upon losing your accreditation, you will only be able to regain your accreditation upon submitting another successful application, subject to the appeal provisions contained herein. You understand and accept that a subsequent application for accreditation will only be considered after a period of six months or a period determined by the appeal process has elapsed from the date that your accreditation was lost.

All suspensions or loss of accreditation will give rise to a right of appeal in accordance with Article 7:00 of this agreement. Should you take advantage of your right of appeal any suspension will not commence until your receipt of the appeal committee's decision. Pending the read receipt of the appeal committee's decision, MPI will continue to pay accounts when due.

#### **4.03 MPIC may inspect premises**

You agree to allow representatives of MPIC to inspect your repair facilities from time to time to confirm that all accreditation requirements are being maintained. You accept that these inspections will occur during normal business hours without prior notice.

The parties shall attempt to reschedule an inspection should the timing of same be unreasonable. A continued refusal to permit an inspection may result in the suspension of the accreditation.

#### **4.04 No Giveaways**

You agree that Giveaways of products or services related to repairs are not permitted, and agree to allow MPIC to deduct the value of Giveaways from the repair accounts which you submit. You understand and accept that a Pattern of Giveaways will result in the suspension of your accreditation.

#### **4.05 Proper Repairs**

You agree to complete repairs according to MPIC's Estimate, based on manufacturer and industry standards, including contract repairs utilizing products and recognized repair techniques that must ensure that the repairs meet all safety and quality standards, or OEM repair standards and recommendations. You understand and accept that a Pattern of improper repairs or billing for parts not supplied or for work not completed may result in the suspension of your accreditation.

Where a repair infraction has occurred, a warning letter will be sent to you. Should a second occurrence arise within a 365 day period from the date of the first letter, you may lose your accreditation.

#### **4.06 Temporary Repairs**

You agree to complete repairs promptly upon receiving the vehicle owner's authorization in order to provide service to the owner and to mitigate loss of use and additional costs. Undue delays in repairs will be reported promptly to MPIC and the owner. If the vehicle is safely drivable or temporary repairs can be made to make it safely drivable, the owner must be allowed to continue to drive the vehicle until the delay has been resolved. Any costs to complete the temporary repairs may be billed to MPI upon release of the vehicle.

#### **4.07 Repair Delays**

You agree that if you have caused undue delay in the repair of a vehicle, MPIC may give you written notice of these findings. Should a subsequent occurrence arise within a one year period, a second written notice will be sent detailing the loss of use cost which the undue delay has caused and will result in recovery from the repair facility.

If you disagree with either MPIC decision, the matter may be appealed in accordance with the "Dispute Resolution Section" 7.00.

#### **4.08 Provide a repair warranty**

You agree to warranty workmanship for a minimum period of one [1] year from the date the repairs were completed. You also agree to honour all suppliers and OEM warranties from the date the repairs were completed. You understand and agree that a failure to properly provide or honour such warranties may result in the suspension of your accreditation.

#### **4.09 Approval Required for Estimate changes**

You agree not to change an Estimate without first obtaining MPIC approval. You understand and accept that unapproved changes to Estimates may result in the suspension of your accreditation. (Parts price updates are not considered to be unapproved changes)

#### **4.10 Back-ordered Parts**

You agree to delete all charges related to Back-ordered Parts from invoices submitted by you to MPIC. You agree to subsequently invoice MPIC for the costs associated with the Back-ordered Parts after such Back-ordered Parts are installed by you. You agree that you will ensure that the vehicle owner has inspected the work done by you and has certified that the Back-ordered Parts have been installed satisfactorily. You further agree that one of your Signing Officers will sign the Estimate in order to certify that all the repairs listed have been completed and all itemized parts have been installed. You understand and accept that a Pattern of non-compliance with this paragraph may result in the suspension of your accreditation.

#### **4.11 Certified repairs**

Subject to paragraph 4.09, you agree that one of your Signing Officers will sign the Estimate in order to certify that all the repairs listed have been completed and all itemized parts have been installed. You understand and accept that MPIC may not pay for uncertified Estimates.

#### **4.12 Collect deductibles and depreciation**

You agree to collect any and all deductibles or depreciation from vehicle owners shown on the Estimate along with any other agreed contributions to the repair cost. You agree not to use Finder-fee Cards or issue Parts/Service Credits. You agree that you will not waive or otherwise offset any deductibles, depreciation or other agreed contributions. For greater certainty, you may place any deductible, depreciation or other agreed contribution amounts owing on your account, on condition that you enter into a written contractual agreement with the insured claimant stating that such amounts shall be repaid to you in a period not to exceed 90 days from the date repairs were completed (the "Repayment Period"). You further agree to impose a further condition on insured claimants stipulating that failure to pay such amounts owing to you within the Repayment Period shall cause interest at a fixed rate of interest to accrue on the amount owing, such rate to exceed the Bank of Canada's Prime lending rate. You understand and accept that a Pattern of non-compliance with this paragraph will result in the suspension of your accreditation.

#### **4.13 Proper signatures**

Before starting repairs, you agree to ensure that vehicle owners or their representatives have signed the repair authorization located on the back of the Estimate. After completing repairs, you agree to ensure that vehicle owners or their representatives have inspected the repairs and certified their satisfaction with the repairs by signing where indicated on the back of the Estimate. You understand and accept that MPIC may delay payment of the invoice until such compliance. You also understand and accept that a Pattern of non-compliance with this paragraph may result in the suspension your accreditation.

#### **4.14 Labour and material rates**

You agree to abide by the labour and material rates agreed to by the Industry and MPIC, and to not charge either MPIC or its insured more than those agreed upon rates. You understand and accept that a Pattern of non-compliance with this paragraph may result in a suspension of your accreditation.

When the estimate calls for parts to be retained for salvage, you agree to retain all items indicated for a period not less than 30 days following your receipt of payment from MPIC. Heavy Truck Exchange Program items are excluded from the scope of this provision.

Failure to produce the parts for pickup within the above mentioned time period will result in a recovery from you by MPI an amount that is up to 25% of the parts invoiced value. MPI agrees to investigate the feasibility of having you notify the Salvage Department to facilitate the pickup of retained parts.

#### **4.15 Use of own registered account number**

You agree not to use another repairer's registered account number unless:

- (a) you have completed work on a vehicle; and
- (b) the other repairer has also completed work on the same vehicle.

You understand and accept that a failure to abide by the terms of this paragraph may result in the suspension of your accreditation and registered account number.

#### **4.16 Charging only for own work**

You agree not to allow the use of your registered account number for another repairer's work, unless:

- (a) the other repairer has completed work on a vehicle; and
- (b) you have also completed work on the same vehicle.

You understand and accept that failure to abide by the terms of this paragraph may result in the suspension of your accreditation and registered account number.

#### **4.17 Recycled Parts Procurement**

You agree to contact the RCO to determine availability and charge MPI a price not to exceed more than 65% of the OEM list price. You also agree to be proactive to increase recycled parts usage based on the Letter of Understanding, following this agreement.

#### **4.18 Resolve part problems with the Suppliers**

You agree to immediately contact the Supplier upon discovering that the recycled or alternate parts you ordered are in unsatisfactory condition. You agree to contact the Claim Centre handling the claim if the problem cannot be resolved with the Supplier. If the problem still cannot be resolved, please contact the Alternate Parts Coordinator.

#### **4.19 Invoice for alternate parts**

If MPIC should ask you for the invoice received from the Alternate Parts Supplier, you agree to supply a copy to MPIC promptly, and in any case, not more than five (5) business days from the date of MPIC's initial request. You agree to contact the Alternate Parts Coordinator about any discrepancies in the pricing of alternate parts.

#### **4.20 Correct amounts to be invoiced**

You agree to allow MPIC to adjust improperly invoiced amounts to the correct amounts and to issue payment based on the corrected amount, providing the reasons for the changes. Written notice will be provided to the repairer in all cases when the net change exceeds \$10.00. MPIC will subrogate from repairers who overcharge or charge for new parts when recycled parts were available.

#### **4.21 Notify MPIC**

You agree to notify MPIC in writing if the name, ownership or location of its business is changing. You further agree that where you have advance knowledge of such a change, you shall notify MPIC not less than ten (10) business days prior to the effective date of such change.

#### **4.22 Representation by the MCVRA**

You agree to allow the MCVRA to negotiate on your behalf any and all changes to this agreement. You further agree to abide by those changes upon your notification of such changes.

#### **4.23 Permission to use trademarks, etc. required**

You agree not to make use of any and all MPIC Names, any and all MPIC logos, or any other trademark, logo, business name, trade name which is owned and/or used by MPIC (the "MPIC Intellectual Property"), without the prior written permission of MPIC. You understand and accept that if you use any and all of the MPIC Intellectual Property without first obtaining the prior written permission of MPIC, your accreditation will be suspended. Upon suspension of your accreditation, you will remove the MPI Intellectual Property from your premises within 30 days. Failure to remove the MPI Intellectual Property within 30 days may result in MPI initiating legal proceedings against you, including but not limited to proceedings requesting injunctive relief.

### **5.00 MPI PROMISES**

#### **5.01 Pay accounts within 30 days**

MPIC agrees to pay your accounts within thirty (30) days of receipt, provided you have submitted your accounts promptly and correctly according to this agreement.

#### **5.02 Deductibles/Depreciation**

MPIC agrees to explain to the owners of accident-damaged vehicles, the contents of estimates, and the repair related procedures, including the requirement on the part of the owner, if available, to pay any deductibles and./or depreciation. MPIC further promises to clarify to the owner, if available, any situations involving old damage or aftermarket and recycled parts if called for in the estimate prior to releasing the estimate to the customers.

#### **5.03 Notification of changes**

MPIC agrees to notify you promptly of any changes to this agreement negotiated on your behalf by the MCVRA.

MPIC agrees to supply you with a complete and up-to-date Commercial Estimating Manual (including interdepartmental memos to MPI Estimating staff). You agree that any future changes to procedures and/or practices will be submitted to MCVRA prior to implementation. MPIC may consider revisions to proposed changes in procedures and/or practices as a result of such discussions. This manual will be made available upon signing this agreement

#### **5.04 Technology and Training**

MPIC will stay abreast of new repair techniques and equipment. From time to time, representatives from the Corporation and the MCVRA will meet to discuss technological changes in repairing and estimating. The Corporation will also participate with the MCVRA in training courses for areas of mutual interest, e.g., Inter-Industry Conference on Auto Collision Repair (I-CAR), trade committee and OEM manufacturer's standards.

#### **5.05 Re-inspection of Repaired Vehicles**

MPIC will re-inspect a number of repaired vehicles in all areas of Manitoba on a random and continuing basis, in order to satisfy owners and the Corporation that good quality, safe repairs are being completed in accordance with estimate requirements. If there are suspected errors in repair, the MCVRA will have the right to have representation at the re-inspection.

#### **5.06 Estimates**

All estimates provided by MPI are to be based on manufacturers, OEM or industry standards.

#### **5.07 Copy of Estimates to RCO**

MPI agrees to submit a copy of estimates to the RCO by the end of the same business day.

### **6.00 SUSPENSION OF ACCREDITATION/REFUSAL TO DO BUSINESS**

#### **6.01 Written Notice of Suspension**

You understand and agree that your accreditation privileges will be suspended in accordance with the provisions of this agreement 10 working days following receipt of written notice from MPIC. However, if an appeal of that suspension is requested in accordance with the provisions of paragraph 7.03 the suspension will not commence until your receipt of the committee's decision. You further understand that MPIC will provide the reasons for such suspension within the written notice.

#### **6.02 Reasons for Suspension**

Accreditation privileges may be suspended for reasons including but not limited to the following:

- Failure to maintain minimum qualifications for accreditation.
- Deliberate attempt to defraud the Corporation or a conviction of fraud with respect to vehicles and/or repair work for which the Corporation has made payment.

- Failure to collect deductibles.
- Submission of invoices for work done by other repairers. This does not include work done on a proper sublet basis for which separate invoices may be required.
- Making false statements on an application for accreditation.
- Any repair shop surcharging on parts. Exceptions must be cleared with the Alternate Parts Coordinator prior to billing.
- Any repair shop failing to comply with the Stolen Wrecked Vehicle Monitoring Program rules and regulations.
- Any Body Integrity Inspection Station that has its ability to perform Body Integrity Inspections revoked, suspended, or cancelled by Vehicle Standards and Inspection.

### **6.03 Length of Suspension**

You understand and accept that MPIC may impose whatever length of suspension of your accreditation privileges as MPIC, in its sole discretion, acting reasonably, determines to be just in the circumstances.

Notwithstanding the foregoing, MPIC agrees to limit 1<sup>st</sup> time collision accreditation suspensions to a period not to exceed six (6) months.

## **7.00 DISPUTE RESOLUTION**

### **7.01 Resolving Disputes**

You understand and agree that the Commercial Accreditation Committee is the final arbiter of all disputes arising from this agreement. You understand and agree that the Commercial Accreditation Committee is composed of five [5] members, as follows:

- (a) A non-voting chairperson with no connection to MPIC, the MMDA, the ATA, or MCVRA and mutually agreed to by MPIC and the MCVRA;
- (b) two members from the MCVRA; and
- (c) two MPIC appointees.

### **7.02 Submission to Review**

You understand that either you or MPIC may ask the Commercial Accreditation Committee to review a dispute. You understand that you may ask the Commercial Accreditation Committee for a review of a dispute by applying to MPIC in writing.

### **7.03 Time Limit for Receipt of Application**

You understand that MPIC must receive a written request for review within ten (10) working days of receipt of the written notification of the loss of accreditation or refusal to do direct business.

#### **7.04 Notification of Hearing**

Upon MPIC's receipt of the request, you understand and agree that you must wait for notification from MPIC of the date, time and location of the hearing. You understand and agree that upon notification of the date, time and location of the hearing, you must attend in person at the appointed time and location. You understand and agree that you may represent yourself or be represented by a representative of your choice.

#### **7.05 Minutes**

Minutes will be taken during the presentation of information at the appeal hearing and will be available to the Corporation and representatives of the ATA/MMDA/MCVRA. However all discussions during the decision process will remain confidential.

#### **7.06 Decision to be Rendered**

You understand and agree that the Accreditation Committee shall provide a decision with respect to the dispute as soon after the hearing as possible, but in any event not more than twenty (20) days from the date the hearing was completed.

#### **7.07 Winning an Appeal**

You understand and agree that you are considered to have won your appeal if at least two members of the Commercial Accreditation Committee rule in your favour. You understand and agree that MPIC is considered to have won its appeal if at least three members of the Accreditation Committee rule in its favour. You further agree that the Accreditation Committee referred to in paragraph 7.01 will stand as the final arbiter for all disputes arising from this agreement and that the Commercial Accreditation Committee's decision shall be final and binding on you and MPI.

### **8.00 GENERAL PROVISIONS**

#### **8.01 Term and Termination**

This Agreement will be for two years from January 1<sup>st</sup>, 2009, to December 31<sup>st</sup>, 2010. After December 31st 2010, either party may terminate this Agreement at any time by giving ninety [90] days notice in writing to the other party.

#### **8.02 Independent Contractor**

You agree that you are an independent contractor, and that the agreement does not create the relationship of employer and employee, of principal and agent, of joint venture, or of partnership between you and MPIC or between MPIC and any of your officers, employees or agents.

### **8.03 No Assignment**

You understand and agree that neither you nor MPIC shall assign or transfer this agreement or any of the rights or obligations under this agreement without first obtaining written permission from the other. You further understand and agree that no assignment or transfer of this agreement shall relieve a party of any obligations under this agreement, except to the extent they are properly performed by such party's permitted assigns.

### **8.04 Applicable Law**

You understand and agree that this agreement shall be interpreted, performed and enforced in accordance with the laws of Manitoba.

### **8.05 Waiver**

You understand and agree that any failure or delay by either party to exercise or partially exercise any right, power or privilege contained in this agreement will not be deemed to be a waiver of such right, power or privilege. You further understand and agree that the waiver by either party of a breach of any term, condition or provision of the agreement shall not be construed as a waiver of any subsequent breach.

### **8.06 Performance of Necessary Acts**

You agree to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this agreement.

### **8.07 Headings**

You understand that paragraph headings used in this agreement are for convenience only, and shall not be deemed to be part of this agreement.

### **8.08 Counterparts**

You understand and agree that this agreement may be executed in any number of parts. Each such part will have the same effect as if both parties had signed the same document. You further agree that all parts shall be construed together and shall constitute one agreement.

### **8.09 Execution by Fax**

You understand and agree that the execution and delivery of this agreement by facsimile transmission shall be sufficient to constitute proper execution and delivery of this agreement.

**8.10 Singular includes the Plural**

You understand and agree that in this agreement, unless the context clearly otherwise requires, the singular includes the plural and vice-versa.

**8.11 Changes**

Both parties agree that no amendment or change to or modification of the Accreditation Agreement shall be valid unless it is in writing and signed by both parties. Both parties further agree that if any portion of this agreement is for any reason invalid, that provision shall be considered separate and severable from the Accreditation Agreement, and the other provisions of this agreement shall remain in force and continue to be binding upon the parties as though the invalid provision had never been included in the Accreditation Agreement.

**8.12 Notice**

You understand and agree that any notice or other communication to you under this Agreement shall be in writing and shall be delivered personally or sent by registered mail, postage prepaid to the address described on the general information sheet of your application to:

**Quality Control Manager  
Manitoba Public Insurance Corporation  
Physical Damage Centre  
P.O. Box 45064, Regent Postal Outlet  
Winnipeg, MB, R2C 5C7**

You further understand and agree that any notice or communication sent by registered mail shall be deemed to have been received on the third business day following the date of mailing. If mail service is disrupted by labour controversy, notice shall be delivered personally.