

THIS SALES AGENCY AGREEMENT (the, “Agreement”) is made and entered into as of the ____ day of _____, 20__ (the “Effective Date”), by and between **CENTURY AUTOMOTIVE SERVICE CORPORATION**, a corporation organized under the laws of the State of California, with its principal office located at 6565 Americas Parkway N.E., Suite 1000, Albuquerque, New Mexico 87110 (the, “Company”) and _____, _____ organized under the laws of the State of ____ with its principal office located at _____ (the “Sales Agency”), hereinafter, Sales Agency and Company shall also be referred to, individually, as a “Party” and, collectively, the “Parties”.

RECITALS

WHEREAS, the Company is authorized to market, sell, issue, and administer motor vehicle service agreements, vehicle protection agreements, and other after-market agreements (collectively, “Service Agreements”), and Sales Agency _____; and

WHEREAS, Company wishes to enter into an agreement with Sales Agency to market vehicle service contracts (hereinafter, collectively, the “Product” or “Products”) to _____ (the “Accounts”) for Company on a non-exclusive basis; and

WHEREAS, Sales Agency is willing and able to service and perform certain administrative tasks for the Accounts according to the terms and conditions hereinafter set forth, and to ensure that Company’s Confidential Information and goodwill will be preserved; and

NOW, THEREFORE, in consideration of the promises of each Party to the other herein contained, the Parties hereby mutually agree to the following:

TERMS

SECTION 1 **DEFINITIONS**

- 1.1 “**Accounts**” shall mean the _____ to which Sales Agency markets Products for Company.
- 1.2 “**Commission**” shall mean the full compensation to Sales Agency for services provided under this Agreement shall be set forth in Exhibit C attached hereto.
- 1.3 “**Fiscal Quarter**” shall mean Company’s internal fiscal quarterings of the calendar year as follows: Quarter One- January through March; Quarter Two: April through June; Quarter Three: July through September; and Quarter Four: October through December.
- 1.4 “**Products**” shall mean those products listed in Exhibit A attached hereto and any such additional products that Company and Sales Agency may agree to sell hereinafter.
- 1.5 “**Sales Agency**” shall mean an independent contractor who markets Products to the Accounts for Company.
- 1.6 “**Territory**” shall mean the State of _____ and such other states Company and Sales Agency agree to include as a Territory listed on Exhibit B attached hereto.

SECTION 2

TERM

2.1 The initial term of this Agreement shall commence as of the Effective Date and continue unless the Agreement is terminated by mutual agreement of the Parties or by either Party as set forth in Section 3 below.

SECTION 3
TERMINATION

3.1 Either Party may terminate this Agreement at any time, and for any reason or no reason, upon ninety (90) days prior written notice to the other Party.

3.2 Company may also terminate this Agreement immediately upon written notice for violation of law or non-compliance with this Agreement by Sales Agency.

3.3 This Agreement shall automatically terminate upon death of Sales Agency if said Sales Agency is an unincorporated individual or the sale of Sales Agency if said Sales Agency is an incorporated business.

3.4 If Sales Agency and/or any Account have not produced any Product for Company for a period of six (6) months, Company may terminate Sales Agency and/or the Account per Section 3.1 herein.

3.5 Termination of this Agreement shall not terminate the obligation of Company to render payment to Sales Agency of the commission in connection with the Products sold by Sales Agency's Accounts whether prior to or after the termination of this agreement. Company's obligation to pay Commission on policies or contracts sold by Sales Agency's Accounts shall survive until such Accounts cease to sell Company's Products and for a period of no longer than twelve (12) months thereafter, notwithstanding the earlier termination of this agreement for any reason.

SECTION 4
EFFECT OF TERMINATION

4.1 In the event of the termination of this Agreement, both Parties shall cooperate in the orderly winding up of their relationship. Sales Agency commits to coordinate the return or destruction of Company's Confidential Information and other materials, including, but not limited to, any certificates of contracts that may be in Sales Agency's possession, either blank or completed, together with all premium statements and worksheets, files, lists of contract holders, lists of accounts, printouts, programs and all other records, books, documents and forms belonging to the Accounts.

4.2 The termination or cancellation of this Agreement for any reason shall not terminate the duties and obligations of the Parties for Products sold by the Accounts until their expiration, including, but not limited to, Sales Agency's payment to Company of any sums received by Sales Agency in connection with the Products sold by Sales Agency's Accounts, as well as the refund of any amounts owed by Sales Agency to Company related to the original sale of Products by the Accounts.

4.3 The termination or cancellation of this Agreement for any reason shall not in any manner affect or impair the rights of any customer to receive benefits accrued prior to the effective date of such termination.

SECTION 5
WARRANTIES

5.1 Each Party represents and warrants to the other that:

- (i) it has the full power to enter into this Agreement and to perform its obligations hereunder;
- (ii) this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms; and
- (iii) this Agreement does not contravene, violate or conflict with any other agreement of such Party.

SECTION 6

SALES REPRESENTATION

6.1 Subject to the terms and conditions of the Agreement, Company appoints Sales Agency as Company's non-exclusive representative for the Products in the Territory, and Sales Agency accepts such appointment and agrees to offer the Products to the Accounts.

6.2 This Agreement authorizes Sales Agency to act for Company only for the purposes covered by the terms and conditions herein. Sales Agency agrees not to bind Company, nor any company it is affiliated with, to underwriting Products for an Account.

6.3 Sales Agency shall offer the Products in strict accordance with the following:

- (i) only provide Accounts with written materials, including, but not limited to, brochures, flyers, and policy wording that have been pre-approved and provided by Company;
- (ii) explain to Accounts that the purchase of the Products is not required in order to purchase unrelated and/or ancillary arrangements from Sales Agency;
- (iii) clearly disclose to Accounts the name of Company and the underwriter of the Products;
- (iv) process enrollment of Accounts and collect payment on behalf of Company; and
- (v) refer Accounts to Company with any questions regarding coverage, limitations and exclusions.

6.4 This Agreement and the authority herein may not be assigned or subcontracted by Sales Agency to another person or entity, without the written approval of Company.

6.5 All Products sold pursuant to this Agreement shall be sold on behalf of Company and pursuant to the instructions provided to Sales Agency by Company.

6.6 The Sales Agency shall not in any manner whatsoever vary and/or modify the terms and conditions set forth in any Product or other document used for services provided by Company, and the Sales Agency shall further complete these documents in the manner as prescribed by Company.

SECTION 7

INDEPENDENT CONTRACTORS

7.1 The relationship of Company and Sales Agency established by this Agreement is that of independent contractor, and nothing contained in this Agreement shall be construed to:

- (i) give either Party the power to direct and control the day-to-day activities of the other, or
- (ii) constitute the Parties as partners, joint venturers, co-owners or otherwise as participants in a joint undertaking; or
- (iii) allow Sales Agency to create or assume any obligation on behalf of Company for any purpose whatsoever.

7.2 All financial and other obligations associated with Sales Agency's business are the sole responsibility of Sales Agency.

SECTION 8

COMPENSATION

8.1 The full compensation to Sales Agency for services provided under this Agreement shall be set forth in Exhibit C attached hereto.

8.2 Company will remit compensation to Sales Agency on a monthly basis.

8.3 Sales Agency agrees to report Product cancellation/refunds to Company in a timely manner. Upon first indication that Account is no longer selling Products, Sales Agency shall assist Company in the collection of any and all premiums and/or fees owed, and retrieve from Account any Products and/or other related supplies that the Account may have in its possession.

8.4 Sales Agency agrees that it shall be responsible for any commission chargebacks due to cancellations or surrender of any underlying Products sold to/by the Accounts. Such chargebacks shall be calculated upon a pro-rata percentage of the amount charged for the Product cancellation. Sales Agency agrees that this obligation shall survive the termination of this Agreement.

SECTION 9

ADDITIONAL OBLIGATIONS OF COMPANY

9.1 Company will provide reports and report analysis related to Sales Agency's Accounts for Sales Agency on an as-needed basis.

9.2 As requested by Sales Agency, Company will provide information and assistance to Sales Agency in order to support Sales Agency's servicing of its Accounts.

SECTION 10

PRODUCT REVIEW

10.1 Both Parties agree that Products may be changed, discontinued, or added at the sole discretion of Company, including, but not limited to, pricing, coverages, limits, features and benefits.

10.2 Company reserves the right, at any time, to review the Product profitability.

- (i) in the event Company determines a fee increase or decrease is needed for a Product, Company agrees to notify Sales Agency at least thirty (30) days prior to the effective date of such a fee adjustment for Sales Agency Product offering.
- (ii) in the event Company determines a Product revision, replacement, or termination is needed for a Product, Company agrees to notify Sales Agency at least thirty (30) days prior to the effective date of such revision, replacement, or termination. The termination of a Product shall not constitute a termination of this Agreement.

10.3 Company reserves the right give notice directly to Sales Agency's Accounts.

SECTION 11

ADDITIONAL OBLIGATIONS OF SALES AGENCY

11.1 Sales Agency agrees to abide by rules and regulations of Company and the underwriting insurance company, in offering Products under this Agreement, including, but not limited to, any rules and regulations regarding sales of the Products via the internet or by telephone.

11.2 Sales Agency agrees to use only advertising and offering materials, brochures, applications, certificates, and policy forms and descriptions of the Products as furnished and/or pre-approved by Company.

11.3 Any marketing materials, or advertising information, including, but not limited to, information and links to Company's website, must be approved by Company prior to usage. All material shall be property of either the underwriting insurance company or Company, and must be used in accordance with their rules, as they may be revised from time to time.

11.4 Sales Agency may not use the logo or service marks or registered trademarks of Company or the underwriting insurance company, as the case may be, without permission.

11.5 Sales Agency shall:

(i) maintain, in full force and effect, all necessary licenses, qualifications and/or other approvals as may be required under applicable state or Federal laws, rules or regulations;

(ii) perform its duties and obligations hereunder, including, but not limited to, states' laws and regulations related to the Products; and

(iii) ensure that any of its employees and agents maintain, in full force and effect, all necessary licenses, qualifications and/or other approvals as may be required under applicable state or federal laws, rules or regulations, to perform its duties and obligations hereunder, including, but not limited to, states' laws and regulations related to the Products.

11.6 Company shall require Sales Agency's employees and agents who offer the Products to follow:

- (i) the terms and conditions for offering the Products as outlined in this Agreement;
- (ii) the terms and conditions of the issued Products; and
- (iii) the rules and regulations of any governmental authority governing the sale of the Products, including, but not limited to, any rules and regulations regarding offering, soliciting or negotiating the Products.

SECTION 12

FEES

12.1 Company shall assess administrative fees per Product sold as reflected in Exhibit A, which are subject to change from time to time.

SECTION 13

TRADEMARKS

13.1 During the term of this Agreement, Sales Agency and its Accounts shall have the right to indicate to the public that it is authorized seller of the Products and to advertise within the Territory such Products under the trademarks, marks, and trade names that Company may adopt from time to time (“Company’s Trademarks”).

13.2 Sales Agency shall not alter or remove Company’s Trademarks applied to the Products. Except as set forth herein, nothing contained in this Agreement shall grant Sales Agency any right, title or interest in Company’s Trademarks. Sales Agency agrees that Company owns all right, title, and interest in the product lines that include the Products and in all of Company’s patents, trademarks, trade names, inventions, copyrights, know-how, and trade secrets relating to the design, manufacture, operation or service of the Products.

13.3 The use by Sales Agency of any of these property rights is authorized only for the purposes set forth herein, and, upon termination of this Agreement for any reason, such authorization shall cease.

SECTION 14

CONFIDENTIAL INFORMATION

14.1 Sales Agency acknowledges that by reason of its relationship to Company hereunder it will have access to certain information and materials concerning Company, including, but not limited to, premium statements, files, lists of contract holders, lists of accounts, sales figures from accounts, personnel data, financial statements, cost and expense data, tax matters, trade secrets, marketing and customer data, corporate structures, internal accounting and organization documents, outside consultants reports, know-how related to their respective businesses, technical data, business, product or marketing information, strategies or plans (hereinafter, collectively, “Company’s Confidential Information”) that are confidential and of substantial value to Company, which value would be impaired if such information were disclosed to third parties.

14.2 Sales Agency agrees that it will not use in any way for its own account or the account of any third party, nor disclose to any third party, any such Company’s Confidential Information without the prior written consent of Company. Sales Agency shall take every reasonable precaution to protect the confidentiality of such Company’s Confidential Information. Upon request by Sales Agency, Company shall advise whether or not it considers any particular information or materials to be confidential.

14.3 In the event of termination of this Agreement, there shall be no use or disclosure by Sales Agency of Company’s Confidential Information.

14.4 This section shall not apply to Company’s Confidential Information which is or becomes generally known and available in the public domain through no fault of Sales Agency.

SECTION 15

DATA PROTECTION

15.1 Any information and material Company has entrusted to Sales Agency and all data and information submitted to Sales Agency by or on behalf of Company, obtained by Sales Agency in connection with this Agreement, or to which Sales Agency has access in connection with the Sales Representation is, will be and shall remain the exclusive property of Company and underwriter (“Company Property”).

15.2 Sales Agency shall:

- (i) keep Company Property in due care;
- (ii) separate, mark or otherwise identify Company Property as being the exclusive property of Company;
- (iii) be responsible for Company Property’s safekeeping; and
- (iv) promptly and fully return Company Property upon Company’s request or if no longer required. Information about customers and sensitive non-public data (“Personal Information”) is to be afforded the appropriate, maximum security with regard to transfer and storage pursuant to applicable laws and regulations. Sales Agency shall ensure that appropriate technical and organizational measures are taken against unauthorized or unlawful processing of Personal Information and against accidental loss or destruction of, or damage to, Personal Information.

SECTION 16

AUDIT

16.1 Subject to reasonable prior notice, Sales Agency shall grant Company and its authorized representatives, accountants, attorneys, and investigators right of free access during normal business hours at Sales Agency’s place of business for the purpose of inspecting and auditing the books and records maintained by Sales Agency with respect to the Products sold by the Sales Agency and its Accounts. The Company, at its expense, may make copies and retain any of such books and records.

SECTION 17

INDEMNIFICATION

17.1 Sales Agency shall indemnify, defend and hold Company, its directors, officers, and employees harmless from and against any and all costs, expenses, liabilities, losses, damages, injunctions, suits, actions, fines, penalties, levies, assessments, claims and demands of every kind or nature, including reasonable legal costs and attorney’s fees, made by or on behalf of any party, person or governmental authority, arising out of, or resulting from, any breach or default of Sales Agency’s representations, covenants, or obligations under this Agreement or Sales Agency’s, Sales Agency’s employees’, or Sales Agency’s agents’ negligence, willful misconduct, or failure to comply with states’ laws and regulations.

17.2 Company shall indemnify, defend and hold Sales Agency harmless from and against any and all costs, expenses, liabilities, losses, damages, injunctions, suits, actions, fines, penalties, levies, assessments, claims and demands of every kind or nature, including reasonable legal costs and attorney’s fees, made by or on behalf of any party, person or governmental authority, arising out of or resulting from any breach or default of Company’s representations, covenants, or obligations under this Agreement or Company’s employees’ negligence or willful misconduct.

SECTION 18
GOVERNING LAW

18.1 This Agreement shall be construed, and the legal relations between the Parties hereto shall be determined, in accordance with the laws of the State of New Mexico, excluding its conflicts of law principles.

SECTION 19
VENUE AND JURISDICTION

19.1 If any dispute or disagreement shall arise in connection with any interpretation of this Agreement, its performance or nonperformance, and, if the dispute cannot be settled through negotiation, the Parties agree first to try in good faith to settle the dispute by non-binding mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to litigation.

19.2 If the dispute has not been resolved within thirty (30) days after their good faith effort to mediate, the Parties hereby irrevocably and unconditionally agree to submit the dispute to arbitration administered by the American Arbitration Association (“AAA”) under its Commercial Arbitration Rules. The Parties further agree that the above controversy be submitted to one arbitrator to be selected under its rules and that they will faithfully observe this agreement and the rules, that they will abide by and perform any award rendered by the arbitrator(s), and that a judgment of the court having jurisdiction may be entered on the award.

19.3 The Parties expressly waive any right to trial by jury in any dispute, whether sounding in contract, tort or otherwise, between any of the Parties arising out of or related to the transactions contemplated by this Agreement or any document executed or delivered in connection with this Agreement. Any Party may file an original counterpart or a copy of this Agreement with any court as written evidence of the consent of the Parties to the waiver of their right to trial by jury.

SECTION 20
ASSIGNMENT

20.1 This Agreement shall inure to and bind the successors and assigns of the respective Parties. Except in conjunction with the sale of all or substantially all of its assets, neither Party may sell or assign any of its rights or delegate any of its duties or obligations under the terms of this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. No such permitted sale or assignment shall relieve Company or Sales Agency of its liabilities under this Agreement, including all payment obligations, which shall continue after the termination of this Agreement.

SECTION 21
SEVERABILITY

21.1 If any portion of this Agreement be held by a court of competent jurisdiction to be invalid or unenforceable, such provision or requirement shall be construed, limited or, if necessary, severed, but only to the extent necessary to eliminate such invalidity or unenforceability, and the other provisions and requirements of this Agreement shall remain unaffected.

SECTION 22
ENTIRE AGREEMENT

22.1 The terms of this Agreement contain the complete, full, and exclusive understanding of Company and Sales Agency with respect to the subject matter hereof and supersedes any and all other oral or written agreements between the Parties hereto.

SECTION 23
AMENDMENTS

23.1 Any amendments, modifications, additions or supplements to this Agreement shall be effective and binding on the Parties hereto only to the extent they are in writing and signed by both Parties.

SECTION 24
WAIVER

24.1 The waiver by either Party of a breach, failure, right, remedy or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any other breach, failure, right, remedy or violation, whether or not similar, nor shall any waiver constitute a continuing waiver.

SECTION 25
INTERPRETATION

25.1 This Agreement shall be construed and interpreted fairly, in accordance with the plain meaning of its terms. Both Parties contributed to the drafting of this Agreement, and there shall be no presumption or inference against, and any ambiguity shall not be interpreted against either Party as drafter of the Agreement.

SECTION 26
SURVIVAL

26.1 Any provision of this Agreement which imposes an obligation after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement. Further, the expiration or termination of this Agreement will not relieve the Parties of any liability or obligation that accrued prior to such expiration or termination.

SECTION 27
NOTICES

27.1 All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "Notice") must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to time in accordance with this Section). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, nationally recognized overnight courier, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (i) upon proof of receipt by the receiving Party; and (ii) if the Party giving the Notice has complied with the requirements of this Section.

Notice to Sales Agency:

Attention: _____

Notice to Company:

Century Automotive Service Corporation
Attention: Compliance Department
6565 Americas Parkway N.E., Suite 1000
Albuquerque, New Mexico 87111

SECTION 28
COUNTERPARTS

28.1 This Agreement may be executed in counterparts and by electronic means, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

SECTION 29
DISCLAIMER

29.1 Except as specifically provided in this agreement, neither party makes, and each party expressly disclaims, any representations or warranties in connection with this agreement, whether express, implied, statutory or otherwise, including, without limitation, warranties of merchantability, fitness for a particular purpose, non-infringement of third party rights, title, any warranties arising out of a course of performance, dealing or trade usage, and their equivalents under the laws of any jurisdiction.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have duly executed the Agreement as of the day and year first above written.

Company:

Century Automotive Service Corporation,

a California corporation

Sales Agency:

a _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT A
PRODUCTS AND ASSOCIATED FEES

[LIST PRODUCTS SUBJECT TO AGREEMENT]

\$ ____ Administration fee on [LIST PRODUCTS].

[DESCRIBE OTHER FEES OR COMPENSATION]

EXHIBIT B
TERRITORY

THE SALES AGENCY MAY OFFER THE PRODUCTS DESCRIBED IN EXHIBIT A IN ANY STATE THAT CENTURY AUTOMOTIVE SERVICE CORPORATION IS LICENSED TO DO BUSINESS.

EXHIBIT C
SALES AGENCY COMPENSATION

[DESCRIBE SALES AGENCY COMPENSATION]