

**TOCO WARRANTY, INC. PAYMENT PLAN AGREEMENT**

Contract No. \_\_\_\_\_

**PURCHASER BILLING INFORMATION**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**SELLER INFORMATION**

Toco Warranty Inc.  
8501 Fallbrook Ave. Ste. 225  
West Hills, CA 91304  
Phone: 1-855-298-8626

**MONTHLY PAYMENT PLAN TERMS:**

Monthly Payment Amount:  
\$ \_\_\_\_\_

**Payment Option 1: Authorization for Credit Card Payment**

The Monthly Payment Amount may be paid by Purchaser through, and Purchaser hereby authorizes Toco to process, the applicable number of consecutive monthly charges using Purchaser's credit card account listed below, in the amounts and on the dates disclosed under the Payment Plan Terms, until such time as the Monthly Payment Amount, together with the applicable charges described on page 2 hereof (the "Applicable Charges"), are fully paid, or until such time as Toco has received written notification of termination from Purchaser in time to allow reasonable opportunity to act on it.

XXXX-XXXX-XXXX-\_\_\_\_\_  
Credit Card Number

\_\_\_\_\_  
Expiration Date (MM/YY)



I authorize charges to my credit card account for payment of the Monthly Payment Amount together with all Applicable Charges in accordance with this Agreement.

**Payment Option 2: Authorization for Bank Account Direct Debit**

The Monthly Payment Amount may be paid by Purchaser through, and Purchaser hereby authorizes Toco to instruct Purchaser's financial institution described below to make the applicable number of consecutive monthly payments in the amounts and on the dates disclosed under Payment Plan Terms, from the account listed below, by automatic electronic debit of Purchaser's checking or savings account. This authority will remain in effect until such time as the Monthly Payment Amount, together with all Applicable Charges, are fully paid, or until such time as Toco has received written notification of termination from Purchaser in time to allow reasonable opportunity to act on it.

\_\_\_\_\_  
Name of Financial Institution

\_\_\_\_\_  
Routing Number (Must be 9 digits long)

\_\_\_\_\_  
Account Number

I authorize charges to be debited against my bank account for the payment of the Monthly Payment Amount together with all Applicable Charges in accordance with this Agreement.

This Payment Plan Agreement ("Agreement") is between Purchaser and Toco Warranty, Inc. ("Toco"). Purchaser has purchased a service contract ("Contract") from Seller that is issued through Toco. This Agreement is entered into to enable Purchaser to pay the Contract pursuant to an installment payment program.

Please refer to the Contract for the terms and conditions regarding the Contract. Subject to the provisions regarding cancellation of this Agreement ("Cancellation") outlined in the contract, Purchaser promises to pay Toco the recurring Monthly Payment in accordance with the payment method selected by Purchaser from the options set forth above.

**PURCHASER SHALL HAVE THE RIGHT, AT ANY TIME TO CANCEL THE CONTRACT BY NOTICE TO Toco ("Termination Notice") OR BY NONPAYMENT. PURCHASER SHALL HAVE NO OBLIGATION TO MAKE ANY INSTALLMENT PAYMENTS AFTER CANCELLATION.**

Subject to the Cancellation outlined in the contract, unless Toco shall previously have received a Termination Notice, (i) a late payment fee may be imposed in the amount of \$5.00 in respect of any payment not received by Toco within five days of the scheduled Payment Date therefore (the "Late Charge"), and (ii) in the event that any scheduled payment is not made on or before the scheduled Payment Date, as provided in the Payment Plan Terms above, Toco may, and is authorized to, cancel Purchaser's Contract and this Agreement at any time for nonpayment. Purchaser hereby assigns to Toco all of Purchaser's right, title and interest in and to the Contract, including Purchaser's rights to cancel the Contract. **IF YOU FAIL TO MAKE ANY PAYMENT WHEN DUE, YOUR CONTRACT WILL BE CANCELLED.**

## TERMS AND CONDITIONS

**PROMISE TO PAY:** In consideration of the sale of the Contract to Purchaser, Purchaser promises to pay to Toco all Applicable Charges shown under Payment Plan Terms, subject to the provisions of this Agreement. Purchaser shall not have any right to reduce any amount owed to Toco pursuant to this Agreement for any reason whatsoever.

**CANCELLATION:** Purchaser has the right to cancel this Agreement at any time. Purchaser may cancel this agreement at any time by (i) electing not to make the next payment due pursuant to this Agreement or (ii) sending Toco a Termination Notice. In the event of an Event of Default occurs hereunder, Toco may cancel the Contract and this Agreement. After the effective date of Cancellation, Purchaser shall have no further obligation to make installments under this Agreement. Any payment made by Purchaser after the effective date of Cancellation (or after a notice of Cancellation is mailed to Purchaser) will not result in a reinstatement of the Contract but will be applied to Purchaser's outstanding obligations, if any, under this Agreement. Neither the acceptance nor the application of any such payments shall constitute an undertaking by Toco to take steps to attempt to reinstate such Contract or constitute a waiver of any Event of Default hereunder

**POWER OF ATTORNEY:** Following any default hereunder, and subject to the Cancellation provisions above, Purchaser hereby irrevocably appoints Toco as its true and lawful attorney-in-fact, only for the limited purposes related to this Agreement set forth in the following sentence until all amounts payable hereunder are paid in full. Toco shall have full power under this power of attorney to (i) cancel the Contract, (ii) receive, demand, collect or sue for any amounts relating to the Contract, (iii) endorse or execute in Purchaser's name all checks issued and all other documents or instruments relating to the Contract, and (iv) take such other actions as are reasonably necessary to further the purposes of this Agreement.

**APPLICABLE CHARGES:** If any payment due hereunder is more than five days late, and except as prohibited by applicable law, Purchaser agrees to pay Toco the Late Charge. Nothing herein shall be considered to waive any default hereunder or to grant any grace period with respect to any default for failure to make any payment on the Payment Date. Notwithstanding anything herein to the contrary, if any scheduled payment is not made on or before the Payment Date, Toco may, in its sole discretion, cancel the Contract and this Agreement at any time for nonpayment. Except as prohibited by applicable law, Purchaser agrees to pay to Toco (i) a fee of \$25 for each check or each debit that is dishonored by Purchaser's bank and (ii) a fee of \$25 for each credit card chargeback. Purchaser consents to the payment of all the Applicable Charges through the applicable Payment Option.

**MONTHLY PAYMENT AMOUNT:** Toco reserves the right to adjust the monthly payment amount, provided a thirty (30) day advanced notice to the customer. This notice may be sent by mail, e-mail, or by phone discussion and agreeance with the customer.

**HOW YOUR PAYMENTS MAY CHANGE:** The tax rate on the purchase of Vehicle Service Contracts varies from State to State. Your cost for the monthly renewal of your Vehicle Service Contract may change slightly (increase or decrease) if you move to a State with a different sales tax rate.

**DEFAULT:** If (i) Purchaser fails to make any payment due hereunder or to comply with any other provision hereof, (ii) Purchaser becomes the subject of any voluntary or involuntary bankruptcy proceedings, (iii) Purchaser has a receiver or trustee appointed for it or its property, or (iv) Purchaser makes an assignment for the benefit of its creditors or admits in writing that it is unable to pay its debts as they become due, an "Event of Default" shall be deemed to have occurred. Upon the occurrence of an Event of Default, Toco shall have the right to take such actions as are available to Toco at law or in equity. Toco shall be entitled to reimbursement for reasonable attorneys' fees and costs in enforcing Toco's rights hereunder.

**RELEASE:** Purchaser hereby releases and discharges Toco from any liability for damages with respect to any action taken following an Event of Default by Purchaser and shall indemnify and hold Toco harmless from any liabilities, claims, damages or causes of action in connection with any such action by Toco.

**ACCEPTANCE, RATIFICATION, ACCURACY:** This Agreement shall be effective upon the mailing to Purchaser by Toco of its acceptance of this Agreement. Purchaser agrees that Toco shall have the authority to revise this Agreement to insert any provision omitted (including but not limited to the due date of the first installment) upon written notice to Purchaser. In addition, if the total payments due hereunder are increased due to underwriting considerations, Toco shall have the right, upon receipt of Purchaser's written authorization, to revise dollar amounts on the face of this Agreement. Any change by Purchaser (by way of deletion, modification, supplementation or otherwise), to the preprinted portion of this Agreement shall render the Agreement voidable, at Toco's option.

**ASSIGNMENT:** Toco may, with or without notice to Purchaser, assign or pledge its rights, title, and interest in, to and under this Agreement and the power of attorney herein described. Upon written notice from any such assignee, Purchaser shall make all payments to such assignee without defense, offset or counterclaim.

**WAIVERS, REMEDIES, ENTIRE AGREEMENT:** Toco's failure to require strict performance of any provision hereof or to exercise any of its rights hereunder, shall not be construed as a waiver of relinquishment of any future rights under such provision, but the provision shall continue and remain in full force and effect. The exercise of any rights or remedies by Toco under this Agreement is cumulative and shall not preclude Toco from exercising any other right or remedy it may have hereunder or at law. Each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law. If any provision hereof is held to be unenforceable or invalid under applicable law, the unenforceability or invalidity of such provision shall not impair the validity or enforceability of the remaining provisions hereof. Time is of the essence in this Agreement.

**MANDATORY ARBITRATION:** Toco and Purchaser mutually agree that (i) any one of them has the right to elect to resolve by binding arbitration: any claim, dispute or controversy (whether in contract, tort or otherwise, whether pre-existing, present or future, and including statutory, common law, intentional tort, and equitable claims) arising from or relating to this Agreement or the Contract; (ii) if arbitration is chosen, it will be conducted with the American Arbitration Association (the "AAA") pursuant the AAA's Commercial Arbitration Rules; (iii) THERE SHALL BE NO AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED ON A CLASS ACTION BASIS; (iv) AN ARBITRATION CAN ONLY DECIDE TOCO'S OR PURCHASER'S CLAIM(S) AND MAY NOT CONSOLIDATE OR JOIN THE CLAIMS OF OTHER PERSONS WHO MAY HAVE SIMILAR CLAIMS; (v) ANY SUCH ARBITRATION HEARING WILL TAKE PLACE IN THE CITY OF DALLAS, COUNTY OF DALLAS, STATE OF TEXAS; (vi) Purchaser hereby waives any obligation which it may now or hereafter have based on venue and/or forum non conveniens of any such arbitration; and (vii) this Agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act.

**GOVERNING LAW AND VENUE:** Subject to the paragraph entitled "Mandatory Arbitration" above, this Agreement shall be governed and construed in accordance with the laws of the State of Illinois without regard to applicable conflict of law principals. Purchaser hereby unconditionally and irrevocably waives any claim to assert that the law of any other jurisdiction governs this Agreement or the Contract. Any legal suit, action or proceeding against Toco arising out of or relating to the Agreement or the Contract may only be instituted in Federal or State Court in the City of Dallas, County of Dallas, State of Texas. Purchaser hereby waives any objection which it may now or hereafter have based on venue and/or forum non conveniens of any such suit, action or proceeding and Purchaser hereby irrevocably submits to the jurisdiction of any such court in any such suit.

**WAIVER OF CLASS ACTION:** PURCHASER HEREBY WAIVES ANY RIGHT TO BRING ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT, THE CONTRACT OR ANY MATTER ARISING IN CONNECTION THEREWITH ON A CLASS ACTION BASIS.

**WAIVER OF JURY DEMAND:** PURCHASER HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY WITH REGARD TO THIS AGREEMENT, THE CONTRACT OR ANY OTHER ACTION ARISING IN CONNECTION THEREWITH. Toco IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING.

**SALE, LOSS, EXPIRATION:** You must notify Toco to stop the credit card charges of your monthly payments:

- On the change of ownership of your vehicle
- If your vehicle has been declared a total loss or a non-recovered theft
- When your vehicle reaches the maximum mileage for your coverage plan

If you believe you are entitled to a refund due to charges after you no longer have use of this vehicle please provide a Dated Bill of Sale for vehicle sales, copy of your Insurance Settlement on totaled vehicles or an Odometer Statement and the date your contract expired by mileage.

We will review this information based on your time only however the maximum amount of refunds is limited to 2 months of payment.

By signing below, I agree I have had the opportunity to review, accept, and correct any errors contained in this Agreement and I acknowledge the Terms and Conditions of the Payment Plan Agreement.

☐ Purchaser understands that the personal information regarding Purchaser that is provided by Purchaser in connection with this Agreement will not be used or shared with any party other than the parents and affiliates of Toco Automotive, Inc. or for the purpose of the services provided in this Agreement and the Contract and as required or permitted by applicable law.

**PURCHASER**

**DATE**

By: \_\_\_\_\_