**Application for Certification of
Automotive Informal Dispute Settlement Procedure**

Pursuant to 6 *Del. C.* § 5007, a new car manufacturer (“warrantor”) that has an informal dispute settlement procedure (“mechanism”) incorporated into their written warranty may seek certification of such mechanism from the Delaware Department of Justice’s Consumer Protection Unit (“CPU”). A mechanism will be certified if it meets the standards set out in Chapter 50 of Title 6, Delaware Code, and relevant Federal regulations and statutes as referenced therein.

Any manufacturer who has established an informal settlement procedure shall file with the Division of Consumer Protection a copy of each decision of the informal dispute settlement procedure within 30 days after the decision is rendered.

Certifications must be renewed annually. Questions about the application process may be directed to DAG Michael Clarke, (302) 683-8814 or michael.clarke@delaware.gov or Rhynn Evans, (302) 683-8823 or rhynn.evans@delaware.gov.

**Part I.**

**GENERAL INFORMATION**

*Please provide the following:*

1) The name of the warrantor on whose behalf this application is being filed.

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2) The name, title, address, email address, and telephone number of the person who has prepared the answers in this application.

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3) The name, address, and telephone number of the mechanism that the warrantor has selected to be responsible for administering new car warranty disputes.

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4) The name, title, address, and telephone number of the administrator in charge of each office of the mechanism located within Delaware.

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5) The name, title, address, and telephone number of the warrantor’s and the mechanism’s agent or employee to whom all communications and notices from CPU regarding certification of the mechanism may be directed.

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6) The name or title, address, and telephone of the person or persons to whom consumer should contacted if they wish to utilize the mechanism.

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**Part II.**

**MECHANISM PRACTICES QUESTIONAIRE**

*Please check your response to each question below:*

1. Is the warrantor or authorized agent aware that the Delaware certification process requires annual renewal?

 YES [ ]

 NO [ ]

1. Is the warrantor aware that a copy of each mechanism decision made in Delaware must be filed with CPU within 30 days after the decision is rendered?

 YES [ ]

 NO [ ]

1. Does the warrantor or authorized agent make it known to the consumer that the mechanism, once certified by the CPU, requires the consumer to exhaust the mechanism’s process before resorting to other remedies under the law?

 YES [ ]

 NO [ ]

1. Does the warrantor or authorized agent make it known to the consumer that the mechanism must take place in Delaware?

 YES [ ]

 NO [ ]

1. Does the warrantor or authorized agent make it known to the consumer that the mechanism allows the same solutions provided by law—i.e., specifically repair, replacement, refund, or repurchase?

 YES [ ]

 NO [ ]

1. Does the warrantor or authorized agent make it known to the consumer that the mechanism is intended to expedite the settlement of disputes and may not be used to delay resolution?

 YES [ ]

 NO [ ]

1. Does the warrantor or authorized agent make it known to the consumer that the mechanism allows the warrantor one inspection and one repair opportunity to resolve the warranty issues?

 YES [ ]

 NO [ ]

1. Does the warrantor or authorized agent make it known to the consumer that the mechanism will presume non-conformity when the consumer has shown that four attempts were made to correct the non-conformity without success or that the vehicle remained inoperable or out of service for 30 days during the warranty period?

 YES [ ]

 NO [ ]

1. Is the mechanism funded and competently staffed at a level to ensure fair and expeditious resolutions of all disputes?

 YES [ ]

 NO [ ]

1. Does the mechanism charge consumers any fee for invoking the mechanism?

 YES [ ]  (If YES, please state how much: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

 NO [ ]

1. Does the mechanism provide sufficient safeguards to insulate the decision makers in the program from undue or inadvertent influence by the warrantor (or entity otherwise sponsoring the mechanism if different from warrantor (“sponsor”))?

 YES [ ]

 NO [ ]

1. Does the warrantor or sponsor commit funds to the mechanism in advance of arbitration?

 YES [ ]

 NO [ ]

1. Does the mechanism base personnel decisions solely on merit?

 YES [ ]

 NO [ ]

1. Does the mechanism assign conflicting warrantor or sponsor duties to mechanism staff persons?

 YES [ ]

 NO [ ]

1. Is any member of the mechanism who is deciding a dispute:
	1. A party to the dispute, or an employee or agent of a party, other than for purposes of deciding disputes?

 YES [ ]

 NO [ ]

* 1. A person who is or may become a party in any legal action including class actions relating to motor vehicles?

 YES [ ]

 NO [ ]

1. If one or two members of the mechanism decide a dispute, are any directly engaged in the manufacture, distribution, sale or service of a motor vehicle? (If your mechanism only utilizes three or more members, please mark your response to this question as “N/A” and proceed to Question 16 below.)

 YES [ ]

 NO [ ]

 N/A [ ]

1. If three or more members of the mechanism decide a dispute, are at least two-thirds of them engaged in an occupation other than the manufacture, distribution, sale or service of a motor vehicle? (If your mechanism only utilizes two or less members and you have already answered Question 15 above, please mark your response to this question as “N/A”.)

 YES [ ]

 NO [ ]

 N/A [ ]

1. Are all members interested in the fair and expeditious settlement of consumer disputes?

 YES [ ]

 NO [ ]

1. Has the mechanism established written operating procedures?

 YES [ ]

 NO [ ]

a. If so, are such procedures available to any person upon request?

 YES [ ]

 NO [ ]

1. Does the mechanism act expeditiously to notify both the consumer and the warrantor that a dispute has been filed?

 YES [ ]

 NO [ ]

1. Does the mechanism provide for investigating, gathering, and organizing all information necessary for a fair and expeditious decision in each dispute?

 YES [ ]

 NO [ ]

1. Does the mechanism hold meetings at a location convenient for the consumer?

 YES [ ]

 NO [ ]

1. Does the mechanism clearly, accurately and completely disclose conflicting information to both parties and provide each side an opportunity to rebut the information provided?

 YES [ ]

 NO [ ]

1. Does the mechanism, within 40 days of notification of the dispute, render a fair decision based on information submitted and on information gathered at any oral presentation?

 YES [ ]

 NO [ ]

1. After rendering a decision, does the panel provided for by the mechanism disclose to the warrantor its decision and its reasons for that decision therefore?

 YES [ ]

 NO [ ]

1. After rendering a decision, does the mechanism disclose to the consumer its decision, reasons for its decision and the warrantor’s intended action?

 YES [ ]

 NO [ ]

1. Does the mechanism notify the consumer that if dissatisfied with the decision, the warrantor’s intended or eventual performance, legal remedies may be pursued?

 YES [ ]

 NO [ ]

1. Does the mechanism notify the parties that the decision of the panel, provided for by the mechanism, is admissible in court?

 YES [ ]

 NO [ ]

1. Does the mechanism inform the consumer that all copies of mechanism records relating to their dispute may be obtained at reasonable cost?

 YES [ ]

 NO [ ]

1. Within 10 working days of any performance required of a warrantor by a mechanism decision or settlement following mechanism decision, does the mechanism ascertain from the consumer whether such performance has occurred?

 YES [ ]

 NO [ ]

1. Does the mechanism maintain records which include:
	1. The name, address and telephone number of the consumer;

 YES [ ]

 NO [ ]

* 1. The name, address and telephone number of the warrantor;

 YES [ ]

 NO [ ]

* 1. The make and model of the automobile involved;

 YES [ ]

 NO [ ]

* 1. The date of receipt of the arbitration request and the date of disclosure to the consumer of the decision;

 YES [ ]

 NO [ ]

* 1. All letters and other written documents submitted by either party;

 YES [ ]

 NO [ ]

* 1. All evidence collected by the mechanism relating to the dispute including summaries of relevant and material portions of contacts between the mechanism and other persons, including consultants;

 YES [ ]

 NO [ ]

* 1. A summary of any relevant and material information presented by either party at oral presentation;

 YES [ ]

 NO [ ]

* 1. The decision of the members including information as to date, time and place of meeting, and the identity of members voting;

 YES [ ]

 NO [ ]

* 1. A copy of the disclosure to the parties of the decision;

 YES [ ]

 NO [ ]

* 1. A statement of the warrantor’s intended actions;

 YES [ ]

 NO [ ]

* 1. Copies of the follow-up letters to the consumer (or summaries of relevant portions of follow-up phone calls), and responses thereto.

 YES [ ]

 NO [ ]

1. Does the mechanism maintain an index of each warrantor’s disputes, grouped under vehicle name and model?

 YES [ ]

 NO [ ]

1. Does the mechanism maintain an index for each warrantor which shows:
	1. All disputes in which the auto warrantor has promised performance (either by settlement or in response to a mechanism decision) and has failed to comply?

 YES [ ]

 NO [ ]

* 1. All disputes in which the warrantor has refused to abide by a mechanism decision?

 YES [ ]

 NO [ ]

1. Does the mechanism maintain an index which shows all disputes delayed beyond 40 days, and the reason for the delay?

 YES [ ]

 NO [ ]

1. Does the mechanism compile semi-annually and maintain statistics, which show the number and percent of disputes in each of the following categories:
2. Resolved by staff of the mechanism and auto warrantor has complied;

 YES [ ]

 NO [ ]

1. Resolved by staff of the mechanism, time for compliance has occurred, and auto warrantor has not compiled;

 YES [ ]

 NO [ ]

1. Resolved by staff of the mechanism and time for compliance has not yet occurred;

 YES [ ]

 NO [ ]

1. Decided by arbitrators and auto warrantor has complied;

 YES [ ]

 NO [ ]

1. Decided by arbitrators, time for compliance has occurred, and warrantor has not complied;

 YES [ ]

 NO [ ]

1. Decided by arbitrators and time for compliance has not yet occurred;

 YES [ ]

 NO [ ]

1. Decided by arbitrators adverse to the consumer;

 YES [ ]

 NO [ ]

1. Dismissed for no jurisdiction;

 YES [ ]

 NO [ ]

1. Decision delayed beyond 40 days due to failure of consumer to provide his or her name and address, make and model of automobile, and statement as to nonconformity;

 YES [ ]

 NO [ ]

1. Decision delayed beyond 40 days for any other reason (except failure of consumer to seek redress from warrantor);

 YES [ ]

 NO [ ]

1. Decisions pending decision.

 YES [ ]

 NO [ ]

1. Does the mechanism maintain for at least four years records for items referenced in Questions 31 through 35?

 YES [ ]

 NO [ ]

1. Does the mechanism have an audit conducted annually that:
	1. Evaluates the warrantor’s efforts to make consumers aware of the mechanism’s existence?

 YES [ ]

 NO [ ]

* 1. Reviews the indexes required by 16 C.F.R. § 703.6 (b)(c)(d) and 16 C.F.R. §703.7(a) & (b) (2)?

 YES [ ]

 NO [ ]

* 1. Analyzes through a review of random samples of disputes the adequacy of complaint and other forms?

 YES [ ]

 NO [ ]

* 1. Analyzes through a review of random samples of disputes the accuracy of statistical compilations?

 YES [ ]

 NO [ ]

1. Is a copy of the annual audit submitted to the Federal Trade Commission and made available to any person at reasonable cost?

 YES [ ]

 NO [ ]

1. Is any auditor involved with the mechanism a warrantor, sponsor,or employee or agent thereof, other than for purposes of the audit?

 YES [ ]

 NO [ ]

1. Are the statistical summaries referenced in Question 37(d) available to any person for inspection and copying?

 YES [ ]

 NO [ ]

1. Are meetings of the arbitrators to hear and decide disputes open to observers on reasonable and nondiscriminatory terms?

 YES [ ]

 NO [ ]

1. Does the mechanism, upon request, provide either party to a dispute access to all records relating to the dispute, and copies of records relating to the dispute at reasonable cost?

 YES [ ]

 NO [ ]

1. Does the mechanism provide information relating to the qualifications of the mechanism’s staff and arbitrators when requested?

 YES [ ]

 NO [ ]

1. Does anything in the mechanism abrogate any consumer rights that have been established by federal law or Delaware Law?

 YES [ ]

 NO [ ]

**Pursuant to 6 *Del. C.* § 5007, the undersigned files with the Consumer Protection Unit of the Delaware Department of Justice the above-information requesting certification of a new car manufacturer’s informal dispute settlement process, and declares under penalty of perjury that the information here provided is true and correct.**

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*Print Name*

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 *Signature*

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 *Date*

***Please mail completed applications to:***

**Delaware Department of Justice**

**Consumer Protection Unit**

**Attn: Rhynn Evans**

**820 N. French St., 5th Floor**

**Wilmington, DE 19801**