

# Service Agreement

THIS SERVICE AGREEMENT ("Agreement"), dated as of \_\_\_\_\_ ("Effective Date"), is by and between **Alternative Claims Management, LLC**, a Texas limited liability company ("ACM") and the undersigned client ("Client", and together with ACM, the "Parties", and each, a "Party").

WHEREAS, ACM is in the business of providing damage recovery services for vehicle owners, including without limitation recovery of loss of use and or loss of revenue, and diminution of value resulting from a loss caused by an at-fault party (or parties) and;

WHEREAS, the Client desires that ACM shall provide damage recovery services to Client, as further defined in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, obligations and considerations set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, do agree as follows:

1. **Definitions.** As used in this Agreement, the following terms have the meanings set forth below:
  - 1.1. "Eligible Claims" means claims for damages to Client's fleet vehicles caused by an at-fault third party or contractually liable party or parties (an "At-Fault Party"), where (i) the Client or Client's agent has not signed a written release with the At-Fault Party or its insurance carrier(s) and (ii) the claim is not currently being pursued by the Client or another agent of Client. Eligible Claims are further defined into two categories:
    - 1.1.1. "New Claims" are claims where no previous recovery demand has been made against the At-Fault Party or its insurance carrier(s).
    - 1.1.2. "Dormant Claims" have two characteristics: a) have physical damage (PD) proceeds (prior to ACM) and/or b) have a date of loss greater than nine (9) months from date of receipt. Client may have collected all or part of the physical damage but has not pursued additional damages such as loss of use, loss of revenue, diminution of value, or additional labor, parts, and services associated with a total loss claim. These claims are processed up to the lapse of the applicable Statute of Limitations.
  - 1.2. "Ineligible Claims" are claims submitted to ACM that are: (i) the Client's fault, (ii) neither a New Claim nor a Dormant Claim, (iii) claims where legal proceedings or legal representation has been initiated on the claim, or (iv) claims disputed by the At-Fault Party.
  - 1.3. "Services" are described in detail in **Exhibit A**.
  - 1.4. "ACM Recovery Share" is ACM's compensation for Services as outlined in **Exhibit A**. ACM operates on a performance-based compensation model. ACM deducts its ACM Recovery Share and related Direct Claim Expenses from the Gross Claim Proceeds recovered on a claim and remits the net balance to the Client. Client payments are issued via direct deposit (ACH Form provided separately) as quickly as reconciliation and processing allow. Based upon global economic factors and changing market conditions, ACM reserves the right to present changes in the ACM Recovery Share compensation structure upon at least sixty (60) days' notice to Client for discussion and approval, which changes will apply to all Eligible Claims assigned/accepted after such Client approval.

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1.5. "Direct Claim Expenses" are expenses necessarily incurred by ACM in providing services to Client and which are deducted from the Gross Claim Proceeds. To maximize settlements, ACM monitors expenses and engages additional services only, when reasonably necessary, in ACM's judgment. The Parties agree to mitigate charges reasonably within their control wherever possible, including towing and storage expenses. Direct Claim Expenses can include:

1.5.1. Photoscopes. See Exhibit A\* – ACM, upon request from Client, or upon mutual acceptable guidelines of damage types, will order Photoscopes of damages based upon clear photos of the damages or sufficient proof of single line item damages such as windshields, tires, rims mirrors, etc. Damages cannot be assumed without photographic proof thereof. If a claimed damage is not photographically substantiated, it may not be written into a claim. Photoscopes reduce Client's downtime and labor associated with estimate collection and keeps vehicles in service for minor damages. Downtime will be approximated based upon industry standards.

1.5.2. Independent Appraisals. ~\$250.00\* – ACM reviews the accident, estimate, and supporting details and determines if an independent appraisal will positively impact the negotiation and settlement. If so, an independent appraisal is conducted.

1.5.3. Vehicle Value Reports. ~\$50.00-100.00\* – ACM orders vehicle value reports from various industry-leading suppliers to establish fact-based value estimations.

1.5.4. Police Reports. ~\$10.00-25.00\* – If not provided by Client, the cost of ordering police reports from various vendors and/or municipalities is a Direct Claim Expense.

If denoted with an asterisk (\*), expense can vary by region, industry, and vehicle type.

1.6. "Gross Claim Proceeds" means the total amount of money recovered on a claim pursued by ACM on behalf of Client without deduction for Direct Claim Expenses or apportionment of ACM Recovery Share.

2. Litigation Costs and Expenses. ACM will not pursue Eligible Claims through legal process. ACM does not file suit nor engage legal counsel on behalf of Client. If Client elects to, ACM can identify and assist Client in retaining counsel to file suit to recover losses in such circumstance and will manage the suit keeping the client informed as the suit progresses. If a lawsuit is filed, any and all litigation fees, costs, expenses related to the lawsuit are the responsibility of the Client. ACM's efforts to recover damages upon an Eligible Claim will cease when Client retains legal counsel to pursue the claim. In such event, Client shall be responsible to reimburse ACM for any Direct Claim Expenses incurred by ACM in pursuit of the claim, and any proceeds recovered by ACM prior to assignment of the claim to legal counsel shall be subject to the Recovery Share structure detailed in this Agreement. Copies of ACM's file materials gathered in pursuit of the claim will be forwarded to Client or Client's retained legal counsel upon request. After litigation settlement and accounting for all litigation fees, costs, expenses, ACM's Recovery Share will not exceed those outlined in Exhibit A.
3. Provision of Services. Based upon the terms and conditions set forth in this agreement, ACM and/or its affiliates will provide the Services in accordance with the process and standards below.

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- 3.1. Processing of Eligible Claims. Client agrees to submit to ACM (via online portal or email) Eligible Claims and supporting documentation. Client represents and warrants to ACM that to the Client's best information and belief any and all statements, documents, and other information provided to ACM is true, accurate, and complete, reflecting the actual circumstances and people involved, and accurately reflects the estimate of damages. Client acknowledges that ACM relies upon these documents and details in its acceptance and pursuit of Eligible Claim damages. If the foregoing representation is or becomes materially inaccurate and the Client within a reasonable time after ACM's request fails to correct any inaccurate information, ACM may at its discretion elect to discontinue work on such claims without further liability to ACM. ACM may reject a claim for any reason, including, without limitation, claims that are concurrently submitted to another processing agent (internal departments, third-party administrators, attorneys, first party customers, outside entities, insurance carriers, insurance brokers, etc.) or claims that are disputed or legally represented by the At-Fault Party.
- 3.2. Full Cooperation. For the Term of this agreement, each Party will: (i) cooperate in good faith with all Parties; (ii) provide documents and information relating to Eligible Claims as may be reasonably available and required; and (iii) provide each Party with timely access to necessary decision makers and internal teams to keep the damage recovery process flowing.
- 3.3. Consent for Services. Client authorizes and approves ACM to contact current and past At-Fault Parties and their insurance carriers on Client's behalf to gather information related to claims. To allow damage recovery specialists in-the-moment negotiation capability, once submitted to ACM, Client grants ACM the sole discretion and authority to settle Eligible Claims upon commercially reasonable terms consistent with reasonable industry standards. For the Term of this Agreement, Client grants ACM a limited power of attorney via a completed Authorized Representation Letter (**Exhibit B**) to act on its behalf for the purpose of signing and/or endorsing documents, drafts, and/or settlement checks related to Eligible Claims. Client also grants ACM access to loss run reports and related claim information from insurance companies/agents and claims staff and shall complete an Authorization to Obtain Loss Runs Letter (**Exhibit C**) for this purpose.
4. Performance of Services.
- 4.1. Compliance. ACM shall perform and provide the Services in compliance with all applicable Local, State, and Federal laws of the United States of America.
- 4.2. Data Security. ACM shall maintain and enforce security measures to protect Client information, Client customer information (including personal information) and Client-related financial and transactional data or information (collectively, "Client Data") consistent with industry best practices in compliance with applicable privacy policies, laws, and regulations relating to the protection, breach, destruction, loss or alteration of Client Data. In the event ACM or any of its personnel or agents discover or is notified of a breach or potential breach of security relating to Client Data, ACM shall notify Client of such breach or potential breach as soon as reasonably possible. If the applicable Client Data was in the possession of ACM or its personnel or agents at the time of such breach or potential breach, ACM shall investigate and remediate the effects of the breach or potential breach. ACM shall not destroy, discard, or dispose of any Client Data or materials without the prior written consent of Client.

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### 5. Term and Termination.

5.1. ACM shall provide the Services to Client for three years (the “Initial Term”). The Initial Term of this Agreement shall be automatically renewed for successive three (3) year periods (each, an “Extended Term”) until or unless one Party provides the other Party at least sixty (60) days written notice prior to the expiration of the Initial Term or then-current Extended Term.

5.2. Except as provided in Section 5.3, this Agreement may be terminated at any time during the Term by: (i) Client stopping the submission of new Eligible Claims, thereby effectively terminating new claim processing and allowing previously submitted pending Eligible Claims to process over time; (ii) mutual and written consent of the Parties, at any time; or (iii) upon at least sixty (60) days written notice of termination by either Party.

5.3. If at the time of termination there are pending Eligible Claims in the process of damage recovery, this Agreement shall remain in full effect as to those pending claims until the same are resolved. At time of termination, ACM shall be entitled to bring all submitted claims to full resolution and receive full compensation due as outlined in **Exhibit A**.

### 6. Indemnification. Each Party agrees to indemnify and hold harmless the other from any and all liability, claims, costs, fines, fees, and expenses (including attorney’s fees) (“Losses”) caused by or arising out of the performance of this Agreement, except to the extent such Losses are caused by the acts or omissions of the Party seeking indemnity.

6.1. Insurance. ACM shall maintain the insurance coverages outlined below at all times during the term of this Agreement.

Policy	Type	Limit
Professional Liability (Errors and Omissions)	Each Claim	\$2,000,000
	Aggregate	\$2,000,000
Workers’ Compensation (Employers’ Liability)	Each Claim	\$1,000,000
	Aggregate	\$1,000,000
Commercial General Liability	Each Occurrence	\$1,000,000
	Aggregate	\$1,000,000
Automobile Liability (Endorsed for any Auto)	Liability	\$2,000,000
	Bodily Injury and Property Damage	\$2,000,000
	PIP	\$10,000

### 7. Limitation of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT THE PARTIES OR EITHER OF THEM HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

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8. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the Parties.
9. Entire Agreement. This Agreement, including and together with all exhibits, constitutes the Parties' sole and entire agreement regarding the subject matter contained herein, and supersedes all the Parties' prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, if any, regarding such subject matter. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party. If any of this Agreement's terms or provisions are found by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any of this Agreement's other terms or provisions or invalidate or render unenforceable such terms or provisions in any other jurisdiction.
10. Assignment. This is a contract for services and neither party may assign any of its rights or delegate any of its respective obligations hereunder without the other party's prior written consent. Any assignment or delegation in violation of this Section 10 shall be null and void. No assignment or delegation relieves the assigning or delegating party of any of its obligations under this Agreement. This Agreement is binding on and inures to the Parties' benefit and that of their respective permitted successors and permitted assigns. This Agreement solely benefits the Parties and their respective permitted successors and assigns and there are no third-party beneficiaries, express or implied, under this Agreement.
11. Informal Dispute Resolution. If either Party believes that the other party has breached or otherwise failed to live up to their obligations under this Agreement, the parties agree to promptly notify each other in writing and specify the particular acts or omissions at issue. The parties agree to attempt in good faith to negotiate and resolve their disputes informally for no fewer than thirty (30) days after the written notice is provided.
12. Choice of Law; Choice of Forum. This Agreement and all matters arising out of or relating to this Agreement are governed by, and construed in accordance with, the laws of the \_\_\_\_\_ (preferred County, State) without giving effect to any conflict of laws or provisions thereof. Any action, litigation or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement and all contemplated transactions shall be instituted exclusively in the state or federal courts located in \_\_\_\_\_ (preferred County, State). Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and waives any objection to such courts based on venue or inconvenience. If blank, then the County and State is Bexar County, Texas.
13. Anti-Discrimination. ACM certifies that it does not discriminate with respect to its customers, partners, members, or employees with respect to any prohibited bias, including without limitation, race, color, disability, national origin, marital status, religion, sex, sexual orientation, familial status, or handicap.
14. Waiver of Jury Trial. Each Party acknowledges that any controversy that may arise under this Agreement is likely to involve complicated and difficult issues and, therefore, each such Party

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irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement, or the transactions contemplated hereby.

IN WITNESS THEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first written above.

### **ALTERNATIVE CLAIMS MANAGEMENT, LLC**

Address: 8610 N New Braunfels Ave #210, San Antonio, TX 78217

Signature: \_\_\_\_\_

Name: Michael Lewandowski

Title: President and Chief Administration Officer

**CLIENT COMPANY:** \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## Exhibit A: Services and ACM Recovery Sharing

ACM does not charge any fixed set-up, monthly, annual, or per file fees. ACM operates on a performance-based compensation model. As compensation, ACM “shares” a percentage of the recovery with Client. The ACM Recovery Share is deducted from proceeds as they are received. Potential recovery items are defined below. ACM Recovery Share is contingent upon the successful recovery of the line items below. Not all claims line items are collectible due to policy limits, policy type, lack of insurance, liability, statutes, missing documents, and other items outside of ACM’s control.

1. Physical Damage (PD): Recovery of losses up to the value of the Client’s final repair invoice (or original body or mechanical shop estimate, not an independent appraisers estimate) less any directly related claim expenses.
2. Physical Damage (PD) – Photoscopes Only. On occasion, ACM may accept clear photographs from which an independent, third-party appraiser can prepare an estimate. This reduces Client’s downtime, labor associated with estimate collection, and keeps fleet vehicles in service.
3. Loss of Use (LOU): The rental value of a comparable replacement vehicle or equipment for the days the unit is anticipated to be out of service for repair or replacement.
4. Loss of Revenue (LOR): The estimated loss of income incurred while the vehicle is out of service based upon the unit’s prior 90-day income as documented by Client.
5. Inherent Diminution of Value (DV): The estimated variance in Actual Cash Value (ACV) of the vehicle pre-accident and the Actual Cash Value (ACV) of the repaired vehicle post-accident.
6. Repair Related Diminution of Value (RRDV): The difference between the Client’s actual repair invoice versus an estimate written to I-CAR/Manufacturer Design and Repair Specifications (OEM). If actual repair invoice is not available within 30-days from receipt of proceeds, Client’s repair estimate will be used. If Client timely requests, ACM can delay processing to allow additional time for repairs.
7. Total Loss (TL): The difference between the vehicle’s Actual Cash Value (ACV) and one of the valuation methods below (default is top to bottom):
  - 7.1. Depreciated Book Value. Value set by the amount owed on the vehicle loan as of date of loss.
  - 7.2. Wholesale Value. Value set by industry standards.
  - 7.3. Depreciated Value. 1.85% of depreciated original purchase price.
  - 7.4. Mutually Agreed Upon Value.
8. Recovered Fees (RF). Paid by the At-Fault Party’s Carrier (not the Client). These are fees associated with processing or repairing of the vehicle. They can include administrative, sanitation, content removal, and other applicable fees charged to the carrier as part of the recovery.
9. Other Property Damage (OPD): In cases where property damages are incurred apart from the vehicle itself but are causally related to the event causing the damages, ACM will include these additional items. This may include, but not be limited to, all types of signs, guard rails, lights, building damage, goods in transit, and other non-vehicle equipment owned by Client and damaged in the event. It might also include towing and storage fees.

## Exhibit A: Services and ACM Recovery Sharing

### ACM Recovery Share

Client agrees to share recovery proceeds with ACM as outlined below. “New claims” have not been processed before. “Dormant claims” are older (previous/past) and/or may have been processed before. The chart below outlines the recovery share that goes to ACM for each type of claim and recovery.

Item	New	Dormant
1) Physical Damage	0%	25%
2) Physical Damage (Photoscopes Only)	25%	25%
3) Loss of Use	50%	50%
4) Loss of Revenue		
5) Inherent Diminution of Value		
6) Repair Related Diminution of Value		
7) Total Loss (Amount Over Valuation)		
8) Recovered Fees (Charged to Carrier)		
9) Other Property Damage	10%	10%

### ACH AUTHORIZATION FORM:

Please complete our secure [ACH form](#) as our preferred (and fastest) method to pay you. If this needs to be routed to your finance or accounting department, please share this link with them.