



Ride everyday, perform every second

# DEALER APPLICATION

Email: [sales@tabperformance.com](mailto:sales@tabperformance.com) Ph: (402) 413-5090

## BILLING/SHIPPING INFORMATION

Official Company Name: \_\_\_\_\_

Bill to: \_\_\_\_\_ Ship to: (if different) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Website: \_\_\_\_\_

Main Phone: \_\_\_\_\_ Main Fax: \_\_\_\_\_ Email \_\_\_\_\_

## BUSINESS INFORMATION

Check One: ( ) Corporation ( ) LLC ( ) Proprietorship ( ) Subsidiary of \_\_\_\_\_

Years in Operation: \_\_\_\_\_ Type of Business: \_\_\_\_\_

Tax ID #: \_\_\_\_\_ Resale # \_\_\_\_\_

President/CEO: \_\_\_\_\_ Treasurer/Controller: \_\_\_\_\_

General Manager: \_\_\_\_\_ Parts Manager: \_\_\_\_\_

## CREDIT CARD INFORMATION

Credit Card Type: \_\_\_\_\_ Name on card: \_\_\_\_\_

Credit Card Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_ Security Code: \_\_\_\_\_

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

Postal Code: \_\_\_\_\_

## CREDIT REFERENCES

Reference 1: \_\_\_\_\_ Contact: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Reference 2: \_\_\_\_\_ Contact: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Reference 3: \_\_\_\_\_ Contact: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

### CUSTOMER'S AUTHORIZATION TO RELEASE CREDIT REFERENCE INFORMATION

Attention Credit References: Please provide information on all accounts listed. You will be serving our interest best if you provide the information over the phone. Thank you.

I/We hereby authorize you to whom this application is made, or your agents, to investigate my/our credit worthiness with the following credit references.

Prepared by (signature) \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

## NON-EXCLUSIVE DEALERSHIP AGREEMENT

This Non-Exclusive Dealership Agreement ("Agreement"), made and effective this \_\_\_\_\_, 20\_\_\_\_, by and between TAB Performance, Inc. ("TAB") and \_\_\_\_\_ ("Dealer").

TAB desires to appoint Dealer, and Dealer desires to accept appointment, as a Dealer of TAB's products as set forth herein. NOW, THEREFORE, in consideration of the mutual agreements promises set forth herein, the parties agree as follows:

### 1. **Rights Granted.**

TAB hereby grants to Dealer a non-exclusive right, on the terms and conditions contained below, to purchase, inventory, promote and resell "TAB's Products" (as defined below). Nothing herein shall prevent or prohibit TAB from selling any of TAB's Products directly to any customers or other Dealers.

### 2. **Products.**

As used in this Agreement, the term "TAB's Products" shall mean the products, related service parts and accessories manufactured and/or sold by TAB.

### 3. **Terms of Sale.**

All sales of TAB's Products to Dealer shall be made pursuant to this Agreement at such prices and on such terms as TAB shall establish from time to time on at least thirty (30) days notice. All prices are FOB TAB's facility. TAB agrees to properly pack all items for shipment. Risk of loss due to damage or destruction of TAB's Products shall be borne by Dealer after delivery to Dealer. TAB must be notified of any damaged product received by Dealer within 5 business days of Dealer receiving product. The shipper will be selected by TAB unless Dealer requests a reasonable alternative. All orders are subject to acceptance by TAB. Except as otherwise expressly agreed by TAB in advance, this Agreement shall control all aspects of the dealings between TAB and Dealer with respect to the TAB's Products and any additional or different terms in any Dealer order are hereby rejected. Dealer agrees not to offer product for sale below (Manufacturer's Suggested Retail Price) MSRP. MSRP is subject to change with 30 (thirty) day notice given by TAB. Dealer may only sell TAB's Products from Dealer's physical storefront or private website. Dealer may NOT sell TAB's Products on Ebay®, Amazon®, or any other platform that would be seen as in direct competition with TAB without TAB's express written consent. Breach of these terms will result in immediate cancellation of Dealer's ability to purchase future products from TAB at dealer pricing.

### 4. **Product Warranty Policies.**

In the event that any of TAB's Products are proved to TAB's satisfaction to have been defective at time of sale to Dealer, TAB will make an appropriate adjustment in the original sales price of such product or, at TAB's election, replace the defective product. TAB MAKES NO WARRANTY TO DEALER WITH RESPECT TO THE PRODUCTS, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

### 5. **Indemnification.**

A. TAB agrees to protect Dealer and hold Dealer harmless from any loss or claim arising out of inherent defects in any of TAB's Products existing at the time such product is sold by TAB to Dealer, provided that Dealer gives TAB immediate notice of any such loss or claim and cooperates fully with TAB in the handling thereof.

B. Dealer agrees to protect TAB and hold TAB harmless from any loss or claim arising out of the negligence of Dealer, Dealer's agents, employees or representatives in the installation, use, sale or servicing of TAB's Products or arising out of any representation or warranty made by Dealer, its agents, employees or representatives with respect to TAB's Products that exceeds TAB's limited warranty. Further, in the event that any of Dealer's representatives shall, with respect to any of TAB's Products purchased from Dealer, fail to discharge the dealer's obligations to the original consumer pursuant to the terms and conditions of TAB's product warranty and consumer service policies, Dealer agrees to discharge promptly such unfulfilled obligations.

## **6. Order Processing and Returns .**

A. TAB will employ its best efforts to fill Dealer's orders promptly on acceptance, but reserves the right to allot available inventories among Dealers at its discretion.

B. Except for TAB's products that are defective at the time of sales to Dealer, TAB shall not be obligated to accept any of TAB's Products that are returned. In the event such returns are accepted, TAB may impose a reasonable restocking charge, not to exceed 25% of current dealer price.

C. Any return of TAB's Products by Customers of Dealer should be handled by Dealer.

## **7. Use of TAB's Name.**

Dealer will not use, authorize or permit the use of, the name "TAB Performance" or any other trademark or trade name owned by TAB as part of its firm, corporate or business name in any way without express written consent. Dealer shall not contest the right of TAB to exclusive use of any trademark or trade name used or claimed by TAB. Dealer may, subject to TAB's policies regarding reproduction of same, utilize TAB's name, trademarks or logos in advertising of TAB's products.

## **8. Relationship of the Parties.**

The relationship between TAB and Dealer is that of vendor and vendee. Dealer, its agents and employees shall, under no circumstances, be deemed employees, agents or representatives of TAB. Dealer will not modify or reverse-engineer any of TAB's Products. Neither Dealer nor TAB shall have any right to enter into any contract or commitment in the name of, or on behalf of the other, or to bind the other in any respect whatsoever.

## **9. Term and Termination.**

The Agreement shall continue until terminated by either party on at least forty- five (45) days prior notice.

A. TAB may terminate at any time by written notice given to Dealer not less than thirty (30) days prior to the effective date of such notice in the event TAB decides to terminate all outstanding Dealer agreements for TAB's Products and to offer a new or amended form of Dealer agreement.

B. TAB may terminate this Agreement upon notice to Dealer, upon any of the following events: (1) failure of Dealer to fulfill or perform any one of the duties, obligations or responsibilities of Dealer in this Agreement, which failure is not cured with ten (10) days notice from TAB; (2) any assignment or attempted assignment by Dealer of any interest in this agreement or delegation of Dealers obligations without TAB's written consent; (3) any sale, transfer or relinquishment, voluntary or involuntary, by operation of law or otherwise, of any material interest in the direct or indirect ownership or any change in the management of Dealer; (4) failure of Dealer for any reason to function in the ordinary course of business; (5) conviction in a court of competent jurisdiction of Dealer, or a manager, partner, principal officer or major stockholder of Dealer for any violation of law tending, in TAB's opinion, to affect adversely the operation or business of Dealer or the good name, goodwill, or reputation of TAB, products of TAB, or Dealer; or (6) submission by Dealer to TAB of false or fraudulent reports or statements, including, without limitation, claims for any refund, credit, rebate, incentive, allowance, discount, reimbursement or other payment by TAB.

## **10. Obligations on Termination.**

On termination of this Agreement, Dealer shall cease to be an authorized Dealer of TAB and:

A. All amounts owing by Dealer to TAB shall, notwithstanding prior terms of sale, become immediately due and payable;

B. All unshipped orders shall be cancelled without liability of either party to the other;

C. Dealer will resell and deliver to TAB on demand, free and clear of liens and encumbrances, such of TAB's Products and materials bearing TAB's name as TAB shall elect to repurchase, at a mutually agree price, but not in excess of TAB's current price to Dealers for such products and materials, provided that TAB shall not be obligated to pay Dealer for any item originally provided free of charge; and

D. Neither party shall be liable to the other because of such termination for compensation, reimbursement or damages on account of the loss of prospective profits or anticipated sales, or on account of expenditures, investments, lease or commitments in connection with the business or good will of TAB or Dealer or for any other reason whatsoever growing out of such termination.

**11. Use of Name Prohibited.**

On termination of this Agreement, Dealer will remove and not thereafter use any sign containing any trade name, logo or trademark of TAB including, but not limited to, "TAB Performance", and will immediately destroy all stationery, advertising matter and other printed matter in its possession or under its control containing such name, or any of TAB's trademarks, trade names or logos. Dealer will not at any time after such termination use or permit any such trademark, trade name or logo to be used in any manner in connection with any business conducted by it or in which it may have an interest, or otherwise whatsoever as descriptive of or referring to anything other than merchandise or products of TAB. Regardless of the cause of termination, Dealer will immediately take all appropriate steps to remove and cancel its listings that contain the TAB's name, logo or trademark. If Dealer fails to obtain such removals or cancellations promptly, TAB may make application for such removals or cancellations on behalf of Dealer and in Dealer's name and in such event Dealer will render every assistance.

**12. Acknowledgments.**

Each party acknowledges that no representation or statement, and no understanding or agreement, has been made, or exists, and that in entering into this Agreement each party has not relied on anything done or said or on any presumption in fact or in law, (1) with respect to this Agreement, or to the duration, termination or renewal of this Agreement, or with respect to the relationship between the parties, other than as expressly set forth in this Agreement; or (2) that in any way tends to change or modify the terms, or any of them, of this Agreement or to prevent this Agreement becoming effective; or (3) that in any way affects or relates to the subject matter hereof. Dealer also acknowledges that the terms and conditions of this Agreement, and each of them, are reasonable and fair and equitable.

**13. Final Agreement.**

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

**14. Governing Law.**

This Agreement shall be construed and enforced in accordance with the laws of the state of Nebraska.

**15. Severability.**

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

**16. Headings.**

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent. IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

**17. Special Dealer Exceptions**

- Free shipping - \$1,200 minimum order and sales of \$8,000 required
- Drop Shipments – Dealers discounts are limited to 20% unless annual sales eclipses \$10,000
- Ebay & Amazon – Selling on these platforms is typically not allowed, but this stipulation can be waived at the discretion of TAB Performance upon request.

Dealer Managing Member Signature: \_\_\_\_\_

Dealer Managing Member Print: \_\_\_\_\_

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

Date: \_\_\_\_\_