Driven

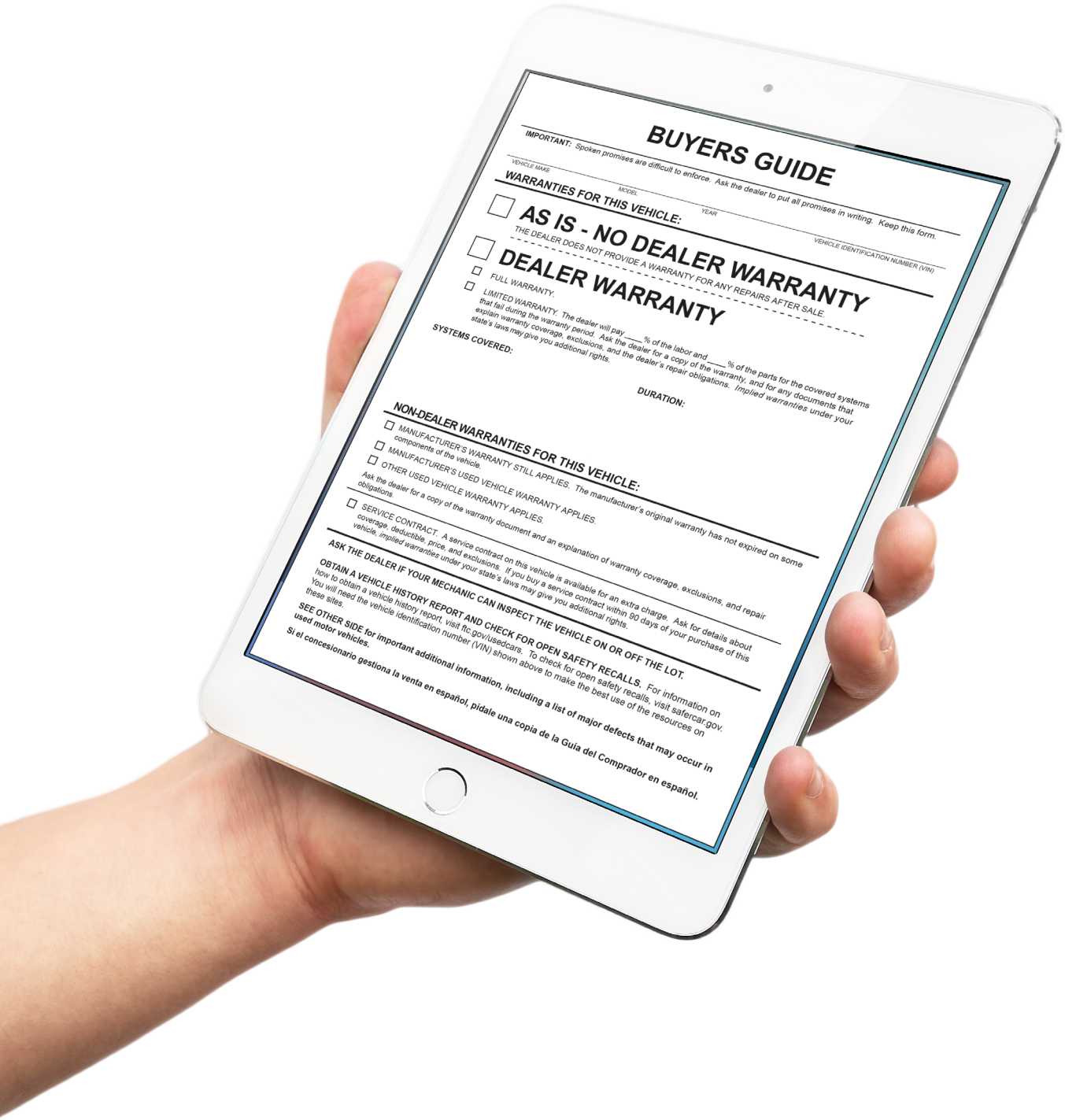
NADA MANAGEMENT SERIES L12



A DEALER GUIDE TO THE

FTC Used Car Rule

NADA
NATIONAL AUTOMOBILE DEALERS ASSOCIATION



The National Automobile Dealers Association has prepared this management guide to assist its dealer members in compliance with federal regulatory requirements. This guide is offered for informational purposes and does not contain, and is not intended as, legal advice. Dealers are advised to discuss these provisions and other federal and state laws with their legal advisors to ensure full compliance with all FTC regulations concerning the sale of used vehicles.

The presentation of this information is not intended to encourage concerted action among competitors or any other action on the part of dealers that would in any manner fix or stabilize the price or any element of the price of any good or service.

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A DEALER GUIDE TO THE

FTC Used Car Rule

I. Introduction

The FTC Used Car Rule ("Rule"), adopted by the FTC on July 10, 1984 and revised in 2016,[1] prohibits any misrepresentation by a dealer as to vehicle condition and warranty coverage. The primary requirements of the Rule obligate used-vehicle dealers to: (a) display a copy of the "Buyers Guide" form and (b) include specific contractual language in their sales contracts. These requirements are outlined in more detail below.

In 2016, after a lengthy review process, the FTC amended the Rule and made significant revisions to the Buyers Guide form that dealers must use. This *Driven* guide addresses the requirements of the Used Car Rule and the revised version of the Buyers Guide that is required to be used beginning January 27, 2017.[2] The analysis and recommendations for dealer compliance are based on the language of the final Rule, along with compliance guidance issued by the FTC staff.[3]

The Used Car Rule applies in 48 of the 50 states (Wisconsin and Maine have been granted statewide exemptions[4]), the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa. In addition, the Rule covers vehicles exported for sale from the United States for sale at military post exchanges.[5]

Note that there are important state and local law issues that dealers must understand in order to comply with the Rule. This guide does not address state law issues, and dealers are advised to discuss the details of the Used Car Rule and other relevant federal and state laws with their attorneys to determine the requirements for particular dealership transactions.



II. Basic Requirements Under the Rule

Unfair or Deceptive Acts or Practices (UDAP)

The Rule states that it is a deceptive act or practice under Section 5 of the FTC Act[6] for any dealer to

- misrepresent the mechanical condition of a used vehicle;
- misrepresent the terms of any warranty offered in connection with the sale of a used vehicle;
- represent that a used vehicle is sold with a warranty when the vehicle is sold without any warranty.[7]

Compliance Requirements

In addition, the Rule provides that it is an unfair act or practice under Section 5 of the FTC Act for any dealer to

- fail to disclose, prior to sale, that a used vehicle is sold without any warranty; and
- fail to make available, prior to sale, the terms of any written warranty offered in connection with the sale of a used vehicle.[8]

Importantly, the Rule states that, if a dealer

- complies with the window label [Buyers Guide] and contractual disclosure requirements of the Rule; and,
- does not contradict such disclosures by statements or actions

then *the dealer does not violate the Rule*.

Therefore, to ensure compliance with the Rule, dealers should make certain that they properly display an accurately completed, compliant Buyers Guide on every used vehicle they offer for sale, confirm that the proper language is included in their sales contracts and train their employees to avoid contradictory statements or actions.

For dealers to fully comply with these basic requirements, they must first understand certain key terms. Those terms are defined in the Rule, and staff guidelines add details to those definitions. Note that the Used Car Rule does not affect the definition of these terms under state law, and state law definitions of these same terms have no effect on the Used Car Rule.

III. Key Definitions

Vehicle means any motorized vehicle, other than a motorcycle, with a gross vehicle weight rating (GVWR) of less than 8,500 pounds, a curb weight of less than 6,000 pounds and a frontal area of less than 46 square feet.[9] The size and weight limitations in the definition are designed to include most light-duty vans and trucks. Such limitations operate to exclude larger trucks and recreational vehicles from coverage under the Rule.[10] Coverage under the Rule extends to classic cars but not to farm vehicles such as tractors, combines, and tillers. Mopeds, like motorcycles, are not covered.[11]

Used Vehicle is defined as any vehicle driven more than the limited use necessary in moving or road testing a new vehicle prior to delivery to a consumer. The term does not include any vehicle sold only for scrap or parts (title documents surrendered to the state and a salvage certification issued).[12] The Rule does not apply to mileage accumulated due to dealer transfers or trades. Note that state law distinctions between "new" and "used" vehicles have no effect on the Rule.

Regarding Demonstrators. All demonstrators and company cars, assuming they are driven "more than the limited use necessary in moving or road testing," are considered to be "used cars" under the Used Car Rule, even though such vehicles may be considered "new" under either or both the Automobile Information Disclosure Act (The Monroney Act)[13] and state titling laws. Therefore, a used-car Buyers Guide must be displayed on all demonstrators and company cars being offered for sale.

Dealers may avoid application of the Used Car Rule to demonstrators only if such vehicles are not made available for sale to a consumer.

Demonstrators

On a demonstrator or company car that requires a Monroney label, the Buyers Guide is required *in addition to* the Monroney new-car label, which must remain on the vehicle until it has been delivered to the first retail customer.

Dealer, under the Rule, is any person or business that sells or offers for sale a used vehicle after selling or offering for sale five or more used vehicles in the previous 12 months. The term does not include a bank or financial institution; a business selling a used vehicle to its own employees; or a lessor selling a leased vehicle to the lessee, a buyer procured by the lessee or an employee of the lessee.[14] While banks and financial institutions are excluded, fleet sellers and banking affiliates and subsidiaries are subject to the Rule. In addition, private sellers who sell or offer for sale five or more used vehicles in the preceding 12 months are subject to the Rule.[15]

Lease Returns

FTC staff commentary has clarified that the Rule does not cover situations where you sell or offer to sell a leased vehicle to the lessee, an employee of the lessee, or a buyer found by the lessee at the end of the lease term. The Rule would apply to a lease return that is offered for sale to the public.

Certain third parties are covered by the Rule and are equally responsible for compliance.[16] Dealers offering used vehicles to consumers through or by consignment, agreement, or power of attorney must comply. So too must dealers or auctioneer-dealers offering to sell used vehicles at auction, if the auction is both open to consumers and advertised to consumers in some manner. Since both dealers and third-party sellers are responsible for compliance in the above situations, dealers should either affix a Buyers Guide label to each vehicle offered for sale to consumers through a third party or require the third party do so by agreement (and take all necessary steps to ensure that the requirements of the agreement are met).

Consumer means any person who is not a used-vehicle dealer.[17] Note that this definition is broader than the definition of "consumer" in the Magnuson-Moss Warranty Act and in other federal disclosure laws, such as consumer credit (Regulation Z) and consumer leasing (Regulation M).[18]

Business Sales Included

Sales of used vehicles to persons and entities other than dealers for business purposes are *not excluded* from coverage under the Rule.[19] This means dealers should ensure that the requirements of the Rule, including posting the appropriate Buyers Guide form, are met with all used vehicles offered for sale—even if those vehicles are offered for sale to non-dealer business customers.

Warranty is defined as any undertaking in writing, in connection with the sale of a used vehicle by a dealer, to refund, repair, replace, maintain, or take other remedial action with respect to the vehicle and that is provided at no extra charge beyond the price of the vehicle.[20]

Implied Warranty is defined in the Rule as an implied warranty arising under state law[21] (as modified by the Magnuson-Moss Warranty Act[22]) in connection with the sale of a used vehicle by a dealer.[23]

Service Contract means a contract in writing for any period of time or any specific mileage to refund, repair, replace, or maintain a used vehicle and provided at an extra charge beyond the price of the vehicle. The term does not include a contract regulated by any state as the business of insurance.[24] In such states, service contracts are regulated by state insurance authorities and are, therefore, excluded from FTC jurisdiction by the McCarran-Ferguson Act.[25]

Penalties for Noncompliance. Violations of the Used Car Rule violate the FTC Act, and could lead to FTC enforcement action. Because the Used Car Rule is an FTC "Trade Regulation Rule," the FTC can seek civil penalties of up to $40,654[26] for each violation of the Rule (as well as other potential equitable relief[27]). Rule violation cases which seek civil penalties are generally filed by the Department of Justice on behalf of FTC. There is no private right of action for violations of the FTC Act, but such alleged violations could form the basis of a state UDAP claim.

IV. Buyers Guide Disclosure Requirements

As defined in the Rule, before a dealer offers a used vehicle for sale to a consumer, the dealer must appropriately fill in and display on the vehicle a Buyers Guide window label. The various standard FTC Buyers Guide forms are reproduced in Appendices A through J in this guide.

Timing of Disclosure—Label Placement

The Buyers Guide must be displayed prominently and conspicuously on or in a vehicle before a car is offered for sale to the public. This means it must be in plain view and both sides must be visible. You can hang the Guide from the rear-view mirror inside the car or on a side-view mirror outside the car. You also can place it under a windshield wiper. If desired, the Buyers Guide may be displayed in a removable clear plastic sleeve that holds it against the side of the window. A Buyers Guide in a glove compartment, trunk, or under the seat is not conspicuous because it is not in plain sight. You may remove the form temporarily from the vehicle during any test drive, but you must return it as soon as the test drive is over.[28]

OFFERING A USED CAR FOR SALE ONLINE

There is no express requirement that a dealer make the Buyers Guide available to online vehicle shoppers. The requirement is only to physically post the Buyers Guide on the vehicle—even for a vehicle that is only offered online, and even if the entire sales process occurs online and a consumer never sees the vehicle or the Buyers Guide posted on the vehicle. The FTC reviewed this issue in its recent review of the Rule,[29] but did not take any specific action or make any change to the Rule to add provisions specifically addressing internet used-car sales.

While not required, dealers should consider making copies of the completed Buyers Guide available to online shoppers and purchasers (by, for example, including a picture of the Buyers Guide in a used-vehicle online listing). Nothing in the Rule prohibits disclosing the Buyers Guide in an online advertisement.[30] Note also that because the Buyers Guide is part of the sales contract, dealers must provide a copy of the Buyers Guide to the consumer with any sales paperwork whether done in person or online. Lastly, dealers should understand and abide by the obligations of the FTC's Warranty Pre-Sale Availability Rule[31], which detail the methods by which warrantors and sellers must provide warranty terms before a sale to a consumer.



Label Content, Form and Size

The capitalization, punctuation, and wording of all items, headings, and text on the window label must be exactly as required by the Rule. Labels must be printed in 100 percent black ink on white stock not less than[32] 11 inches high by 7¼ inches wide in the type styles, sizes and format specified in the Rule.[33] The Rule allows dealers to provide a customer signature line, but no additional information or printing, such as a dealership logo or the price of the vehicle, may be added to the Buyers Guide.

Copy to the Consumer

At the completion of a used-vehicle sale, the dealer must give the consumer either the original copy of the Buyers Guide or a copy of the original that reflects all required disclosures and the terms agreed upon.[34] While not a requirement of the Rule, NADA recommends that dealers retain an accurate copy of the Buyers Guide for each used-vehicle transaction.

V. The Revised Buyers Guides

As noted above, the FTC amended the Rule in November 2016, revising the Buyers Guide forms. The amended Rule is effective as of January 27, 2017. Therefore, dealers must begin using the revised Buyers Guide forms by January 27, 2017. However, the Rule does provide that dealers may continue to use their existing stock of Buyers Guide forms for one year (until January 27, 2018).

The revised Buyers Guide is the end result of a lengthy review process by the FTC in which NADA played a central role. NADA submitted more than four sets of extensive comments to the FTC[35] and many of the changes in the Buyers Guide were sought by NADA to allow dealers to adequately and clearly disclose both dealer and non-dealer warranties. For example, under the old version of the Buyers Guide, there was no way for a dealer to properly disclose a "certified" warranty on a used vehicle. NADA sought a way to address that shortcoming in the revisions to the Buyers Guide.

Changes to the Revised Buyers Guide Form

The revised Buyers Guide includes a number of changes, most of which do not require action by the dealer. For example, the revised Buyers Guide adds "air bags" and "catalytic converters" to the list of systems on the reverse side of the Buyers Guide. It also includes at the bottom of the form a statement in Spanish that advises consumers to ask for the Buyers Guide in Spanish if the dealer is conducting the sale in Spanish.[36]

In addition, the following disclosure language is now included in the preprinted form:

OBTAIN A VEHICLE HISTORY REPORT AND CHECK FOR OPEN SAFETY RECALLS. For information on how to obtain a vehicle history report, visit ftc.gov/usedcars. To check for open safety recalls, visit safercar.gov. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on these sites.



REVISED BUYERS GUIDE DEADLINE AND "EXISTING STOCK"

Dealers have asked a number of questions regarding what it means to "use their existing stock" of forms after January 27, 2017. While it is clear that the FTC intended this deadline extension to provide flexibility for dealers and dealer vendors, the exact contours of this flexibility are not clear. It is unclear, for example, whether this requirement only applies to dealers who own an existing stock of physical forms as of January 27, 2017, or if it applies to dealers who do not have access to the new form by that date for some other reason (for example, if their forms vendor does not have the new version available, or if a computer template is not yet ready).

NADA suggests that dealers avoid these concerns by using the new form by the deadline if at all possible. If it is not possible or feasible to use the new form by the January 27, 2017 deadline, dealers must understand not only that there is some question about the scope of the "existing stock" exception, but also that there is a change in practice required. If you continue to use the old version of the form past January 27, 2017, and you choose to disclose the applicability of a non-dealer warranty, you must add below the "Full/Limited Warranty" disclosure the following language, as applicable: (a) "Manufacturer's Warranty still applies. The manufacturer's original warranty has not expired on the vehicle"; (b) "Manufacturer's Used Vehicle Warranty Applies"; or (c) "Other Used Vehicle Warranty Applies," followed by the statement, "Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations."

Disclosure of such non-dealer warranties continues to be optional—dealers are not required to disclose them at all. However, if you do choose to disclose these warranties, you must use the exact language above, and not language that was deemed acceptable under the old version of the Rule. The categories of non-dealer warranties are explained in more detail below.

Again, dealers who use the revised Buyers Guide avoid this issue altogether, so we suggest that dealers switch to the revised form as soon as possible to avoid any confusion with respect to these issues. Questions about these issues will become moot by January 27, 2018 as all dealers in all circumstances are required to use the revised Buyers Guide by that date.

Dealers do not need to take any action with respect to this added language, but should understand that it has been added to the form in order to explain the language to consumers if asked. The first website —ftc.gov/usedcars—is hosted and populated by the FTC. It contains consumer information not only about obtaining a vehicle history report, but also about purchasing and financing a used vehicle. The second website—safercar.gov—is hosted by the National Highway Traffic Safety Administration and contains an excellent array of consumer-oriented vehicle safety information. There, interested vehicle owners and prospective purchasers can obtain relatively current vehicle safety recall information by simply submitting a vehicle identification number (VIN). The recall status information, which comes from the vehicle's manufacturer, lets consumers know of any outstanding, unremedied safety recalls.[37]

There are also several changes to the language in the revised Buyers Guide that clarify dealer obligations and distinguish between dealer and non-dealer warranties. For example:

Old Language	Revised Language
AS IS - NO WARRANTY	AS IS - NO DEALER WARRANTY
WARRANTY	DEALER WARRANTY
You will pay all costs for any repairs.	The dealer does not provide a warranty for any repairs after sale.
Under state law, "implied warranties" may give you even more rights.	*Implied warranties* under your state's laws may give you additional rights.

Again, dealers should be aware of these changes even though they do not require any dealer action (other than use of the revised form itself). The changes are intended to clarify the obligations of the dealer and the consumer, and should provide benefits to both consumers and dealers.

The revised Buyers Guide also adds three new checkboxes specifically designed to allow dealers to disclose non-dealer warranty coverage such as factory "certified" warranties. It is important to note that disclosing non-dealer warranties remains optional for the dealer, and that the non-dealer warranty disclosure boxes should be considered independently from the dealer warranty disclosure section of the Buyers Guide. The changes **do require action (or at least consideration) by the dealer** and are discussed in greater detail below.

Completing the Revised Buyers Guide

Vehicle Description. In completing the Buyers Guide form, the dealer must first insert the make, model, year, and vehicle identification number (VIN) of the used vehicle in the spaces provided at the top of the front page.[38]

Warranties. The next portion—"WARRANTIES FOR THIS VEHICLE," is for disclosing warranty coverage offered with the used vehicle The first portion of this section is for disclosing *dealer* warranties.

Dealer Warranties. Dealers are not required to offer a warranty on a used vehicle,[39] but they are required to check one of the boxes in the top portion of the Guide and to thereby disclose whether they are offering a warranty or not—and if so, certain details of the coverage of that warranty.

There are two versions of the Buyers Guide[40]—the "as is" version, and the "implied warranties" version (see Appendices A and B, respectively). The two versions of the Buyers Guide differ only with respect to the portion of the form where a dealer is disclosing that a dealer warranty is *not offered*, and the versions differ because of certain state law prohibitions on the disclaimer of implied warranties.

The form a dealer should use depends on the applicable state law. In general, one version of the Buyers Guide will be appropriate in all circumstances for used vehicles in a particular state.[41] If a dealer is uncertain as to the requirements in his or her state, advice should be obtained from dealership legal counsel or the appropriate state or local automotive trade association.

No Dealer Warranty Offered. If a dealer offers a used vehicle for sale to a consumer without offering any express or implied warranties and applicable state law permits "as is" sales, the dealer should use the "as is" version of the form, and must check the box to the left of the "AS IS - NO DEALER WARRANTY" heading.



☐ **AS IS - NO DEALER WARRANTY**

THE DEALER DOES NOT PROVIDE A WARRANTY FOR ANY REPAIRS AFTER SALE.

☐ **DEALER WARRANTY**

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

SYSTEMS COVERED: **DURATION:**

By checking this box the dealer is simply disclosing (as the form notes) that "the dealer does not provide a warranty for any repairs after sale." That is, that there is no warranty offered by the dealer on the vehicle. This is independent of the optional disclosure of any other warranties that may be offered by the manufacturer, "certified vehicle" warrantor, or other third party (see discussion below).

If state law limits or precludes "as is" sales of used vehicles, state law governs and the Rule does not give the dealer the right to sell "as is." In such states, dealers would likely then use the "implied warranties only" version of the Buyers Guide form and check the box to the left of the "IMPLIED WARRANTIES ONLY" heading.



☐ **IMPLIED WARRANTIES ONLY**

The dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward. But *implied warranties* under your state's laws may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

☐ **DEALER WARRANTY**

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

SYSTEMS COVERED: **DURATION:**

Again, this is a distinction that arises under state law. An "implied warranties only" state is one that prohibits warrantors from disclaiming implied warranties,

and therefore prohibits "as is" sales. In such a state, a dealer that does not offer a dealer warranty on the vehicle must check the first box, and by doing so, is disclosing to a used-vehicle shopper that the "dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward."

Regardless of which form is used, the dealer must select the first box in this section if the dealer is not offering an express warranty on the vehicle.

Dealer Warranty Offered. If a dealer does decide to offer a used-vehicle warranty with the used vehicle, he or she must check the second box (regardless of the form used) next to the "Dealer Warranty" heading.[42] By doing so, the dealer is disclosing that certain warranty coverage from the dealer is included, at no additional cost, with the purchase of the used vehicle. Again, this refers to warranty obligations offered and backed by the dealer, not any third party. If the "Dealer Warranty" box is checked, the dealer must then check the appropriate box to disclose whether the warranty is "full" or "limited," as such terms are defined in the Magnuson-Moss Warranty Act.[43]

A "FULL WARRANTY" is a written warranty that satisfies the federal minimum standards for warranties set forth in Section 104 of the Magnuson-Moss Act[44] (see Appendix H). A written warranty that does not meet the federal minimum standards is a "limited warranty." In most cases, dealers who check the warranty box will be checking the "LIMITED WARRANTY" box as well.[45]

If it is a limited warranty, the dealer should proceed next to insert the percentage of the repair cost covered by the dealer warranty. For example: "The dealer will pay 100% of the labor and 100% of the parts… ." The Rule also permits disclosure of a "split cost" warranty, if allowable under state law. An example of a "split cost" warranty is: "The dealer will pay 50% of the labor and 50% of the parts… ." Dealers should keep in mind that a "split cost" warranty does not satisfy the federal minimum standards for a "full" warranty under Section 104 of the Magnuson-Moss Warranty Act and, therefore, is a "limited warranty."[46]

Note also that the FTC has issued specific advice about disclosure of "split cost" warranties[47] both on the Buyers Guide as well as in the written warranty document.

In the space below the captions "SYSTEMS COVERED" and "DURATION," the dealer is required to list the specific systems covered by any dealer warranty and the corresponding duration of coverage for each system, such as "30 days or 1,000 miles, whichever occurs first." In describing the systems covered by a warranty, dealers may not use shorthand expressions, such as "drive train" or "power train." Rather, dealers should indicate the exact systems that are covered. A list of the major systems of an automobile appears on the back of the Buyers Guide form, and those terms may be used to indicate the specific systems covered by the warranty.[48] Note that you may enlarge the Buyers Guide, if necessary, to provide additional warranty information.



Dealers who choose to provide warranty coverage for some systems and disclaim express or implied warranty coverage for other systems may use the space provided for warranty disclosures to write in such disclaimers or exclusions. If some systems are covered by "full warranty" and others by a "limited warranty," the "limited warranty" box should be checked and the words "FULL WARRANTY" should be written next to each fully covered system. Also, if different systems are covered for different durations, each different duration should be written out. If a state or local law requires a specific warranty, it should be described in the "systems covered/duration" portion of the Buyers Guide.

Systems Covered / Duration

The SYSTEMS COVERED/DURATION section of the Buyers Guide is for disclosure of the systems covered and the duration of *dealer warranties* only. It should not be used for disclosure of the details of any non-dealer warranties, such as factory-backed "certified" warranties. Proper disclosure of non-dealer warranties is discussed below. Dealers should use caution before simply accepting a Buyers Guide template from their manufacturer or other third-party warranty provider, and should consult with their own counsel about how to best complete the Buyers Guide.

Non-Dealer Warranties. The revised Buyers Guide form adds a new section entitled NON-DEALER WARRANTIES FOR THIS VEHICLE. This section and the accompanying checkboxes were not included in the former FTC Buyers Guide template.

A dealer has the option to check one or more of these boxes as appropriate, if either: (a) all or part of the manufacturer's original warranty on the vehicle has not expired, or (b) a manufacturer or other non-dealer warranty applies to the used vehicle.

None of the boxes are required to be checked; they are all optional.[49] This is important as dealers may not know with certainty if, for example, a manufacturer's original warranty still applies to a vehicle. Of course, if the dealer is certain that either (a) or (b) above does apply to the vehicle, he or she may check the appropriate box to disclose this information to the used-vehicle shopper.

A dealer could check more than one of the boxes in this section if appropriate. For example, where the original manufacturer's warranty still applies to a used vehicle, and there is also a manufacturer's used-vehicle warranty for the vehicle, the dealer may (but is not required to) check both the first two boxes.

Note also that the three non-dealer warranty checkboxes are independent from the dealer warranty boxes above. A non-dealer warranty may apply to the vehicle whether or not a dealer offers a warranty. A dealer may check both the dealer warranty box, and one or more of the non-dealer warranty boxes—or none.

Manufacturer's Original Warranty. If the manufacturer's warranty hasn't expired, you may disclose this fact by checking the box, "MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle," in the Non-Dealer Warranties section.

Note that this box is intended to disclose the applicability of the original manufacturer's warranty on the vehicle, not any other used-vehicle warranty (such as a "certified" program)—even if the warrantor is the manufacturer.

Note also that if the consumer must pay to get coverage under the manufacturer's warranty (a "transfer fee" or other charge of any kind), you may not check the "manufacturer's warranty" box—even though after payment of the fee, the remainder of the manufacturer's warranty applies to the vehicle. Such coverage is considered a service contract (even if it is no more than the remainder of the manufacturer's warranty) because of the extra charge. However, the dealer may check the "warranty" box if he or she pays a fee for continuation of coverage from the manufacturer and the consumer doesn't have to pay anything more than the price of the vehicle to get the coverage.

Other Third-Party Used-Vehicle Warranty. If the price of the used vehicle includes another non-dealer warranty—for example, a used vehicle that has been "certified"[50]—then a dealer may check the appropriate box describing that warranty.

There are two choices:

1. MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.
2. OTHER USED VEHICLE WARRANTY APPLIES.

The appropriate choice depends on the identity of the warrantor. For example, if a vehicle is sold pursuant to a "certified" program warranted by the manufacturer, the dealer could check the box that the manufacturer's used-vehicle warranty applies. If a used vehicle has a warranty that is provided neither by the dealer nor the manufacturer (but by another third party), then a dealer could check the "other" box.

There are circumstances where it can be difficult to determine who the warrantor is. The important distinction is who is contractually obligated to pay for the repairs. If the repairs are paid for by the dealer (even under the rubric of a "certified" or similar program), then the disclosure should be made in the "dealer warranty" section of the Buyers Guide.

Service Contract Availability. If the dealer makes a service contract available on the used vehicle—other than a contract regulated in the dealer's state as the business of insurance—the dealer is *required* to check the box next to the section entitled "SERVICE CON-

HOW CAN I DISCLOSE DETAILS ABOUT MY NON-DEALER WARRANTIES?

As noted above, the "systems covered" and "duration" sections of the Buyers Guide are for disclosing details about *dealer warranties*, and it is not appropriate to place non-dealer warranty information in this section of the form. There is not any place on the Buyers Guide form to disclose details to consumers about non-dealer warranties. However, if a dealer wishes to provide such details on a window sticker, he or she may do so in a completely separate window sticker.[51] Dealers must ensure that any such information is truthful and not misleading, and does not conflict with the Buyers Guide or the sales contract.



TRACT" on the front of the Buyers Guide. Note that this requirement is tied to the *offering* of a service contract; it does not rely on the consumer's consideration, eligibility or purchase of a service contract. If the dealer[52] does not offer a service contract on the used vehicle, then this box should not be checked.

If the used vehicle is offered for sale in a state that regulates service contracts as the business of insurance the dealer is not obligated to check this box, even if offering a service contract on the vehicle.

Determining whether to check the "service contract" box is independent of consideration of the other checkboxes on the form; this box may be checked alone, or in addition to one or more of the other boxes on the form.

What is a "Service Contract"? As outlined above, a service contract is an optional agreement for product service that customers sometimes buy. It generally provides additional protection beyond what any warranty offers on the product. Service contracts are similar to warranties in that both concern service for a product. The primary difference between a warranty and a service contract is that warranties come with a product and are included in the purchase price. In the language of the Magnuson-Moss Act, warranties are "part of the basis of the bargain."[53] Service contracts, on the other hand, are agreements that are separate from the contract or sale of the product. They are separate either because they are made some time after the sale of the product, or because they cost the customer a fee beyond the purchase price of the product.

Dealership Identification. On the reverse side of the Buyers Guide, the dealer must fill in the dealership name and address and the name, email address, and telephone number of the person who should be contacted if any complaints arise after sale.[54] Dealers often ask if they can simply list a position, such as "used-car manager" in lieu of an individual. While it may be simpler to list a position rather than an individual's name (especially given the potential for turnover, etc.), the requirement is to list a "person" and dealers should include a name, although they can designate a name and title, such as: "Susan Smith or used-car manager."

Signature Block. You may include a signature line on the Buyers Guide and you may ask the buyer to sign to acknowledge that he or she has received a copy of the Buyers Guide. While not required, NADA suggests that dealers obtain such signatures from used-vehicle purchasers. If you opt for a signature line, you must include it on the reverse side of the revised Buyers Guide form, underneath the list of systems. The signature block must be placed "[i]n the space provided for the name of the individual to be contacted in the event of complaints after sale."[55] In addition, you must include "a disclosure in immediate proximity to the signature line stating: 'I hereby acknowledge receipt of the Buyers Guide at the closing of this sale.' " This language can be preprinted on the form.[56] An example of the way that this optional signature line could be displayed is set out below. The signature could also be placed below the dealer name, address, telephone and email.

Optional Signature Line

▶ CUSTOMER SIGNATURE I hereby acknowledge receipt of the Buyers Guide at the closing of this sale.

FOR COMPLAINTS AFTER SALE, CONTACT:

DEALER NAME

ADDRESS

TELEPHONE EMAIL

Negotiated Changes to the Buyers Guide

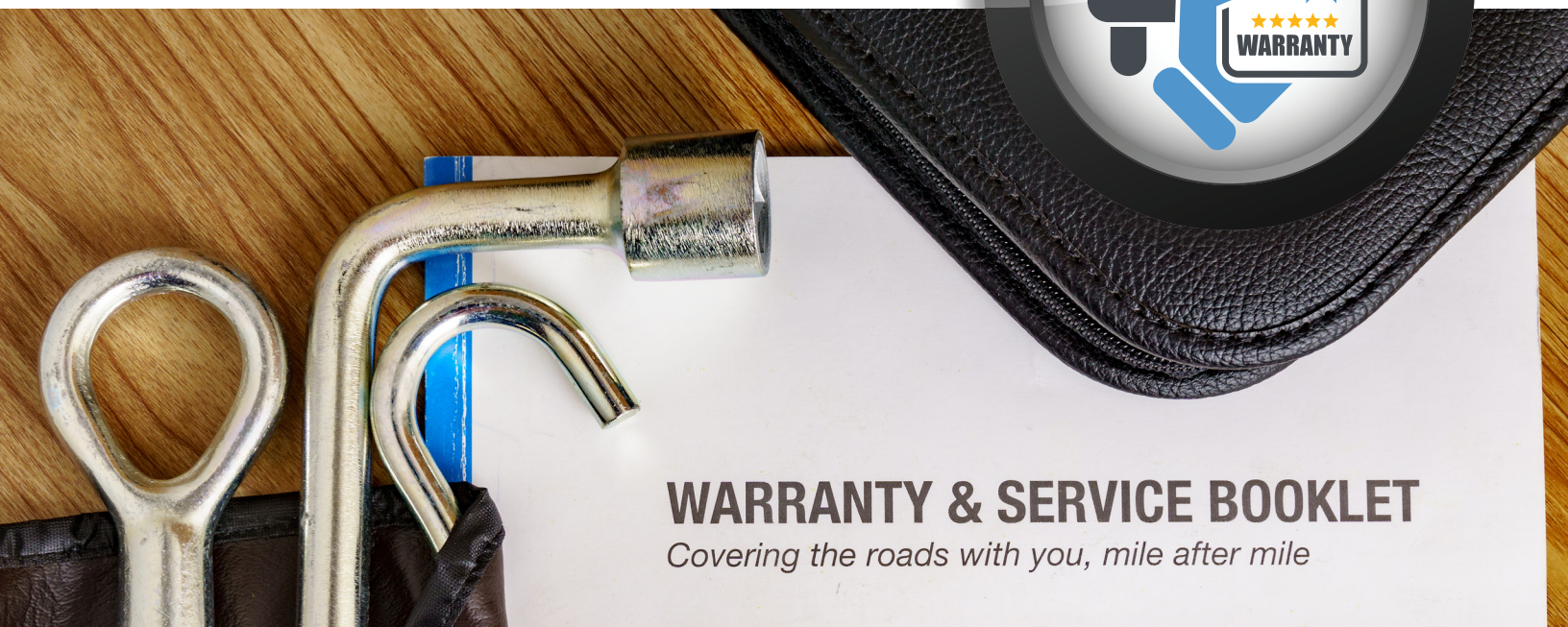
If initial Buyers Guide disclosures are changed in the course of negotiating a sale of that vehicle, the changed terms may be crossed out and corrections may be made on the Buyers Guide itself.[57] In addition, final warranty terms should either be detailed in the sales contract or set forth in a separate written document that is incorporated by reference in the contract. NADA recommends that any and all such changes be initialed by both the consumer and an authorized dealership representative.

VI. The Warranty Document

A dealer who offers a warranty must provide a document to a purchaser specifying the coverage provided. Warranty information must either be printed in the sales contract or in a separate written document referred to in the contract. A written warranty document is required both by the Used Car Rule and the FTC's Rule on the Disclosure of Written Consumer Product Warranty Terms and Conditions.[58]

The contract warranty document should[59]:

- State whether the warranty offered is "full" or "limited";
- Indicate the percentage of the repair costs that the dealer will pay;
- List the specific systems that are covered by the warranty;
- List any parts or systems that are excluded from coverage under the warranty (for example, "battery not covered") if it is necessary for clarification;
- Indicate the point in time or event on which the warranty term commences, if different from the purchase date, and the time period or other measurement of warranty duration for each of the covered systems;
- Contain a statement of what the warrantor will do in the event of a defect, malfunction, or failure to conform with the written warranty, including the items or services the warrantor will pay for or provide and, where necessary for clarification, those which the warrantor will not pay for or provide;
- Explain how a customer gets warranty service, including the dealership's name, address, and the telephone number and email address of the person to call concerning warranty service;
- Provide information respecting the availability of any informal dispute settlement mechanism elected by the warrantor;
- Include the following disclosure: "This warranty gives you specific legal rights, and you may also have other rights which vary from state to state";
- Disclose all obligations that the consumer has, if any, as a condition to obtaining warranty service;
- Include the following disclosure only if the dealership wishes to limit the duration of implied warranties: "Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you";
- Include the following disclosure only if the dealership wishes to exclude or limit consequential or incidental damages: "Some states do



not allow the exclusion or limitation of incidental or consequential damages, so the above limitation may not apply to you";

- Indicate who is covered by the warranty, if the dealership chooses to limit the coverage— for example, "warranty covers only the original purchaser" or "commercial use excluded."

Dealers should work with their legal counsel to ensure that the warranty documentation for any dealer warranties is legally sufficient under federal, state, and local law.

Buyers Guide vs. Warranty

If you offer a dealer warranty, the Buyers Guide form is not sufficient to serve as your warranty document because the warranty information you provide on the Buyers Guide does not meet the requirements of the FTC's Warranty Disclosure Rule. Therefore, your written warranty and the Buyers Guide must be two separate documents.

VII. The Sales Contract

The final version of the Buyers Guide is incorporated into the sales contract for the used vehicle.[60] The contract of sale may consist of the "buyer's order," "purchase order," or "bill of sale." Again, warranty information must either be included in the contract or if a separate document, referred to in the contract. Information on the Buyers Guide label expressly overrides any contrary statement in the contract.

In order to properly inform consumers of these facts, the following disclosure statement must be inserted in each and every contract for dealer sale of a used vehicle to a consumer:

The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.

The Rule requires that the preceding contractual disclosure statement be "conspicuously" included in the contract, but does not specify any type or size or format requirements for the disclosure.[61] Generally, this language need only be in the contract of sale.[62] However, the disclosure should also be included in the "financing agreement," if it is the "complete and total agreement between the dealer and the customer" or if it is "the only document given to the consumer to record the transaction."[63]



Accordingly, for all sales of used vehicles to consumers, dealers must not only properly complete and display a Buyers Guide window label on the vehicle; they must also include the requisite contractual disclosure statement in the contract of sale.

VIII. Prohibition Against Contrary Statements

Under the Rule, a dealer is prohibited from making any statements, oral or written, or taking any action that contradicts either the Buyers Guide label or the required contractual disclosure statement.[64] In adopting such prohibitions against contrary statements, the FTC did not intend to interfere with negotiations between dealers and consumers over the terms and conditions of warranty coverage. As stated above, negotiated changes may be made on a Buyers Guide, provided the consumer is given a copy that properly reflects the final terms agreed upon by the parties.

IX. Sales Conducted In Spanish

If a dealer conducts a sale in Spanish, the Buyers Guide window label and contractual disclosure statement must be in Spanish.[65] Where dealers expect to conduct sales in Spanish and are prepared to do so, they "offer to sell" their used vehicles in Spanish and must display both the English and Spanish versions of the Buyers Guide on their used vehicles. If you expect that a sale could be conducted in either Spanish or English, you should post a Spanish-language version of the Buyers Guide on the vehicle, before you begin to discuss, in Spanish, that vehicle with a consumer.

When determining if dealers are "offering to sell" their used cars in Spanish, the FTC will look to see whether advertisements are placed in Spanish-language format; if the sales staff is bilingual or trained to conduct sales in both English and Spanish; or if there are "se habla Espanol" signs posted. If warranted, a dealer may display both the English and the Spanish versions of the Buyers Guide on a vehicle.[66]

As noted above, the revised English version of the Buyers Guide contains a notice, in Spanish, advising consumers to ask for the Buyers Guide in Spanish if the dealer is conducting the sale in Spanish. Importantly, if the dealer does not conduct the sale in Spanish, this does not obligate dealers to have Spanish-language Buyers Guides available or to otherwise speak or translate any of the sales process into Spanish.

Bilingual Buyers Guide

NADA often gets questions about the propriety of a "bilingual" Buyers Guide—that is, a version of the Buyers Guide that has both the Spanish and English language on the same document. The FTC specifically reviewed this question in its recently completed review of the Rule, and declined to approve a bilingual approach. Therefore, dealers should not use a bilingual form, even if it would otherwise be more convenient or helpful for your customers.

X. Dealer Recordkeeping Requirements

The Rule imposes no dealer recordkeeping requirements. However, because the Buyers Guide label is incorporated by reference in the contract of sale, NADA recommends that the dealer retain a final copy of the Buyers Guide and contract of sale for each used vehicle sold to a consumer for the period of the applicable state statute of limitations on contract actions or for the term of any consumer financing on the used vehicle, whichever is greater.

Appendices



Appendix A

"As Is" Buyers Guide

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE | MODEL | YEAR | VEHICLE IDENTIFICATION NUMBER (VIN)

WARRANTIES FOR THIS VEHICLE:

☐ **AS IS - NO DEALER WARRANTY**

THE DEALER DOES NOT PROVIDE A WARRANTY FOR ANY REPAIRS AFTER SALE.

☐ **DEALER WARRANTY**

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

SYSTEMS COVERED: **DURATION:**

NON-DEALER WARRANTIES FOR THIS VEHICLE:

☐ MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle.

☐ MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐ OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

☐ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.

OBTAIN A VEHICLE HISTORY REPORT AND CHECK FOR OPEN SAFETY RECALLS. For information on how to obtain a vehicle history report, visit ftc.gov/usedcars. To check for open safety recalls, visit safercar.gov. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on these sites.

SEE OTHER SIDE for important additional information, including a list of major defects that may occur in used motor vehicles.

Si el concesionario gestiona la venta en español, pídale una copia de la Guía del Comprador en español.

Appendix B

"Implied Warranties Only" Buyers Guide

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE | MODEL | YEAR | VEHICLE IDENTIFICATION NUMBER (VIN)

WARRANTIES FOR THIS VEHICLE:

☐ **IMPLIED WARRANTIES ONLY**

The dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward. But *implied warranties* under your state's laws may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

☐ **DEALER WARRANTY**

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

SYSTEMS COVERED: **DURATION:**

NON-DEALER WARRANTIES FOR THIS VEHICLE:

☐ MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle.

☐ MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐ OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

☐ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.

OBTAIN A VEHICLE HISTORY REPORT AND CHECK FOR OPEN SAFETY RECALLS. For information on how to obtain a vehicle history report, visit ftc.gov/usedcars. To check for open safety recalls, visit safercar.gov. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on these sites.

SEE OTHER SIDE for important additional information, including a list of major defects that may occur in used motor vehicles.

Si el concesionario gestiona la venta en español, pídale una copia de la Guía del Comprador en español.

Appendix C

Buyers Guide back page

Here is a list of some major defects that may occur in used vehicles.

Frame & Body
- Frame-cracks, corrective welds, or rusted through
- Dog tracks—bent or twisted frame

Engine
- Oil leakage, excluding normal seepage
- Cracked block or head
- Belts missing or inoperable
- Knocks or misses related to camshaft lifters and push rods
- Abnormal exhaust discharge

Transmission & Drive Shaft
- Improper fluid level or leakage, excluding normal seepage
- Cracked or damaged case which is visible
- Abnormal noise or vibration caused by faulty transmission or drive shaft
- Improper shifting or functioning in any gear
- Manual clutch slips or chatters

Differential
- Improper fluid level or leakeage, excluding normal seepage
- Cracked of damaged housing which is visible
- Abnormal noise or vibration caused by faulty differential

Cooling System
- Leakage including radiator
- Improperly functioning water pump

Electrical System
- Battery leakage
- Improperly functioning alternator, generator, battery, or starter

Fuel System
- Visible leakage

Inoperable Accessories
- Gauges or warning devices
- Air conditioner
- Heater & Defroster

Brake System
- Failure warning light broken
- Pedal not firm under pressure (DOT spec.)
- Not enough pedal reserve (DOT spec.)
- Does not stop vehicle in straight line (DOT spec.)
- Hoses damaged
- Drum or rotor too thin (Mfgr. Specs)
- Lining or pad thickness less than 1/32 inch
- Power unit not operating or leaking
- Structural or mechanical parts damaged

Air Bags

Steering System
- Too much free play at steering wheel (DOT specs.)
- Free play in linkage more than 1/4 inch
- Steering gear binds or jams
- Front wheels aligned improperly (DOT specs.)
- Power unit belts cracked or slipping
- Power unit fluid level improper

Suspension System
- Ball joint seals damaged
- Structural parts bent or damaged
- Stabilizer bar disconnected
- Spring broken
- Shock absorber mounting loose
- Rubber bushings damaged or missing
- Radius rod damaged or missing
- Shock absorber leaking or functioning improperly

Tires
- Tread depth less than 2/32 inch
- Sizes mismatched
- Visible damage

Wheels
- Visible cracks, damage or repairs
- Mounting bolts loose or missing

Exhaust System
- Leakage
- Catalytic Converter

Differential
- Improper fluid level or leakeage, excluding normal seepage
- Cracked of damaged housing which is visible
- Abnormal noise or vibration caused by faulty differential

The FTC is aware of these two typographical errors ("leakeage" rather than "**leakage**" and "of" rather than "**or**") and FTC staff has informally indicated that it is permissible to correct these errors. A formal correction of the form is likely to be issued in the future.

DEALER NAME

ADDRESS

TELEPHONE EMAIL

FOR COMPLAINTS AFTER SALE, CONTACT:

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removing this label before consumer purchase (except for purpose of test-driving) violates federal law (16 C.F.R. 455).

Appendix D

"As Is" Buyers Guide with format notes

504 x 684 pt box, 1 pt stroke

BUYERS GUIDE

26 pt bold caps centered

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

1 pt rule
8.5 pt bold & regular, caps & lc

VEHICLE MAKE | MODEL | YEAR | VEHICLE IDENTIFICATION NUMBER (VIN)

0.5 pt rule
6 pt regular caps

WARRANTIES FOR THIS VEHICLE:

12 pt bold caps
2 pt rule

☐ **AS IS - NO DEALER WARRANTY**

22 pt box, 1 pt stroke
24 pt bold caps
8.5 pt regular, caps & lc
1 pt dashed rule

THE DEALER DOES NOT PROVIDE A WARRANTY FOR ANY REPAIRS AFTER SALE.

☐ **DEALER WARRANTY**

22 pt box, 1 pt stroke
24 pt bold caps
8 pt boxes, 1 pt stroke
8.5 pt regular, italic, caps & lc
10.2 pt leading

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

SYSTEMS COVERED: **DURATION:**

9 pt bold caps, 2 columns

NON-DEALER WARRANTIES FOR THIS VEHICLE:

12 pt bold caps
2 pt rule

☐ MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle.

☐ MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐ OTHER USED VEHICLE WARRANTY APPLIES.

8 pt boxes, 1 pt stroke
8.5 pt regular, caps & lc
10.2 pt leading

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

1 pt rule

☐ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

8 pt box, 1 pt stroke
8.5 pt regular, italic, caps & lc
10.2 pt leading
2 pt rule

ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.

OBTAIN A VEHICLE HISTORY REPORT AND CHECK FOR OPEN SAFETY RECALLS. For information on how to obtain a vehicle history report, visit ftc.gov/usedcars. To check for open safety recalls, visit safercar.gov. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on these sites.

SEE OTHER SIDE for important additional information, including a list of major defects that may occur in used motor vehicles.

Si el concesionario gestiona la venta en español, pídale una copia de la Guía del Comprador en español.

9 pt regular, bold, caps & lc
10.8 pt leading

* Typeface is Arial, text is flush left unless otherwise noted.

"Implied Warranties Only" Buyers Guide with format notes

504 x 684 pt box, 1 pt stroke

BUYERS GUIDE

26 pt bold caps centered

1 pt rule

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

8.5 pt bold & regular, caps & lc

0.5 pt rule

VEHICLE MAKE | MODEL | YEAR | VEHICLE IDENTIFICATION NUMBER (VIN)

6 pt regular caps

12 pt bold caps

WARRANTIES FOR THIS VEHICLE:

2 pt rule

22 pt box, 1 pt stroke

☐ IMPLIED WARRANTIES ONLY

24 pt bold caps

8.5 pt regular, italic, caps & lc

10.2 pt leading

The dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward. But *implied warranties* under your state's laws may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

1 pt dashed rule

22 pt box, 1 pt stroke

☐ DEALER WARRANTY

24 pt bold caps

8 pt boxes, 1 pt stroke

8.5 pt regular, italic, caps & lc

10.2 pt leading

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

9 pt bold caps, 2 columns

SYSTEMS COVERED: **DURATION:**

NON-DEALER WARRANTIES FOR THIS VEHICLE:

12 pt bold caps

2 pt rule

☐ MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle.

☐ MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐ OTHER USED VEHICLE WARRANTY APPLIES.

8 pt boxes, 1 pt stroke

8.5 pt regular, caps & lc

10.2 pt leading

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

1 pt rule

☐ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

8 pt box, 1 pt stroke

8.5 pt regular, italic, caps & lc

10.2 pt leading

2 pt rule

ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.

OBTAIN A VEHICLE HISTORY REPORT AND CHECK FOR OPEN SAFETY RECALLS. For information on how to obtain a vehicle history report, visit ftc.gov/usedcars. To check for open safety recalls, visit safercar.gov. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on these sites.

9 pt regular, bold, caps & lc

10.8 pt leading

SEE OTHER SIDE for important additional information, including a list of major defects that may occur in used motor vehicles.

Si el concesionario gestiona la venta en español, pídale una copia de la Guía del Comprador en español.

* Typeface is Arial, text is flush left unless otherwise noted.

Buyers Guide with format notes

504 x 684 pt box, 1 pt stroke

2 pt rule

7 pt regular, cap & lc

144 pt columns, left, center, righ
7 pt bold, 2 pt before para,
7 pt regular, 15 pt left ind,
-10 pt first line ind
8.4 pt leading

Here is a list of some major defects that may occur in used vehicles.

Frame & Body
- Frame-cracks, corrective welds, or rusted through
- Dog tracks—bent or twisted frame

Engine
- Oil leakage, excluding normal seepage
- Cracked block or head
- Belts missing or inoperable
- Knocks or misses related to camshaft lifters and push rods
- Abnormal exhaust discharge

Transmission & Drive Shaft
- Improper fluid level or leakage, excluding normal seepage
- Cracked or damaged case which is visible
- Abnormal noise or vibration caused by faulty transmission or drive shaft
- Improper shifting or functioning in any gear
- Manual clutch slips or chatters

Differential
- Improper fluid level or leakeage, excluding normal seepage
- Cracked of damaged housing which is visible
- Abnormal noise or vibration caused by faulty differential

Cooling System
- Leakage including radiator
- Improperly functioning water pump

Electrical System
- Battery leakage
- Improperly functioning alternator, generator, battery, or starter

Fuel System
- Visible leakage

Inoperable Accessories
- Gauges or warning devices
- Air conditioner
- Heater & Defroster

Brake System
- Failure warning light broken
- Pedal not firm under pressure (DOT spec.)
- Not enough pedal reserve (DOT spec.)
- Does not stop vehicle in straight line (DOT spec.)
- Hoses damaged
- Drum or rotor too thin (Mfgr. Specs)
- Lining or pad thickness less than 1/32 inch
- Power unit not operating or leaking
- Structural or mechanical parts damaged

Air Bags

Steering System
- Too much free play at steering wheel (DOT specs.)
- Free play in linkage more than 1/4 inch
- Steering gear binds or jams
- Front wheels aligned improperly (DOT specs.)
- Power unit belts cracked or slipping
- Power unit fluid level improper

Suspension System
- Ball joint seals damaged
- Structural parts bent or damaged
- Stabilizer bar disconnected
- Spring broken
- Shock absorber mounting loose
- Rubber bushings damaged or missing
- Radius rod damaged or missing
- Shock absorber leaking or functioning improperly

Tires
- Tread depth less than 2/32 inch
- Sizes mismatched
- Visible damage

Wheels
- Visible cracks, damage or repairs
- Mounting bolts loose or missing

Exhaust System
- Leakage
- Catalytic Converter

2 pt rule

DEALER NAME

ADDRESS

TELEPHONE EMAIL

FOR COMPLAINTS AFTER SALE, CONTACT:

0.5 pt rules
8 pt regular, caps
25 pts between rules

2 pt rule
9 pt bold & regular, caps & lc
10.8 pt leading

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removing this label before consumer purchase (except for purpose of test-driving) violates federal law (16 C.F.R. 455).

* Typeface is Arial, text is flush left unless otherwise noted.

Appendix E

Spanish-Language "As Is" Buyers Guide

GUÍA DEL COMPRADOR

IMPORTANTE: Las promesas verbales son difíciles de hacer cumplir. Solicite al concesionario que ponga todas las promesas por escrito. Conserve este formulario.

MARCA DEL VEHÍCULO | MODELO | AÑO | NÚMERO DE IDENTIFICACIÓN DEL VEHICULO (VIN)

GARANTÍAS PARA ESTE VEHÍCULO:

☐ **COMO ESTÁ - SIN GARANTÍA DEL CONCESIONARIO**

EL CONCESIONARIO NO PAGARÁ NINGUNA REPARACIÓN. El concesionario no provee una garantía para reparaciones hechas después del momento de la venta.

☐ **GARANTÍA DEL CONCESIONARIO**

☐ GARANTÍA COMPLETA.

☐ GARANTÍA LIMITADA. El concesionario pagará el _____% de la mano de obra y el _____% de las partes de los sistemas cubiertos que fallen durante el período de garantía. Pídale al concesionario una copia de la garantía y de cualquier documento que le explique la cobertura, las exclusiones y las obligaciones de reparación del concesionario. Las *garantías implícitas*, según las leyes de su estado, podrían darle derechos adicionales.

SISTEMAS CUBIERTOS: **DURACIÓN:**

GARANTÍAS QUE NO PERTENECEN AL CONCESIONARIO:

☐ LA GARANTÍA DEL FABRICANTE TODAVÍA APLICA. La garantía original del fabricante no ha expirado para algunos de los componentes del vehículo.

☐ SE APLICA LA GARANTÍA DEL FABRICANTE PARA VEHÍCULOS USADOS.

☐ SE APLICA OTRA GARANTÍA PARA VEHÍCULOS USADOS.

Pídale al concesionario una copia del documento de garantía y una explicación de la cobertura, las exclusiones y las obligaciones de reparación.

☐ CONTRATO DE MANTENIMIENTO. Con un cargo adicional, puede obtener un contrato de mantenimiento para este vehículo. Pregunte acerca de los detalles de la cobertura, los deducibles, el precio y las exclusiones. Si compra un contrato de mantenimiento dentro de los 90 días desde el momento en que compró el vehículo, las *garantías implícitas* según las leyes de su estado podrían darle derechos adicionales.

PREGÚNTELE AL CONCESIONARIO SI SU MECÁNICO PUEDE INSPECCIONAR EL VEHÍCULO DENTRO O FUERA DEL CONCESIONARIO.

OBTENGA UN INFORME DEL HISTORIAL DEL VEHÍCULO Y VERIFIQUE SI EXISTEN RETIROS POR DEFECTOS DE SEGURIDAD PENDIENTES. Para información sobre cómo obtener un Informe del Historial del Vehículo, visite el sitio ftc.gov/carrosusados. Para verificar si existen retiros por defectos de seguridad pendientes, visite safercar.gov. Para aprovechar al máximo los recursos de estos sitios necesitará el número de identificación de vehículo (VIN) mostrado anteriormente.

CONSULTE EL DORSO para obtener más información, incluyendo una lista de defectos importantes que pueden ocurrir en vehículos de motor usados.

Appendix F

Spanish-Language "Implied Warranties Only" Buyers Guide

GUÍA DEL COMPRADOR

IMPORTANTE: Las promesas verbales son difíciles de hacer cumplir. Solicite al concesionario que ponga todas las promesas por escrito. Conserve este formulario.

MARCA DEL VEHÍCULO | MODELO | AÑO | NÚMERO DE IDENTIFICACIÓN DEL VEHICULO (VIN)

GARANTÍAS PARA ESTE VEHÍCULO:

☐ **SOLO GARANTÍAS IMPLÍCITAS**

El concesionario no hace ninguna promesa de reparar lo que sea necesario cuando compre el vehículo o posteriormente. Sin embargo, las *garantías implícitas* según las leyes estatales podrían darle algunos derechos para hacer que el concesionario se encargue de ciertos problemas que no fueran evidentes cuando compró el vehículo.

☐ **GARANTÍA DEL CONCESIONARIO**

☐ GARANTÍA COMPLETA.

☐ GARANTÍA LIMITADA. El concesionario pagará el _____% de la mano de obra y el _____% de las partes de los sistemas cubiertos que fallen durante el período de garantía. Pídale al concesionario una copia de la garantía y de cualquier documento que le explique la cobertura, las exclusiones y las obligaciones de reparación del concesionario. Las *garantías implícitas*, según las leyes de su estado, podrían darle derechos adicionales.

SISTEMAS CUBIERTOS: **DURACIÓN:**

GARANTÍAS QUE NO PERTENECEN AL CONCESIONARIO:

☐ LA GARANTÍA DEL FABRICANTE TODAVÍA APLICA. La garantía original del fabricante no ha expirado para algunos de los componentes del vehículo.

☐ SE APLICA LA GARANTÍA DEL FABRICANTE PARA VEHÍCULOS USADOS.

☐ SE APLICA OTRA GARANTÍA PARA VEHÍCULOS USADOS.

Pídale al concesionario una copia del documento de garantía y una explicación de la cobertura, las exclusiones y las obligaciones de reparación.

☐ CONTRATO DE MANTENIMIENTO. Con un cargo adicional, puede obtener un contrato de mantenimiento para este vehículo. Pregunte acerca de los detalles de la cobertura, los deducibles, el precio y las exclusiones. Si compra un contrato de mantenimiento dentro de los 90 días desde el momento en que compró el vehículo, las *garantías implícitas* según las leyes de su estado podrían darle derechos adicionales.

PREGÚNTELE AL CONCESIONARIO SI SU MECÁNICO PUEDE INSPECCIONAR EL VEHÍCULO DENTRO O FUERA DEL CONCESIONARIO.

OBTENGA UN INFORME DEL HISTORIAL DEL VEHÍCULO Y VERIFIQUE SI EXISTEN RETIROS POR DEFECTOS DE SEGURIDAD PENDIENTES. Para información sobre cómo obtener un Informe del Historial del Vehículo, visite el sitio ftc.gov/carrosusados. Para verificar si existen retiros por defectos de seguridad pendientes, visite safercar.gov. Para aprovechar al máximo los recursos de estos sitios necesitará el número de identificación de vehículo (VIN) mostrado anteriormente.

CONSULTE EL DORSO para obtener más información, incluyendo una lista de defectos importantes que pueden ocurrir en vehículos de motor usados.

Appendix G

Spanish-Language Buyers Guide back page

A continuación podrá encontrar una lista de los defectos principales que podrían ocurrir en vehículos usados.

Chasis y carrocería
- Grietas en el chasis, soldaduras correctivas u oxidadas
- Descuadrado: chasis doblado o torcido

Motor
- Pérdidas de aceite, excepto las filtraciones normales
- Bloque o cárter con grietas
- Correas ausentes o fuera de servicio
- Golpes o fallas relacionados con levantadores de levas o bielas
- Descarga del escape fuera de lo normal

Transmisión y eje motor
- Nivel inadecuado de fluido o pérdidas excepto filtraciones normales
- Grietas o daños visibles en la caja.
- Ruidos o vibraciones fuera de lo normal ocasionadas por la transmisión o el eje motor
- Cambios o funcionamiento inadecuados en cualquier velocidad
- Patinados o vibraciones del embrague manual

Diferencial
- Nivel inadecuado de fluido o pérdidas excepto filtraciones normales
- Grietas o daños visibles en el cárter del diferencial
- Ruidos o vibraciones fuera de lo normal ocasionadas por fallas en el diferencial.

Sistema de enfriamiento
- Pérdidas, incluidas las del radiador
- Funcionamiento inadecuado de la bomba de agua

Sistema eléctrico
- Pérdidas en la batería
- Funcionamiento inadecuado del alternador, generador, batería o arrancador

Sistema de combustible
- Pérdidas visibles

Accesorios fuera de servicio
- Indicadores o dispositivos de advertencia
- Aire acondicionado
- Calefacción y Desempañador

Sistema de frenos
- Luz de advertencia de fallas rota
- Falta de firmeza cuando se presiona el pedal (según especificaciones del Departamento de Transporte [DOT])
- Distancia insuficiente del pedal (según especificaciones del DOT)
- El vehículo no se detiene en línea recta (según especificaciones del DOT)
- Mangueras dañadas
- Tambor o rotor muy delgados (según especificaciones del fabricante)
- Grosor de la placa o del revestimiento inferior que 1/32 pulgadas
- Unidad de potencia fuera de servicio o con pérdidas
- Partes estructurales o mecánicas dañadas

Bolsas de aire

Sistema de dirección
- Demasiado juego en el volante (según especificaciones del DOT)
- Juego mayor a 1/4 de pulgada en el varillaje.
- El mecanismo de dirección se traba
- Alineación inadecuada de las ruedas frontales (según especificaciones del DOT)
- Grietas o deslizamientos en las correas de la unidad de potencia
- Nivel inadecuado de fluidos de la unidad de potencia

Sistema de suspensión
- Juntas de rótula dañadas
- Partes estructurales dobladas o dañadas
- Barra estabilizadora desconectada
- Resorte roto
- Cojinete del amortiguador suelto
- Cojinetes de caucho dañados o ausentes
- Biela dañada o ausente
- Amortiguador con pérdidas o con funcionamiento inadecuado

Neumáticos
- Profundidad de las ranuras menor que 2/32 de pulgada
- Tamaños que no corresponden
- Daños visibles

Ruedas
- Grietas, daños o reparaciones visibles
- Tornillos de sujeción sueltos o ausentes

Sistema de escape
- Pérdidas
- Convertidor catalítico

NOMBRE DEL CONCESIONARIO

DIRECCIÓN DEL CONCESIONARIO

TELÉFONO CORREO ELECTRÓNICO

PARA QUEJAS DESPUÉS DE LA VENTA COMUNÍQUESE CON:

IMPORTANTE: La información de este formulario es parte de cualquier contrato para comprar este vehículo. Quitar esta etiqueta antes de la compra del consumidor (excepto a los fines de realizar una prueba de conducción) es una infracción a la ley federal (16 C. F. R. 455).

Appendix H

Section 104 of the Magnuson-Moss Warranty Act (15 U.S.C. 2304)
Federal Minimum Standards for Warranties

(a) Remedies under written warranty; duration of implied warranty; exclusion or limitation on consequential damages for breach of written or implied warranty; election of refund or replacement. In order for a warrantor warranting a consumer product by means of a written warranty to meet the Federal minimum standards for warranty—

(1) such warrantor must as a minimum remedy such consumer product within a reasonable time and without charge, in the case of a defect, malfunction, or failure to conform with such written warranty;

(2) notwithstanding section 2308(b) of this title, such warrantor may not impose any limitation on the duration of any implied warranty on the product;

(3) such warrantor may not exclude or limit consequential damages for breach of any written or implied warranty on such product, unless such exclusion or limitation conspicuously appears on the face of the warranty; and

(4) if the product (or a component part thereof) contains a defect or malfunction after a reasonable number of attempts by the warrantor to remedy defects or malfunctions in such product, such warrantor must permit the consumer to elect either a refund for, or replacement without charge of, such product or part (as the case may be). The Commission may by rule specify for purposes of this paragraph, what constitutes a reasonable number of attempts to remedy particular kinds of defects or malfunctions under different circumstances. If the warrantor replaces a component part of a consumer product, such replacement shall include installing the part in the product without charge.

(b) Duties and conditions imposed on consumer by warrantor

(1) In fulfilling the duties under subsection a) respecting a written warranty, the warrantor shall not impose any duty other than notification upon any consumer as a condition of securing remedy of any consumer product which malfunctions, is defective, or does not conform to the written warranty, unless the warrantor has demonstrated in a rulemaking proceeding, or can demonstrate in an administrative or judicial enforcement proceeding (including private enforcement), or in an informal dispute settlement proceeding, that such a duty is reasonable.

(2) Notwithstanding paragraph (1), a warrantor may require, as a condition to replacement of, or refund for, any consumer product under subsection (a), that such consumer product shall be made available to the warrantor free and clear of liens and other encumbrances, except as otherwise provided by rule or order of the Commission in cases in which such a requirement would not be practicable.

(3) The Commission may, by rule define in detail the duties set forth in subsection (a) of this section and the applicability of such duties to warrantors of different categories of consumer products with "full (statement of duration)" warranties.

(4) The duties under subsection (a) extend from the warrantor to each person who is a consumer with respect to the consumer product.

Section 104 of the Magnuson-Moss Warranty Act (15 U.S.C. 2304) Federal Minimum Standards for Warranties

(c) Waiver of standards

The performance of the duties under subsection (a) shall not be required of the warrantor if he can show that the defect, malfunction, or failure of any warranted consumer product to conform with a written warranty, was caused by damage (not resulting from defect or malfunction) while in the possession of the consumer, or unreasonable use (including failure to provide reasonable and necessary maintenance).

(d) Remedy without charge

For purposes of this section and of section 2302(c) of this title, the term "without charge" means that the warrantor may not assess the consumer for any costs the warrantor or his representatives incur in connection with the required remedy of a warranted consumer product. An obligation under subsection (a)(1)(A) to remedy without charge does not necessarily require the warrantor to compensate the consumer for incidental expenses; however, if any incidental expenses are incurred because the remedy is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the consumer as a condition of securing remedy, then the consumer shall be entitled to recover reasonable incidental expenses which are so incurred in any action against the warrantor.

(e) Incorporation of standards to products designated with full warranty for purposes of judicial actions

If a supplier designates a warranty applicable to a consumer product as a "full (statement of duration)" warranty, then the warranty on such product shall, for purposes of any action under section 2310(d) of this title or under any State law, be deemed to incorporate at least the minimum requirements of this section and rules prescribed under this section.

(Pub. L. 93–637, title I, § 104, Jan. 4, 1975, 88 Stat. 2187.)

Appendix I

Sample Buyers Guide with Disclosure of a Dealer-Offered Limited Warranty, where dealer also offers a Service Contract (sample only, front side, not sized to specifications)

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

Ford	F-150	2015	xxxxxxxxxx123456
VEHICLE MAKE	MODEL	YEAR	VEHICLE IDENTIFICATION NUMBER (VIN)

WARRANTIES FOR THIS VEHICLE:

☐ **AS IS - NO DEALER WARRANTY**

THE DEALER DOES NOT PROVIDE A WARRANTY FOR ANY REPAIRS AFTER SALE.

☒ **DEALER WARRANTY**

☐ FULL WARRANTY.

☒ LIMITED WARRANTY. The dealer will pay 100 % of the labor and 100 % of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

SYSTEMS COVERED:	DURATION:
Engine	90 days or 3,000 miles, whichever comes first
Transmission and Drive Shaft	90 days or 3,000 miles, whichever comes first

NON-DEALER WARRANTIES FOR THIS VEHICLE:

☐ MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle.

☐ MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐ OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

☒ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.

OBTAIN A VEHICLE HISTORY REPORT AND CHECK FOR OPEN SAFETY RECALLS. For information on how to obtain a vehicle history report, visit ftc.gov/usedcars. To check for open safety recalls, visit safercar.gov. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on these sites.

SEE OTHER SIDE for important additional information, including a list of major defects that may occur in used motor vehicles.

Si el concesionario gestiona la venta en español, pídale una copia de la Guía del Comprador en español.

Appendix J

Sample Buyers Guide With No Dealer-Offered Warranty / "Certified Pre-Owned" and Service Contract Offered (sample only, front side, not sized to specifications)

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

Toyota	Camry	2011	xxxxxxxxxx123456
VEHICLE MAKE	MODEL	YEAR	VEHICLE IDENTIFICATION NUMBER (VIN)

WARRANTIES FOR THIS VEHICLE:

☒ **AS IS - NO DEALER WARRANTY**

THE DEALER DOES NOT PROVIDE A WARRANTY FOR ANY REPAIRS AFTER SALE.

☐ **DEALER WARRANTY**

☐ FULL WARRANTY.

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

SYSTEMS COVERED: [67] **DURATION:**

NON-DEALER WARRANTIES FOR THIS VEHICLE:

☐ MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle.

☒ MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.

☐ OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

☒ SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.

OBTAIN A VEHICLE HISTORY REPORT AND CHECK FOR OPEN SAFETY RECALLS. For information on how to obtain a vehicle history report, visit ftc.gov/usedcars. To check for open safety recalls, visit safercar.gov. You will need the vehicle identification number (VIN) shown above to make the best use of the resources on these sites.

SEE OTHER SIDE for important additional information, including a list of major defects that may occur in used motor vehicles.

Si el concesionario gestiona la venta en español, pídale una copia de la Guía del Comprador en español.

Endnotes

1. 16 CFR Part 455—Trade Regulation Rule; Sale of Used Motor Vehicles; 81 Fed. Reg 81664 (November 18, 2016).
2. The Rule is effective January 27, 2017, but dealers are permitted to use their "existing stock" of the old Buyers Guide for up to one year (until January 27, 2018).
3. 16 CFR Part 455; 53 Fed. Reg. 17658-17677.
4. Because the FTC has determined those two states have state-specific Buyers Guide forms that afford protections equal to or greater than the Used Car Rule.
5. 16 CFR 700.1(i).
6. 15 U.S.C. § 45(a)(1). This is the FTC's broad statutory authority to declare unlawful any "act or practice" that is "unfair or deceptive in or affecting commerce."
7. Section 455.1(a)(1)-(3).
8. Id. at (b)(1)-(2).
9. Section 455.1(c)(1).
10. 53 Fed. Reg. 17661.
11. Id.
12. Id.
13. 15 U.S.C. 1221.
14. Section 455.1(c)(3).
15. 53 Fed. Reg. 17661.
16. Id.
17. Section 455.1(d)(4).
18. 49 Fed. Reg. 45708. Under sections 101 (1) and (3) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 (1), (3), a "consumer" means a buyer of any product normally used for personal, family, or household purposes.
19. But see 49 Fed. Reg. 45709 n 248. "Certain dealers may have clientele (e.g., large businesses that regularly purchase used vehicles) that clearly do not require the disclosures provided by the Rule. Although the Commission believes that these dealers are few in number, the Commission would consider the advisability of exempting such dealers from the Rule. Therefore, it would be appropriate for such dealers to file a petition for exemption with the Commission to enable the Commission to consider these specialized situations."
20. Section 455.1(c)(5).
21. The FTC describes implied warranties as follows:

    Implied warranties are created by state law, and all states have them. Almost every purchase you make is covered by an implied warranty.

    The most common type of implied warranty—a "warranty of merchantability," means that the seller promises that the product will do what it is supposed to do. For example, a car will run and a toaster will toast.

Another type of implied warranty is the "warranty of fitness for a particular purpose." This applies when you buy a product on the seller's advice that it is suitable for a particular use. For example, a person who suggests that you buy a certain sleeping bag for zero-degree weather warrants that the sleeping bag will be suitable for zero degrees.

If your purchase does not come with a written warranty, it is still covered by implied warranties unless the product is marked "as is," or the seller otherwise indicates in writing that no warranty is given.

https://www.consumer.ftc.gov/articles/0252-warranties

22. 15 U.S.C. 2304(a) and 2308. *See, e.g.,* 15 U.S.C. 50 § 2308, "Implied Warranties" which states:

    (a) Restrictions on disclaimers or modifications

    No supplier may disclaim or modify (except as provided in subsection (b)) any implied warranty to a consumer with respect to such consumer product if (1) such supplier makes any written warranty to the consumer with respect to such consumer Product, or (2) at the time of sale, or within 90 days thereafter, such supplier enters into a service contract with the consumer which applies to such consumer product.

    (b) Limitation on duration

    For purposes of this chapter (other than section 2304(a)(2) of this title), implied warranties may be limited in duration to the duration of a written warranty of reasonable duration, if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty.

    (c) Effectiveness of disclaimers, modifications, or limitations

    A disclaimer, modification, or limitation made in violation of this section shall be ineffective for purposes of this chapter and State law.

23. Section 455.1(c)(6).

24. Id. at (c)(7).

25. 15 U.S.C. 1011.

26. See 15 U.S.C. §45 (m)(1)(A). This civil penalty amount is effective as of 2017, but recent changes to federal law will likely result in annual increases to this figure.

27. See 15 U.S.C. § 53b.

28. Section 455.2(a) and (a)(1).

29. The FTC expressly considered the fact that "consumers who purchase entirely online may not see that information until after the sale is completed." Nevertheless, the revised rule does not create any duty with respect to online advertisements or sales of used cars. The FTC also noted that the Rule "does not preclude [dealers] from disclosing [Buyers Guide] information in other ways, such as by making Buyers Guides available online," and that FTC Staff also routinely "advises dealers to include the final version of the Buyers Guide with the final sales contract because the Buyers Guide is incorporated into that contract." 77 Fed Reg 74762.

30. Of course, dealers should exercise caution to ensure that the Buyers Guide that is displayed online with that used car is accurate and legible for consumers shopping or purchasing online.

31. See 16 CFR§ 702.3 *Pre-sale availability of written warranty terms.*

    The following requirements apply to consumer products actually costing the consumer more than $15.00:

(a) Duties of seller. Except as provided in paragraphs (c) through (d) of this section, the seller of a consumer product with a written warranty shall make a text of the warranty readily available for examination by the prospective buyer by:

(1) Displaying it in close proximity to the warranted product (including through electronic or other means, if the warrantor has elected the option described in paragraph (b)(2) of this section), or

(2) Furnishing it upon request prior to sale (including through electronic or other means, if the warrantor has elected the option described in paragraph (b)(2) of this section) and placing signs reasonably calculated to elicit the prospective buyer's attention in prominent locations in the store or department advising such prospective buyers of the availability of warranties upon request.

(b) Duties of the warrantor.

(1) A warrantor who gives a written warranty warranting to a consumer a consumer product actually costing the consumer more than $15.00 shall:

(i) Provide sellers with warranty materials necessary for such sellers to comply with the requirements set forth in paragraph (a) of this section, by the use of one or more of the following means:

(A) Providing a copy of the written warranty with every warranted consumer product;

(B) Providing a tag, sign, sticker, label, decal or other attachment to the product, which contains the full text of the written warranty;

(C) Printing on or otherwise attaching the text of the written warranty to the package, carton, or other container if that package, carton or other container is normally used for display purposes. If the warrantor elects this option a copy of the written warranty must also accompany the warranted product; or

(D) Providing a notice, sign, or poster disclosing the text of a consumer product warranty. If the warrantor elects this option, a copy of the written warranty must also accompany each warranted product.

(ii) Provide catalog, mail order, and door-to-door sellers with copies of written warranties necessary for such sellers to comply with the requirements set forth in paragraphs (c) and (d) of this section.

(2) As an alternative method of compliance with paragraph (b)(1) of this section, a warrantor may provide the warranty terms in an accessible digital format on the warrantor's Internet Web site. If the warrantor elects this option, the warrantor must:

(i) Provide information to the consumer that will inform the consumer how to obtain warranty terms by indicating, in a clear and conspicuous manner, in the product manual or on the product or product packaging:

(A) The Internet Web site of the warrantor where such warranty terms can be reviewed, and

(B) The phone number, the postal mailing address of the warrantor, or other reasonable non-Internet based means for the consumer to request a copy of the warranty terms;

(ii) Provide a hard copy of the warranty terms promptly and free of charge upon request by a consumer or seller made pursuant to paragraph (b)(2)(i)(B) of this section;

(iii) Ensure that warranty terms are posted in a clear and conspicuous manner and remain accessible to the consumer on the Internet Web site of the warrantor; and

(iv) Provide information with the consumer product or on the Internet Web site of the warrantor sufficient to allow the consumer to readily identify on such Internet Web sites the warranty terms that apply to the specific warranted product.

(3) Paragraph (a)(1) of this section shall not be applicable with respect to statements of general policy on emblems, seals or insignias issued by third parties promising replacement or refund if a consumer product is defective, which statements contain no representation or assurance of the quality or performance characteristics of the product; provided that

(i) The disclosures required by § 701.3(a)(1) through (9) of this chapter are published by such third parties in each issue of a publication with a general circulation, and

(ii) Such disclosures are provided free of charge to any consumer upon written request.

32. The FTC has stated that you may enlarge the form, if necessary to include additional warranty information.

33. Section 455.2(a)(2).

34. Section 455.3(a).

35. NADA successfully argued against a number of other changes to the Buyers Guide that were sought by so-called "consumer" groups, State AGs, and the plaintiffs' bar, and that were proposed in several different ways by the FTC. For example, among the suggestions that were not ultimately accepted by the FTC are the following: a requirement that dealers disclose whether they obtained a vehicle history report and provide a copy to the consumer; inflammatory proposed language on the "as is" guide that stated "*but you may have other legal rights and remedies for dealer misconduct;*" and calls to regulate the sale of cars under the Used Car Rule based on their recall status.

36. It states: "Si el concesionario gestiona la venta en espanol, pidale una copia de la Guia del Comprador en espanol." Because of concerns raised by NADA during the comment period, the FTC revised and clarified this language, and made it clear that "the additional Spanish statement is not intended to change the Rule's existing requirement that dealers provide a Spanish Buyers Guide if the dealer conducts a sale in Spanish." 81 Fed. Reg. 81665.

37. While unrelated to dealers' duties under the FTC Used Car Rule, dealers should be aware that the FTC has brought enforcement actions against dealers with respect to certain used-vehicle advertisements that allegedly failed to disclose that the vehicles offered for sale had unremedied recalls. See https://www.ftc.gov/news-events/press-releases/2016/01/gm-jim-koons-management-lithia-motors-inc-settle-ftc-actions.

38. Note that, unlike the old form, the revised Buyers Guide does not contain a space for the stock number. The reason for this omission is unclear, but may stem from a simple need to save space on the front of the form to ensure that all the required new text would fit on one page. FTC staff has informally informed NADA that if a dealer wishes to include a stock number in this section, it may do so.

39. 15 U.S.C. 50 § 2302(b)(2), stating "Nothing in this chapter . . . shall be deemed to authorize the Commission to prescribe the duration of written warranties given or to require that a consumer product or any of its components be warranted."

40. In addition to the Spanish-language version of each.

41. Dealers should work with their legal counsel to confirm this, as there may be limited, unique situations under certain state law regimes that may alter this determination.

42. Note also that if a dealer offers a warranty on a used vehicle, it must also comply with other the FTC requirements regarding the disclosure and availability of the warranty documentation. As directed by the 1975 Magnuson-Moss Warranty Act (MMWA), 15 U.S.C. § 2302, the FTC developed the Disclosure Rule (16 C.F.R. Part 701, titled "Written Consumer Product Warranty Terms and Conditions") and Pre-Sale Availability Rule (16 C.F.R. Part 702, titled "Pre-Sale Availability of Written Warranty Terms").

    The Disclosure Rule provides disclosure requirements for written warranties on products that cost more than $15.00, specifies language for certain disclosures, and requires simple language in a single document. The Pre-Sale Availability Rule details the methods by which warrantors and sellers must provide warranty terms before a sale.

43. See generally, the FTC publication entitled a "Businessperson's Guide to Federal Warranty Law" available at https://www.ftc.gov/tips-advice/business-center/guidance/businesspersons-guide-federal-warranty-law.

44. 15 U.S.C. § 2304.

45. Dealers should also note that the Magnuson-Moss Warranty Act does not apply to vehicles manufactured prior to July 4, 1975. Accordingly, if a dealer offers such a vehicle with a warranty, the dealer may cross out the "full" and "limited" designations on the Buyers Guide, leaving "warranty" and the remainder of the warranty disclosure language. See 49 FR 45728 fn. 2.

46. Section 104(a)(1) of the Magnuson-Moss Act, 15 U.S.C. 2304(a)(1) requires the warrantor to remedy the defect "without charge."

47. See the 2003 NADA memo on split cost warranties. Also, the FTC states:

    > Split cost warranties are those under which the dealer pays less than 100 percent of the cost for a warranty repair. This type of warranty includes 50/50 warranties where the dealer pays 50 percent of the cost for a covered repair and the buyer pays the remaining 50 percent. Another type of split cost warranty is one under which the buyer pays a deductible amount and the dealer pays the remaining cost for the repair.
    >
    > If you offer a split cost warranty that requires you to pay a percentage of the repair cost for covered repairs, you should include the following disclosures in your warranty document:
    >
    > The percentage of the total repair cost you will pay.
    >
    > The percentage of the total repair cost the buyer must pay.
    >
    > How the total cost of the repair will be determined. For example, your warranty might state: "The total cost of a warranty repair will be the retail price ABC motors charges for the job." As another example, your warranty might state: "The total cost of a warranty repair will be determined by adding the dealer's cost for parts to the labor cost. Labor will be billed at a rate of _____ per hour for the actual time required to complete the repair." As a final example, your warranty might state: "If the work is done by an outside repair shop, total cost of a repair will be the price ABC Motors is charged by the outside shop. If the work is done by ABC Motors, the total cost of the repair will be the same price ABC Motors charges non-warranty customers for the same job."
    >
    > If your warranty requires buyers to pay a deductible, your warranty document should disclose the deductible amount and the details as to when and under what circumstances the deductible must be paid.
    >
    > Dealers offering split cost warranties can require that buyers return to the dealer for warranty repairs. If your warranty includes this restriction, however, you should provide an estimate of the total repair cost before work is started. This will allow the buyer to decide whether to approve the repair or have the work done elsewhere.

    https://www.ftc.gov/tips-advice/business-center/guidance/dealers-guide-used-car-rule.

Endnotes *(continued)*

48. Section 455.2(b)(2)(ii) and (iii); 53 Fed. Reg. 17663.

49. While the boxes are optional for purposes of the Used Car Rule and Buyers Guide, dealers must separately ensure compliance with the FTC's Warranty Disclosure Rule and Pre-Sale Availability Rule (discussed above) with respect to non-dealer warranties on used vehicles they sell.

50. Note that the term "certified" is neither defined nor recognized in the Rule. What is relevant to the Rule is the existence of a "warranty" and the identity of the warrantor.

51. 53 Fed. Reg. 17662. "Dealers also may post a completely separate window sticker to make other truthful and non-deceptive information known to the consumer, as long as that information does not conflict with the Buyers Guide and the sales contract."

52. Or the manufacturer (see discussion above).

53. 15 U.S.C. 2301 (6)(B). The Magnuson-Moss Act defines the term "service contract" as a "contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair (or both) of a consumer product." Id. at (8).

54. Section 455.2(c) and (e).

55. 16 CFR § 455.2(f).

56. If you conduct the sale in Spanish, you must include the following disclosure in immediate proximity to the signature line: "Por este medio confirm que he recibido copia de la Guia del Comprador al momento do la compraventa."

57. Section 455.2(b)(1).

58. Section 455.4; the FTC "Warranty Disclosure Rule," 16 C.F.R. Part 701.

59. See id.

60. Section 455.3(b).

61. Section 455.3(b).

62. Which is the "document by which you agree to transfer title to the vehicle upon payment of the purchase price." 53 Fed. Reg. 17667.

63. See id.

64. Section 455.4.

65. When dealers conduct a used-vehicle sale in Spanish, the window form and the disclosure related to the Buyers Guide in the sales contract must be in Spanish. The FTC provides the following Spanish translation of the required contract disclosure:

    La informacion que aparece en la ventanilla de este vehiculo forma parte de este contrato. La informacion contenida en el formulario de la ventanilla anula cualquier prevision que establezca lo contrario y que aparezca en el contrato de venta.

66. Section 455.5(a).

67. Important: Do not place details about the manufacturers "certified" warranty in this section of the form. If you (or your manufacturer) wish to disclose details about the "CPO" warranty on a window sticker, you may do so on a *separate* window sticker, which is permitted as long as it does not contradict the Buyers Guide.

Acknowledgment

This guide was prepared for NADA by:

Bradley Miller
Director, NADA Legal and Regulatory Affairs



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