

CONTRACTUAL LIABILITY POLICY

DECLARATION

Policy No:

NAMED INSURED:

ADDRESS:

POLICY PERIOD: From _____ Continuous until cancelled

COUNTERSIGNED AT:

BY:

DATE _____, 20

A. **INSURING AGREEMENT**

_____ (herein called the "Company", "us" or "we") agrees to pay _____ (herein called "you") for all costs incurred in fulfilling your obligations under each service agreement issued during the Policy Term according to terms and conditions of such Service Agreements. In the event such costs are incurred by another party's performance of repair or replacement services as a result of such obligations, payment may be made directly to such other party on your behalf.

In the event you become bankrupt, impaired or insolvent (as defined in Section 631.011, Florida Statutes), dissolved, or if you go out of business, or fail to pay documented claims we will pay Losses and unearned premiums refunds, if any, directly to the person making a claim under the Service Agreement or canceling the Service Agreement.

This policy insures (for home warranties) all Service Agreements issued by you while this policy is in effect. This policy insures (for service warranties and auto warranties) all Service Agreements issued by you while this policy is in effect, whether or not the premium has been remitted to the insurer.

This policy insures 100% of the Association's claim exposure and is obtained from an insurer approved by the Office which holds a certificate of authority to do business within this state.

B. **DEFINITIONS**

- (1) Contractual Obligation means your obligation to properly repair or replace covered parts or to pay for the cost of proper repair or replacement of covered parts.
- (2) INSURED means the person or organization named in the Declaration, also referred to as "You".
- (3) SERVICE AGREEMENT means either a motor vehicle service agreement, home warranty or service warranty (as defined in Chapter 634, Florida Statutes).
- (4) SERVICE AGREEMENT HOLDER means the original purchaser of a Service Agreement or someone to whom the Service Agreement has been transferred under the terms of the Service Agreement.
- (5) SERVICE AGREEMENT HOLDER CLAIM means a claim by a Service Agreement Holder or a claim on the behalf of a Service Agreement Holder which forms a Contractual Obligation.
- (6) LOSS means expense actually incurred by you or on your behalf in the performance of a Contractual Obligation.
- (7) REPAIR FACILITY means a person or organization authorized by you or on your behalf to perform service under a Service Agreement.
- (8) INSURED CLAIM means your claim for benefits under this policy based on a Contractual Obligation.
- (9) PREMIUM means the amount paid by the Service Agreement Holder.

C. **EXCLUSIONS**

The policy does not apply to:

- (1) liability for any consequential damages, including but not limited to, punitive or extra-contractual damages, arising from your actions, or any Repair Facility under a Service Agreement;
- (2) any and all obligations and liabilities arising out of your actions or anyone else's actions under a Service Agreement;
- (3) any and all obligations and liabilities extending to anyone other than the Service Agreement Holder;
- (4) any duty to defend you in any law suit or other judicial or administrative proceeding;
- (5) labor performed by you or on your behalf arising out of work or any portion thereof, or out of material, parts or equipment, as a result of recall by the manufacturer.

D. **CONDITIONS**

- (1) **SALE OF SERVICE AGREEMENT:** You must report the sale of a Service Agreement within 30 days of its issue date on the forms provided by us and send us or our authorized agent the proper premium. All premiums will be computed in accordance with the rules, rates, rating plans, premiums and minimum premiums which apply to the insurance afforded by this policy.
- (2) **PREMIUMS:** The premium for each Service Agreement is shown in the rate schedule. These rates shall remain in effect until we change them and until they

have been approved by the Office of Insurance Regulation. You will be given 30 days written notice prior to any change.

- (3) NOTICE OF INSURED CLAIM: You should provide us full details of a claim prior to starting any work specified with a Contractual Obligation in excess of \$____.00 by the Service Agreement giving full details of the claim.
- (4) PROOF OF LOSS: Written proof of loss must be given within 30 days after a loss occurs, giving full details on the nature and extent of the loss. Proof of loss shall be given on forms furnished by us unless we fail to furnish such forms within 15 days after we receive a notice of claim.
- (5) INSPECTION AND AUDIT: At any reasonable time, we have the right to inspect your premises, books and records as they pertain to coverage under this policy. This right exists so long as Service Agreements are outstanding. Neither the right to inspect or the conduct of an inspection will serve as a warranty that such property or operations are safe or health free or in compliance with any law.
- (6) CHAPTER 634, FLORIDA STATUTES APPLICABILITY: In the event you are no longer able to fulfill your obligations and we are acting in your stead, we shall be subject to the provisions of Chapter 634, Florida Statutes.
- (7) We shall assume full responsibility for the administration of claims in the event of your inability to do so.

E. **GENERAL PROVISIONS**

- (1) REPRESENTATIONS: By accepting this policy, you agree that the statements in the Declarations are your representations and warranties and that this policy is issued based on those representations. Should you misrepresent these declarations, the company may cancel this contract in accordance with the Cancellation Endorsement. Service Agreements issued during the term of this policy shall continue to be insured. This policy is the entire contract between you and the company.
- (2) SUBROGATION: If any payment under this policy is made by us, we reserve all rights of recovery against any person or organization in connection with such claim. You will execute and deliver all papers necessary to secure such rights. You may do nothing to prejudice such rights.
- (3) ASSIGNMENT: Assignment of interest or liability under this policy shall not be binding on us unless the policy has been countersigned by our authorized agent and approved by the Office of Insurance Regulation.
- (4) CHANGES IN THE POLICY: No change in the policy will be effective until approved by our authorized representative and the Florida Office of Insurance Regulation. The approval must be noted on or attached to this policy. No agent may change this policy or waive any of its provisions.
- (5) RECOVERIES: All amounts recovered by you for which you received benefits under this policy belong to us and shall be paid to us.
- (6) RENEWAL: This policy is issued as stated in the Declaration and is continuous until cancelled in accordance with the Cancellation Endorsement.

IN WITNESS WHEREOF, the company has caused this policy to be signed by its Secretary and President and countersigned by its duly authorized representative.

(PRESIDENT)

(SECRETARY)

MOTOR VEHICLE SERVICE AGREEMENT ENDORSEMENT

- (1) CANCELLATION, TERMINATION, OR NONRENEWAL: You may cancel or terminate this policy at any time by notifying us in writing. Coverage will end 90 days after written notice of such cancellation, termination or nonrenewal has been mailed via certified mail by us to the Florida Office of Insurance Regulation. We may cancel, terminate, or not renew this policy by written notice, mailed via certified mail, to you and the Office of Insurance Regulation at least 90 days prior to such cancellation, termination or nonrenewal.
- (2) UNEARNED PREMIUM REFUND: The unearned premium refund shall be subject to the cancellation fee provisions of Section 634.121(5), Florida Statutes. The salesman or agent shall refund to the Contractual Liability Policy issuer, the unearned pro rata commission.
- (3) The Service agreement company must provide the Office with the claims statistics.

HOME WARRANTY ENDORSEMENTS

- (1) CANCELLATION, TERMINATION, OR NONRENEWAL: You may cancel or terminate this policy at any time by notifying us in writing. Coverage will end 60 days after written notice of such cancellation, termination or nonrenewal has been mailed via certified mail by us to the Florida Office of Insurance Regulation. We may cancel, terminate or not renew this policy by written notice, mailed via certified mail, to you and the Office of Insurance Regulation at least 60 days prior to such cancellation, termination or nonrenewal.

SERVICE WARRANTY ENDORSEMENT

- (1) CANCELLATION, TERMINATION, OR NONRENEWAL: You may cancel or terminate this policy at any time by notifying us in writing. Coverage will end 90 days after written notice of such cancellation, termination or nonrenewal has been mailed via certified mail by us to the Florida Office of Insurance Regulation. We may cancel, terminate, or not renew this policy by written notice, mailed via certified mail, to you and the Florida Office of Insurance Regulation at least 60 days prior to such cancellation, termination or nonrenewal.

- (2) UNEARNED PREMIUM REFUND: In the event the issuer of the contractual liability policy is fulfilling the service warranty covered by policy and in the event the service warranty holder cancels the service warranty, it is the responsibility of the contractual liability issuer to effectuate a full refund of unearned premium to the consumer. The unearned premium refund shall be subject to the cancellation fee provisions of Section 634.414(3),

Florida Statutes. The salesman or agent shall refund to the Contractual Liability Policy issuer, the unearned pro rata commission.

- (3) An Association may not utilize both the unearned premium reserve and contractual liability insurance simultaneously. However, an association shall be allowed to have contractual liability coverage on service warranties previously sold and sell new service warranties covered by the unearned premium reserve, and the converse of this shall also be allowed. An association must be able to distinguish how each individual service warranty is covered.