



PRODUCER AGREEMENT  
(Florida)

THIS AGREEMENT, effective \_\_\_\_\_, \_\_\_\_\_ (the "Effective Date"), by and between Dealers Assurance Company, an Ohio corporation with its Principal offices located at 240 N. Fifth Street, Suite 350, Columbus, OH 43215 (individually and collectively with its affiliated entities, the "Company"), and \_\_\_\_\_ ("Producer").

WHEREAS, the Company is authorized to market, sell, issue, and administer service warranty service agreements authorized and governed by Part III of Chapter 634 of the Florida Statutes (collectively, "Service Warranty Agreements"), and Producer has a 2-52 service warranty insurance license; and

WHEREAS, the Company desires to appoint Producer as the Company's non-exclusive sales representative to market Service Warranty Agreements to Producer's customers in the State of Florida, and Producer desires to accept such appointment and to faithfully perform all of the duties and obligations thereof, all in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants contained herein, the parties hereby agree as follows:

1. Producer's Authority. The Company hereby authorizes Producer to offer and sell Service Warranty Agreements to Producer's customers in the State of Florida. The Producer's authority shall be expressly limited to those Service Warranty Agreement plans and coverages identified in Schedule A attached to this Agreement, as may be revised from time to time upon the written authorization of the Company (the "Product Schedule"). All Service Warranty Agreements shall be sold only on the forms prescribed by the Company and in accordance with and subject to the rules, coverages, guidelines, retail rates, and costs authorized by the Company and furnished to Producer in writing (collectively, the "Product Guidelines"). Producer shall not have any authority to alter, modify, waive, or discharge any terms of the Product Guidelines without the Company's prior written consent. The Company may revise the Product Guidelines at any time upon thirty (30) days' prior written notice to Producer, and Producer shall conform to such revisions. The Company, its partners and affiliates, shall not have any liability for, and Producer shall indemnify, defend, and hold harmless the Company, its partners and affiliates, with respect to, any Service Warranty Agreements sold in violation of the terms of the Product Guidelines or this Agreement.
2. Reports and Remittances. Within ten (10) days after the end of each calendar month, Producer shall furnish a report to the Company of all Service Warranty Agreements sold during such month. The form and content of the report shall be prescribed by the Company. The report shall be accompanied by Producer's payment of the net Producer cost due the Company for all Service Warranty Agreements sold during the month, as set forth in Product Schedule, as may be revised from time to time (the "Producer Cost"). The Company may revise the Producer Cost at any time upon thirty (30) days' prior written notice to the Producer, and Producer shall adhere to the revised cost structure for all business reported thereafter.
3. Compensation and Refunds. As its sole compensation from the sale of the Company's Service Warranty Agreements, Producer shall be permitted to retain the difference between the retail price collected by Producer from the sale of the Service Warranty Agreements and the Producer Cost (the "Producer Compensation"). Producer shall be obligated to refund a pro rata share of the Producer Compensation with respect to any Service Warranty Agreement that is canceled or surrendered prior to its scheduled expiration date, which refund shall be calculated at the same rate specified in the Service

Warranty Agreement for calculating the Service Warranty Agreement holder's refund. The Company and Producer shall establish an appropriate mechanism to assure the proper disposition and payment of all refunds. Producer shall not be entitled to any portion of any cancellation fee set forth in the Service Warranty Agreement. Producer's obligation to make refunds of the Producer Compensation shall survive the termination of this Agreement.

4. Service Warranty Repairs. Producer shall obtain the Company's prior approval before commencing any repair work for which reimbursement is sought from the Company. In order to obtain reimbursement for repair services, Producer shall comply with the following additional conditions:
  - a) **CLAIM FORMS** - Producer must furnish the Company a completed claim advice, on a form provided by the Company, not more than ninety (90) days after the date the repair is completed. The Company shall reimburse Producer for the approved repair within thirty (30) days after receipt of the claim advice.
  - b) **UNAUTHORIZED CONTRACTS** - In the event repairs are required under a Service Warranty Agreement sold by Producer in violation of this Agreement, Producer shall be required to provide such repairs without reimbursement by the Company or shall reimburse the Company for any repair payments advanced by the Company.
5. Producer Covenants. The Producer hereby makes the following general representations and covenants to the Company:
  - a) **LICENSES** - Producer and all persons employed by Producer to perform any activities authorized by this Agreement shall procure and maintain in good standing all licenses, permits, and certifications required under all applicable state and federal laws with respect to such activities.
  - b) **LAWS AND REGULATIONS** - Producer shall familiarize itself and comply with all state and federal laws and regulations applicable to its activities authorized by this Agreement.
  - c) **PRIVACY** - Producer shall not use for any purpose other than as required by this Agreement or disclose to any other person or entity the names, personal information, and other information concerning the subject matter of the Service Warranty Agreements without first affording the Company with a reasonable opportunity to confirm that such use or disclosure complies with any applicable federal or state privacy laws.
  - d) **RULES OF THE COMPANY** - Producer shall adhere to all rules, manuals, procedures, and instructions prescribed by the Company pertaining to the Service Warranty Agreements and furnished to Producer in writing.
  - e) **UNFAIR TRADE PRACTICES** - In the performance of the activities authorized by this Agreement, Producer shall not engage in unlawful discrimination, misrepresentation, or any unfair trade practice that is prohibited by law.
  - f) **PROPERTY AND SUPPLIES** - Producer shall maintain in a secure and safe place, and upon request shall account to the Company for, all supplies and materials furnished by the Company to Producer with respect to the Service Warranty Agreements and shall return them to the Company if this Agreement is terminated.
  - g) **EXPENSES** - Except as otherwise expressly provided in this Agreement, Producer shall bear all of its business expenses and marketing costs in the performance of its duties and obligations under this Agreement and shall not incur any expense on behalf of the Company without the Company's prior written approval.
  - h) **NEGOTIABLE INSTRUMENTS** - Producer shall not negotiate or endorse any check or other negotiable instrument made payable to the Company, and all such checks and instruments shall be forwarded to the Company.
  - i) **LEGAL NOTICES** - Producer shall promptly notify the Company of its receipt of legal notices or legal complaints affecting or naming the Company or the Service Warranty Agreements and shall immediately forward same to the Company.

- j) **ADVERTISING** - Producer shall not publish, circulate, or display any advertisements, circulars, brochures, or other materials that name or refer to the Company, its partners or affiliates, their respective products, or their respective businesses unless the content thereof has received the prior written approval of the Company, its partners or affiliates, as appropriate.
  - k) **INDUCEMENT TO LAPSE** - While this Agreement is in effect or at any time thereafter, Producer shall not induce the lapse, cancellation, or termination of any Service Warranty Agreement sold pursuant to this Agreement
  - l) **EMPLOYEE AND SUB-AGENT COMPENSATION** - Producer shall be responsible for the payment of compensation and commissions to all permitted sub-agents and employees utilized or employed by Producer in the performance of its duties and obligations under this Agreement and shall hold harmless the Company, its partners or affiliates, for same.
  - m) **AUDIT** - Subject to reasonable prior notice, Producer shall grant the Company and its authorized representatives, accountants, attorneys, and investigators right of free access during normal business hours at Producer's place of business for the purpose of inspecting and auditing the books and records maintained by Producer with respect to the Service Warranty Agreements sold by Producer. The Company, at its expense, may make copies and retain any of such books and records which pertain to the Company's Service Warranty Agreements.
  - n) **MODIFICATION OR WAIVER OF TERMS** - Producer shall not have any authority to modify, waive, alter, or change, orally or in writing, any of the terms and conditions of a Service Warranty Agreement, whether prior to or after the sale of the Service Warranty Agreement.
  - o) **FIDUCIARY FUNDS** - Producer shall be considered a fiduciary of all monies received by Producer on behalf of the Company or otherwise due the Company and shall not convert same to its own use until remittance to the Company or otherwise applied by Producer in accordance with this Agreement.
  - p) **COOPERATION** - Producer shall cooperate with the Company in all matters relating to the Service Warranty Agreements and this Agreement.
  - q) **FINANCING** - With respect to any Service Warranty Agreement that is financed, Producer shall comply with all applicable state and federal lending laws, including but not limited to the Federal Truth In Lending Act and Regulation Z thereunder.
  - r) **INTERNET AND DIRECT SALES** - Producer not market any Service Warranty Agreements through a call center, a direct marketing facility, the Internet, or any direct response solicitation method without the Company's specific advance written consent.
6. **Producer Indemnification.** Producer shall indemnify, defend, and hold harmless the Company, its partners, agents and employees, and their respective successors and assigns from and against all claims, losses, damages, liabilities, judgments, penalties, fines and expenses, including but not limited to reasonable attorneys' fees and costs, resulting from or arising out of (a) any wrongful or negligent act, error, or omission committed by Producer or its employees in connection with the sale of the Service Warranty Agreements or the activities authorized by this Agreement, (b) any Service Warranty Agreement sold in violation of this Agreement or the Product Guidelines, including but without limitation any claim for benefits arising under such Service Warranty Agreement, or (c) the material breach by Producer of any of the terms of this Agreement.
7. **Company Indemnification.** The Company shall indemnify, defend and hold harmless Producer, its partners, agents and employees, and their respective successors and assigns from and against any and all claims, losses, damages, liabilities, judgments, penalties, fines and expenses, including, but not limited to, reasonable attorneys' fees and costs, to the extent resulting from or arising out of (a) any wrongful or negligent act, error or omission committed by the Company or its employees, including, without limitation, the failure of the Company to fulfill any obligation under this Agreement or

under any Service Warranty Agreement issued pursuant to this Agreement, (b) the failure of the Company to observe and comply with any state or federal law applicable to the business conducted by the Company pursuant to this Agreement, and (c) the material breach by the Company of any of the terms of this Agreement.

8. **Effective Date and Termination.** This Agreement shall become effective as of the Effective Date. This Agreement may be terminated by either party by giving thirty (30) days' advance written notice to the other party, provided that this Agreement may be terminated immediately for any of the following reasons: (a) the failure of the other party to cure any material breach of this Agreement committed by such party within thirty (30) days after written notice of the breach has been provided by the terminating party; (b) the filing of a voluntary or involuntary bankruptcy petition involving the other party, or the appointment of a receiver, conservator, supervisors, or similar official concerning the other party; or (c) the assignment by the other party of all or substantially all of its assets for the benefit of its creditors. The termination of this Agreement shall not affect or diminish the obligations of the parties under this Agreement with respect to Service Warranty Agreements sold prior to the termination date
  
9. **Miscellaneous.** The following provisions shall apply to the parties' obligations under this Agreement:
  - a) **GOVERNING LAW** - This Agreement shall be interpreted and enforced in accordance with the laws of Florida, without reference to the conflicts of laws principles thereof.
  
  - b) **ENTIRE AGREEMENT** - This Agreement and the exhibits hereto constitute the entire agreement and understandings of the parties relating to the subject matter of this Agreement and supersede all prior written or oral agreements or understandings of the parties.
  
  - c) **INDEPENDENT CONTRACTOR** - Producer shall at all times be considered an independent contractor, and nothing in this Agreement is intended or shall be construed to create an employment, joint venture, or partnership relationship between the Company and Producer or between the Company and any of Producer's employees, agents, and sub-contractors.
  
  - d) **WAIVER** - The failure by either party to exercise or enforce any of its rights or remedies under this Agreement shall not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision, right, or remedy.
  
  - e) **SUCCESSORS AND ASSIGNS** - Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective lawful successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective lawful successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement.
  
  - f) **ASSIGNMENT** - Neither this Agreement, nor any of the authority, rights, duties, obligations, liabilities afforded or created by this Agreement may be assigned or delegated by either party to any other person without the prior written consent of the other party.
  
  - g) **MODIFICATION** - This Agreement and any of the exhibits hereto may not be amended or modified except by written agreement signed by both of the parties hereto.
  
  - h) **SEVERABILITY** - If one or more provisions of this Agreement are held to be unenforceable under applicable

laws, such provision shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

- i) NOTICES - All notices, demands, or communications required under this Agreement shall be in writing, delivered personally, by mail, by facsimile, or by electronic mail at the respective addresses of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

**DEALERS ASSURANCE COMPANY**

**PRODUCER:** \_\_\_\_\_

\_\_\_\_\_  
By

\_\_\_\_\_  
By

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_