



# **GUARD IT**

## **SERVICE CONTRACT – FURNITURE**

### **THIS IS NOT A CONTRACT OF INSURANCE**

#### **(Includes Dispute Resolution/Arbitration Agreement and Class Action Waiver)**

Please read this Guard It Service Contract ("Service Contract") carefully, as it describes the protection You will receive in return for Your payment of the purchase price of this Service Contract and it contains an **Arbitration Agreement and Class Action Waiver**. You must keep this Service Contract and Your Sales Order and receipt from the Selling Retailer for the product(s) You purchased, as You must produce them to obtain service and coverage under this Service Contract. You must maintain Your Covered Product, according to recommendations or requirements, if any, of the manufacturer's warranty or the Selling Retailer. There is no deductible for this Service Contract.

**NOTICE: (1) THE PURCHASE OF THIS SERVICE CONTRACT IS NOT REQUIRED TO EITHER PURCHASE YOUR COVERED PRODUCT OR TO OBTAIN FINANCING; (2) THIS SERVICE CONTRACT DOES NOT REPLACE THE MANUFACTURER WARRANTY OR SELLING RETAILER'S LIMITED PRODUCT WARRANTY, IF ANY, ON YOUR COVERED PRODUCT.**

#### **1. DEFINITIONS:**

- (1) **"Obligor", "We", "Us" and "Our"**: The company obligated under this Service Contract is **4warranty Corporation**, 10751 Deerwood Park Blvd., Suite 200, Jacksonville, FL 32256 (888-835-8740), in all states except in Florida where it is **Lyndon Southern Insurance Company**, 10751 Deerwood Park Blvd., Suite 200, Jacksonville, FL 32256 (800) 888-2738, Florida License No. 03698;
- (2) **"You" and "Your"**: The original purchaser of the Covered Product, or the lessee, if the Product was acquired under a lease-to-own arrangement ("LTO Arrangement");
- (3) **"Administrator"**: 4warranty Corporation, 10751 Deerwood Park Blvd., Suite 200, Jacksonville, FL 32256 (888-835-8740);
- (4) **"Selling Retailer"**: The Rooms To Go affiliate selling the Covered Product and this Service Contract; and
- (5) **"Covered Product"**: Only the consumer product(s) with respect to which You purchased this Service Contract, as listed on Your Sales Order and receipt from the Selling Retailer.

#### **2. FURNITURE REPAIR PLAN:**

**TERM:** The term of this Service Contract begins on the date Your Covered Product is delivered and continues for a period of Three (3) Years. Coverage for Accidental Damage from Handling (as defined below) is effective upon date of delivery. Coverage for Manufacturer Defects (as defined below) is effective upon the expiration of the shortest portion of the manufacturer's warranty and Selling Retailer's Limited Product Warranty. In the event Your Covered Product is being serviced by an authorized service center when this Service Contract expires, the term of this Service Contract will be extended until the covered repair has been completed. Subject to the LIMIT OF LIABILITY below, this Service Contract covers the cost of all labor and parts necessary to repair Your Covered Product. All or part of the Covered Product may be replaced, in lieu of repair, at Our sole discretion. Furniture item(s) and materials replaced under the terms and conditions of this Service Contract become Our sole property except where prohibited by law.

**WHAT IS COVERED:** We will cover only the following defects or damage to Your Covered Product:

##### **Manufacturer Defects:**

- (a) Cracking or peeling of the finish on solid wood, wood veneer, wood laminate, stone or faux stone, marble, tile or granite furniture;
- (b) Warping, cracking, breaking or separation of frame and frame components (such as braces, legs, panels, trim and base molding), drawers and drawer guides, leaf and leaf tracks, tension supports, arms, aprons, pedestal and trestle bases and legs, spindles and beams;
- (c) Seam separation (stitching coming apart) resulting in visible exposure of cushion foam, filling, or stuffing;
- (d) The breaking or bending of mechanisms, springs and coils; and
- (e) Failure of electrical components including, but not limited to clocks, motors and hydraulics.

##### **Accidental Damage from Handling:**

- (a) Accidental stains to fabric, vinyl or leather furniture (except nubuck, suede and buffed leather) and umbrellas as a result of normal spills from food and beverages, pet biological stains, ball point pen ink, and nail polish. Stains caused by any other substance or means are not covered;
- (b) Accidental punctures, cuts or rips to wicker, fabric, leather or vinyl caused by a single incident;
- (c) Accidental chipping, gouges to wood and other case good surfaces (including stone or faux stone, marble, tile and granite) that penetrate the finish exposing the substrate;
- (d) Accidental breakage and loss of silvering to mirrors; accidental breakage of glass; accidental breakage of lamps (excluding bulbs);
- (e) Minor burn marks from a single incident caused solely by cigarette, cigar or a tobacco pipe;
- (f) Liquid marks or rings to wood, wood veneer, wood laminate, stone or faux stone, marble, tile, or granite surfaces from household food and beverages, which are caused by a single incident;
- (g) Heat and burn marks on solid wood, wood veneer, wood laminate, stone or faux stone, marble, tile or granite surfaces from normal household items, caused by a single incident. "Heat and burn marks" means the discoloration, blistering or bubbling due to heat or burns, and does not include char, scorch or singe marks;
- (h) One-time breakage of umbrella or umbrella mechanism.

For covered stains, We may require that You attempt as soon as possible to clean the stain with the cleaning solution provided to You at the time of Your purchase, if any, or the cleaning solution that we may send to you. If the cleaning solution provided to You does not remove the stain and You file a claim, a technician will come to Your home and attempt to clean the affected area. If the stain cannot be removed by a technician, replacement parts may be ordered if possible, and if not, the affected item will be replaced with a product of similar quality and features as determined by Us, not to exceed the purchase price of the Covered Product, excluding sales tax, delivery and installation costs.

Parts or replacement items will be provided at Our sole option with those of similar quality and features, as determined by Us, and may be new or remanufactured. We do not guarantee color match. If (1) the Covered Product cannot be repaired, (2) the cost of the repair exceeds the original purchase price, or (3) the parts are no longer available or are discontinued by the manufacturer, Your affected item will be replaced with a product of similar quality and features as determined by Us, not to exceed the purchase price of the Covered Product, excluding sales tax, delivery and installation costs. YOU ARE RESPONSIBLE FOR ANY SALES TAX, DELIVERY AND INSTALLATION COSTS ASSOCIATED WITH A REPLACEMENT ITEM. If Your Covered Product is

replaced, We will have no further obligation to repair or replace Your Covered Product, and You will not be entitled to make any further claims for its repair or replacement. In the event that We replace the Covered Product pursuant to the terms of this Service Contract, We have no obligation to replace matching pieces that You may have purchased with the Covered Product as part of a matching set. Upon replacement, We no longer have any obligation for the replaced or replacement product under this Service Contract.

**LTO ARRANGEMENTS:** Where the Covered Product was initially acquired under a LTO Arrangement, any refund of the purchase price for this Service Contract as a result of a cancellation of this Service Contract will be paid to the owner of the Covered Product at the time the settlement is made. This will be the Lessor if You have not yet acquired ownership of the property pursuant to the terms and conditions of Your LTO Arrangement. In all other respects, the Lessee will retain a beneficial interest in this Service Contract and all non-cash benefits described herein shall be rendered to the Lessee. Any owner obligations related to maintenance of the Covered Product shall be the responsibility of the Lessee during the term of any LTO Arrangement except as provided by law. Any reference in this Service Contract to purchased, sold, or similar terms shall include leased and its derivatives. Any reference in this Service Contract to purchaser shall mean the Lessee under the LTO Arrangement and not the Lessor.

**LIMIT OF LIABILITY:** Our limit of liability for the Covered Product is the least of (i) the cost of authorized repairs to the Covered Product, (ii) the cost of replacement of the Covered Product with a product of similar quality and features, as determined by Us, and (iii) the original purchase price for the Covered Product, excluding sales tax, delivery, shipping and installation costs, finance charges, interest and premiums, fees and other costs related to the purchase, lease or rental of the Covered Product. Upon replacement, We no longer have any obligation for the replaced or replacement product under this Service Contract. SERVICE COSTS, TRIP CHARGES, BREAKDOWN CHARGES, INSPECTION FEES OR ESTIMATES FOR REPAIRS NOT COVERED UNDER THIS SERVICE CONTRACT ARE YOUR RESPONSIBILITY.

**DISCLAIMER OF CONSEQUENTIAL AND INCIDENTAL DAMAGES:** IN NO EVENT SHALL WE BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES, WHICH INCLUDE, BUT ARE NOT LIMITED TO, PROPERTY DAMAGE, ANY DELAY IN RENDERING SERVICE UNDER THIS SERVICE CONTRACT, LOSS OF USE DURING THE REPAIR PERIOD OF THE COVERED PRODUCT, OR WHILE OTHERWISE AWAITING PARTS.

**HOW TO FILE A CLAIM:** You must contact the Administrator for authorized service within thirty (30) days of noticing the defect or damage to Your Covered Product. Failure to contact the Administrator within thirty (30) days of noticing the defect or damage may result in claim denial. Call Us toll-free at **888-835-8740** between the hours of 8:00 AM and 5:00 PM Eastern Time Monday-Friday, or go online to [www.4repairs.net](http://www.4repairs.net). Prior to Our dispatching service to Your location, We may request that You provide Us with pictures of Your defective or damaged Covered Product. All repairs must be authorized by the Administrator prior to performance of work. Claims on unauthorized repairs may be denied. You may be asked for a credit card number before We dispatch service to Your location. If You refuse service on a Covered Product after We have dispatched the repair service to Your location, You will be billed for that service's applicable trip charge. You agree that We or the Administrator may share with the service information about You and Your Covered Product, including, without limitation, Your name, phone number(s), address, email address and the products You purchased from the Selling Retailer.

**In-Home Service** will be performed in Your home whenever possible, provided that the service may opt to remove Your Covered Product to perform service in-shop and will return the Covered Product upon completion. If You are not within one of the Administrator's authorized service areas, You may request termination and refund of the Service Contract sales price subject to the cancellation provision in this Service Contract. If You choose, the Administrator will provide service at the nearest service location and You must provide the necessary deliveries and pickups at Your expense. Service is available during the regular business hours of the service. We do not guarantee days or time of service. We will not be liable for any damages arising out of delays, either before or after a day or time of service is agreed upon. You must make the Covered Product reasonably accessible to the repair person. If the Covered Product is not accessible, We may decline to provide service or assess You an additional charge, proportionate with the difficulty in working on the Covered Product. Except for delivery damage, if We remove the Covered Product for in-shop repairs and then determine that replacement is required, and You refuse delivery of Your replacement item, You will be reimbursed the purchase price of this Service Contract with respect to such Covered Product and We will have no further liability.

**WHAT IS NOT COVERED:**

We will not cover the following:

- (a) Any stain, loss, defect or damage not specifically listed under "WHAT IS COVERED" (no other stain, loss, defect or damage will be covered under this Service Contract);
- (b) Products sold used, damaged, "Pre-Owned," "Final Sale" or "AS-IS";
- (c) Any product used in a commercial setting or for communal use, including, without limitation, third party rental properties;
- (d) Failures that occur, and claims made for service, repair or replacement from outside of the 50 United States and the District of Columbia;
- (e) Defects and damage of nonfunctional or aesthetic parts including, but not limited to, plastic parts, knobs, rollers, baskets, remotes, accessories used in conjunction with the Covered Product such as pillows and buttons;
- (f) Odors;
- (g) Pictures or accessories;
- (h) Brass or other plating;
- (i) Decorative stitching; loss of foam resiliency in cushion cores, backs and arms;
- (j) Compressed paper-board, paper veneer and paper laminate surfaces;
- (k) Mattresses, box springs and bunkie boards;
- (l) Area rugs;
- (m) Indentations from writing on wood surfaces or any type of surface abrasion; and
- (n) The following damages that do not clearly penetrate through upholstery or the clear-coat finish on wood, exposing the bare wood: scratches, rips, cuts, gouges, and scuff marks.

We will not cover defects or damage caused by or related to the following:

- (a) PRE-EXISTING CONDITIONS that occur prior to the effective date of this Service Contract;
- (b) Damage caused by normal wear and tear;
- (c) Damage caused by You in the assembly of RTA (ready-to-assemble) furniture (whether partial or full assembly is required);
- (d) Except as noted in "WHAT IS COVERED," damage from abuse, misuse, mishandling, introduction of foreign objects into, on or about the Covered Product, modifications or alterations to a Covered Product; failure to follow the manufacturer's instructions for operation and care of the Covered Product; external causes of any kind, including without limitation, third party actions, fire, smoke, burglary, vandalism, theft, insects and animals; extreme temperature, windstorm, hail, earthquake, flood;
- (e) Unauthorized repairs and/or parts;
- (f) Damage caused by war, invasion or act of foreign enemy, hostilities, civil war, rebellion, riot, strike, labor disturbance, lockout or civil commotion.

We will not cover the cost of, or losses related to, the following:

- (a) Product repairs that are covered by the manufacturer's warranty or Seller's Limited Product Warranty, or are a result of recall, regardless of the manufacturer's or Seller's ability to pay for such repairs;
- (b) Periodic checkups, preventive maintenance, lubrication and general cleaning as directed by the manufacturer;
- (c) Service where no problem can be found; noises or squeaks; any malfunction, damage or disrepair not occurring or reported within the term or as provided in this Service Contract; and
- (d) Bodily injury; damage to personal property.

**NOT COVERED, SPECIFIC TO MANUFACTURER DEFECTS:** In addition to everything listed above in the section entitled "WHAT IS NOT COVERED," the following are not covered by this Service Contract with respect to Manufacturer Defects: (a) Products not originally covered by a manufacturer's warranty or Selling Retailer's limited product warranty; (b) Graining, or markings on wood or leather (including bonded, blended, bicast, nubuck, suede, or split), including but not limited to scars, insect bites, brand marks, embossing, wrinkles; (c) cracking, peeling, stress tears, or scaling of leather (including bonded, blended, nubuck, suede, split and bicast), wicker and vinyl; (d) Except as noted in "WHAT IS COVERED," fabric tears and wear-through, punctures, scratches, dents, burns, dirt, color-fading or discoloration; (e) zippers; (f) Shrinkage from cleaning; (g) Rust or corrosion; and (h) design flaws.

**NOT COVERED, SPECIFIC TO STAINS AND ACCIDENTAL DAMAGE FROM HANDLING:** In addition to everything listed above in the section entitled "WHAT IS NOT COVERED," the following are not covered by this Service Contract with respect to Accidental Damage from Handling: (a) Stains or damage resulting from dye, bleach, paint, acid or corrosive products; nail polish remover; chewing gum; accumulation and buildup of stains and soil over time, including darkened areas where the body comes into contact with the upholstery and other accumulated stains that cannot be attributed to a single incident; perspiration and body or hair oils; fading, soiling or damage caused by pets or other animals; human biological stains; repeated pet biological fluid stains; damage from use of cleaning products not approved by the manufacturer or Us; damage caused by exposure to freezing temperatures; normal soiling; mold and mildew; stains of unknown origin; non-colorfast fabrics and leather; stains or damage to the material caused by the owner's failure to use reasonable caution and care to protect the Covered Product; (b) Stains or damage occurring prior to and during delivery or setup of Your Covered Product, or when the product is in storage, or being moved into or out of storage, or between residences; (c) stains or damage caused by independent contractors or maintenance personnel; and (d) stains from leaks in appliances, sky lights or roof.

**NOT COVERED, SPECIFIC TO PRODUCTS DESIGNED FOR OUTDOOR USE:** In addition to everything listed above in the section entitled "WHAT IS NOT COVERED," the following are not covered by this Service Contract with respect to Covered Products Designed for Outdoor Use: (a) Damage from power washing or exposure to salt water; (b) pollen, tree sap and lotions; and (c) wicker fraying not caused from a single incident.

**NOT COVERED, SPECIFIC TO PRODUCTS DESIGNED FOR INDOOR USE:** In addition to everything listed above in the section entitled "WHAT IS NOT COVERED," the following are not covered by this Service Contract with respect to Covered Products Designed for Indoor Use: Damage caused by exposure to normal weather conditions, moisture, sand, dirt and water.

### **3. SPECIFIC CONDITIONS:**

**Renewal:** This Service Contract is not renewable.

**Transferability:** This Service Contract is not transferable.

**Territories:** The Service Contract territory is limited to the geographic area of the United States, including the District of Columbia, only. It does not include any U.S. Territories including Guam, Puerto Rico, or U.S. Virgin Islands, and does not include Canada.

**Subrogation:** If We pay or render service for a loss, We may require You to assign Us Your rights of recovery against others. We will not pay or render service for a loss if You impair these rights to recover. Your rights to recover from others may not be waived.

### **4. DISPUTE RESOLUTION/ARBITRATION AGREEMENT AND CLASS ACTION WAIVER/THIRD PARTY BENEFICIARIES: PLEASE READ THIS DISPUTE RESOLUTION/ARBITRATION AGREEMENT AND CLASS ACTION WAIVER, INCLUDING THE OPT-OUT PROVISION, CAREFULLY TO UNDERSTAND YOUR RIGHTS. IT REQUIRES THAT CLAIMS (AS DEFINED BELOW) BE RESOLVED SOLELY THROUGH BINDING ARBITRATION ON AN INDIVIDUAL BASIS, RATHER THAN BY A JURY OR IN A CLASS ACTION.**

Arbitration is a method of resolving any Claim without filing a lawsuit. In this Arbitration Agreement and Class Action Waiver (collectively including all of this section 4 of this Service Contract), You, We, and the Administrator (the "Parties") are agreeing to submit any and all Claims to binding arbitration on an individual basis for resolution. This Arbitration Agreement and Class Action Waiver sets forth the terms and conditions of our agreement to binding arbitration. The Parties agree that any and all claims, disputes and controversies arising under or related in any way to this Service Contract, including but not limited to claims related to the underlying transaction giving rise to this Service Contract, claims related to the sale or fulfillment of this Service Contract, and claims against any third-party (including the Selling Retailer and/or any of its owners, shareholders, members, affiliates, subsidiaries, divisions, directors, officers, employees, representatives, successors, and assigns) arising under or related in any way to this Service Contract or the underlying transaction or the sale or fulfillment of this Service Contract (collectively, "Claims"), shall be resolved by final and binding arbitration. "Claims" shall be given the broadest meaning possible and includes, without limitation, Claims arising under contract, tort, statute, regulation, rule, ordinance or other rule of law or equity, and Claims against any of Our or the Administrator's owners, shareholders, members, affiliates, subsidiaries, divisions, directors, officers, employees, representatives, successors, or assigns. "Claims" does not include a claim for public injunctive relief brought under any California statute enacted for a public reason, provided that You are a California resident or purchased Your Service Contract in California. In arbitration, Claims are resolved by an arbitrator and not by a judge or jury. THE PARTIES, INCLUDING YOU, WAIVE ANY RIGHT TO HAVE CLAIMS DECIDED BY A JUDGE OR JURY. In addition, except as expressly stated in the Class Action Waiver or otherwise expressly stated herein, the arbitrator shall have exclusive authority to decide all issues related to the enforcement, applicability, scope, validity, and interpretation of this Arbitration Agreement, including but not limited to any unconscionability challenge or any other challenge that the Arbitration Agreement is void, voidable or otherwise invalid. Notwithstanding this agreement to arbitrate, each of the Parties retains the right to seek remedies in small claims court to resolve any Claim, on an individual basis, within the jurisdiction of small claims court. You acknowledge Your understanding that all Parties hereunder are waiving their rights to go to court, except for small claims court, to resolve any Claims arising under or related in any way to this Service Contract.

The Parties agree and acknowledge that the transaction evidenced by this Service Contract affects interstate commerce. The Parties further agree that all issues relating to this Arbitration Agreement and Class Action Waiver, including its enforcement, scope, validity, interpretation, and implementation, will be determined pursuant to federal substantive law and the substantive and procedural provisions of the Federal Arbitration Act ("Act"), 9 U.S.C. §§ 1-16. If federal substantive law holds that state law should apply to any issue relating to this Arbitration Agreement and Class Action Waiver, then the law of the state where You purchased the Service Contract shall apply, without regards to conflicts of law.

**CLASS ACTION WAIVER.** All Claims must be brought solely in an individual capacity, and not as a plaintiff or class member in any purported class action, collective action, representative action, mass action, private attorney general action or action on behalf of the general public, or similar proceeding (any such action is referred to herein as a "Class Action"). NO CLAIM WILL BE ARBITRATED ON A CLASS ACTION BASIS. The Parties, including You, expressly waive any right or ability to bring, assert, maintain, or participate as a class member in any Class Action in court, arbitration, or any other forum, and the right for anyone to do so on Your behalf. The arbitrator may not consolidate more than one person or entity's claims, and may not otherwise preside over any Class Action. The arbitrator shall not have the authority to combine or aggregate multiple persons' or entities' Claims or discovery, to conduct a Class Action or to make an award to any person or entity not a party to the arbitration. Notwithstanding anything to the contrary, the Parties agree that the enforcement, applicability, scope, validity, and/or interpretation of this Class Action Waiver shall be decided by a court of competent jurisdiction and not by an arbitrator. If this Class Action Waiver is ruled unenforceable or is interpreted to not prevent a Class Action, then the Arbitration Agreement shall be null and void, and any Claims shall proceed in a court of law and not in arbitration. The Parties agree that if an arbitrator renders a decision regarding the enforcement, applicability, scope, validity, and/or interpretation of this Class Action Waiver, or determines that a Class Action may proceed in arbitration, then: (1) the arbitrator has exceeded his powers, pursuant to §10(a)(4) of the FAA, by taking such action; (2) either party may seek immediate review of that decision by a court of competent jurisdiction; and (3) a court of competent jurisdiction shall apply a "de novo" standard of review of that decision if such standard of review is allowed by the common law or statutes of that state. The Parties, including You, agree that if for any reason a Claim proceeds to Court, rather than arbitration, (1) the Claim will proceed solely on an individual, non-class, non-representative basis, and (2) no Party may be a class representative or class member or otherwise participate in any Class Action.

The arbitration shall be administered by the American Arbitration Association ("AAA"). The arbitration shall be conducted pursuant to the AAA Consumer Arbitration Rules (the "Code"). Information on AAA and a copy of the Code may be found at the following URL: American Arbitration Association, [www.adr.org](http://www.adr.org). The arbitration will be governed by federal substantive law and the substantive and procedural provisions of the Federal Arbitration Act ("Act"), 9 U.S.C. §§ 1-16. If federal substantive law holds that state law should apply to any issue relating to the arbitration, then the law of the state where You purchased the Service Contract shall apply, without regards to conflicts of law. The arbitration will occur before a single, neutral arbitrator selected in accordance with the Code in effect at the time the arbitration is commenced. If Your total damage claims (not including attorney's fees) do not exceed \$25,000, then all Claims shall be resolved by the Code's Procedures for the Resolution of Disputes through Document Submission, except that a Party may ask for a hearing or the arbitrator may decide that a hearing is necessary. If a hearing is held, You have a right to attend the arbitration hearing in person, and You may choose to have any arbitration hearing held in the county in which You live, the closest AAA location to Your residence, or via telephone. In the event that the specified arbitration forum is unavailable, the Parties may agree on a substitute arbitration forum. If the Parties cannot agree, a court of competent jurisdiction may appoint a substitute arbitration forum. For information about how to initiate arbitration with the AAA, the Parties may refer to the AAA Code and forms at [www.adr.org](http://www.adr.org). If You initiate arbitration with AAA, You must pay the AAA filing fee in an amount no greater than the fee You would have to pay if You filed a complaint in federal court. We will pay any remaining Costs of arbitration required by the Code ("Arbitration Costs"); however, if the arbitrator determines that any of your claims are frivolous, you shall bear all of the Arbitration Costs. If We initiate

arbitration against You. We will pay the AAA filing fee and the Arbitration Costs. Each party will pay his/her/its own attorney's fees, as well as costs relating to proof and witnesses, regardless of who prevails, unless applicable law and/or the Code gives a party the right to recover any of those fees from the other party. An arbitration award may not be set aside except upon the limited circumstances set forth in the Federal Arbitration Act. An award in arbitration will be enforceable under the Federal Arbitration Act by any court having jurisdiction. The time for commencing an arbitration asserting any Claim shall be determined by reference to the applicable statute(s) of limitations, including the applicable rules governing the commencement of the limitations period, and a Claim in arbitration is barred to the same extent it would be barred if it were asserted in court of law or equity rather than in arbitration.

If any portion of this Arbitration Agreement is deemed invalid or unenforceable, all the remaining portions of this Arbitration Agreement shall nevertheless remain valid and enforceable, provided, however, that if any portion of the Class Action Waiver is deemed invalid or unenforceable, then this Arbitration Agreement shall be invalidated and unenforceable in its entirety. In the event of a conflict or inconsistency between this Arbitration Agreement and Class Action Waiver and the other provisions of this **Service Contract** or any other agreement, this Arbitration Agreement and Class Action Waiver governs.

**OPT-OUT PROVISION. YOU SHALL HAVE THE RIGHT TO OPT OUT OF THIS ARBITRATION AGREEMENT AND CLASS ACTION WAIVER BY PROVIDING WRITTEN NOTICE OF YOUR INTENTION TO DO SO TO US WITHIN THIRTY (30) DAYS OF THE PURCHASE OF THIS SERVICE CONTRACT (THE DATE OF PURCHASE BEING INDICATED ON YOUR SALES ORDER AND RECEIPT FROM THE SELLING RETAILER).** To opt out, You must send written notice to either: (1) 10751 Deerwood Park Blvd., Suite 200, Jacksonville, FL 32256, Attn: Legal or (2) legal@fortegra.com, with the subject line, "Arbitration Opt Out." You must include in Your opt out notice: (a) Your name and address; (b) the date You purchased Your Service Contract; and (c) the Selling Retailer. If You properly and timely opt out, then all Claims will be resolved in court rather than arbitration. Where the Covered Product was acquired under a LTO Arrangement, only the lessee (and not the lessor) under the LTO Arrangement may opt-out pursuant to the terms of this provision, and the lessor shall be bound by the lessee's decision whether to opt out.

**THIRD PARTY BENEFICIARIES.** All Parties agree that the Selling Retailer and its owners, shareholders, members, affiliates, parents, subsidiaries, divisions, directors, officers, employees, representatives, successors, and assigns (collectively, "Third Party Beneficiaries"), are and are expressly intended to be direct and primary beneficiaries of this Arbitration Agreement and Class Action Waiver, and that each Third Party Beneficiary shall be entitled to require and participate in arbitration under the Arbitration Agreement and Class Action Waiver.

## **5. CANCELLATION:**

You may cancel this Service Contract for any reason at any time. If You cancel Your Service Contract within ninety (90) days of receipt of Your Service Contract, You will receive a full refund of the price of this Service Contract, less the cost of claims paid. If You cancel after ninety (90) days of receipt of Your Service Contract You will receive a pro-rata refund based on the period expired under this Service Contract, less the cost of claims paid.

We may not cancel this Service Contract except for fraud, material misrepresentation or non-payment by You; or if required to do so by a regulatory authority. Notice of such cancellation will be in writing and given at least sixty (60) days prior to cancellation. If We cancel, the refundable portion of the purchase price of this Service Contract is based upon one-hundred percent (100%) of the unearned pro-rata amount of the purchase price of this Service Contract on the date of its cancellation.

Any cancellation, expiration, or termination of this Service Contract, including by You or by Us, shall not cancel, expire or terminate the Arbitration Agreement and Class Action Waiver, which shall remain in effect (unless You opted out of the Arbitration Agreement and Class Action Waiver in a timely and proper manner).

**6. ENTIRE AGREEMENT:** This Service Contract constitutes the entire agreement between the Parties, and no representation, promise or condition (made by any person or entity) that is not expressly contained herein shall modify any of the terms or conditions of this Service Contract. The Selling Retailer is not a party to this Service Contract, and this Service Contract does not constitute the entire agreement between You and the Selling Retailer.

**7. INSURANCE:** THE OBLIGOR UNDER THIS SERVICE CONTRACT IS INSURED BY LYNDON SOUTHERN INSURANCE COMPANY, 10751 DEERWOOD PARK BLVD., SUITE 200, JACKSONVILLE, FL 32256 (800) 888-2738, EXCEPT IN GEORGIA WHERE THE OBLIGOR IS INSURED BY INSURANCE COMPANY OF THE SOUTH, 10751 DEERWOOD PARK BLVD., SUITE 200, JACKSONVILLE, FL 32256 (800) 888-2738. IF THE OBLIGOR FAILS TO PAY AN AUTHORIZED CLAIM WITHIN SIXTY (60) DAYS, OR IF THE OBLIGOR BECOMES INSOLVENT OR CEASES TO CONDUCT BUSINESS DURING THE TERM OF THIS SERVICE CONTRACT, YOU MAY SUBMIT YOUR CLAIM DIRECTLY TO THE APPLICABLE INSURER AT THE ABOVE ADDRESS FOR CONSIDERATION.

## **8. STATE REQUIREMENTS AND DISCLOSURES:**

**Service Contracts governed by the law of the following states are amended as follows:**

**Alabama:** CANCELLATION section is amended to add the following: A ten percent (10%) penalty per month shall be applied to refunds not paid or credited within forty-five (45) days of receipt of returned Service Contract, if You cancel Your Service Contract within ninety (90) days of receipt of Your Service Contract. Any cancellation, expiration, or termination of this Service Contract, including by You or by Us, shall not cancel, expire or terminate the Arbitration Agreement and Class Action Waiver, which shall remain in effect (unless You opted out of the Arbitration Agreement and Class Action Waiver in a timely and proper manner).

**Florida:** This Service Contract is between Lyndon Southern Insurance Company (License No. 03698) and You, the purchaser. **The rate charged for this service contract is not subject to regulation by the Florida Office of Insurance Regulation.**

CANCELLATION section is deleted in its entirety and replaced with the following: You may cancel this Service Contract for any reason at any time. If You cancel Your Service Contract within ninety (90) days of receipt of Your Service Contract, You will receive a full refund of the price of this Service Contract, less the cost of claims paid. If You cancel after ninety (90) days of receipt of Your Service Contract return of premium shall be based upon ninety percent (90%) of the unearned pro-rata premium less any claims that have been paid or less the cost of repairs made on Your behalf. If this Service Contract is cancelled by Us or Administrator, return of premium shall be based upon one hundred percent (100%) of the unearned pro-rata premium less any claims that have been made or less the cost of repairs made on Your behalf. We may not cancel this Service Contract except for fraud, material misrepresentation or non-payment by You; or if required to do so by a regulatory authority. Notice of such cancellation will be in writing and given at least thirty (30) days prior to cancellation. Any cancellation, expiration, or termination of this Service Contract, including by You or by Us, shall not cancel, expire or terminate the Arbitration Agreement and Class Action Waiver, which shall remain in effect (unless You opted out of the Arbitration Agreement and Class Action Waiver in a timely and proper manner).

**Georgia:** Coverage is effective upon the expiration of the shortest portion of the manufacturer's warranty. In the "WHAT IS NOT COVERED" section of this Service Contract, exclusion (A) is removed and replaced with: ANY AND ALL PRE-EXISTING CONDITIONS KNOWN BY YOU THAT OCCUR PRIOR TO THE EFFECTIVE DATE OF THIS SERVICE CONTRACT AND/OR ANY PREVIOUSLY DAMAGED PRODUCT.

CANCELLATION section is deleted in its entirety and replaced with the following: You may cancel this Service Contract for any reason at any time. If You cancel Your Service Contract within ninety (90) days of receipt of Your Service Contract You will receive a full refund of the price of this Service Contract. If You cancel after ninety (90) days of receipt of Your Service Contract, You will receive a pro rata refund of the Service Contract price. We may not cancel this Service Contract except for fraud, material misrepresentation, or non-payment by You. If We cancel, the refundable portion of the purchase price of this Service Contract is based upon one-hundred percent (100%) of the unearned pro-rata amount of the purchase price of this Service Contract on the date of its cancellation. In the event of cancellation by Us, notice of such cancellation will be in writing and given at least thirty (30) days prior to cancellation. Cancellation will comply with Section 33-24-44 of the Code of Georgia. Claims paid shall not be deducted from any refund owed as a result of cancellation. Any refund owed and not paid as required is subject to a penalty equal to twenty-five percent (25%) of the refund owed and interest of eighteen percent (18%) per year until paid; however, such penalty shall not exceed fifty percent (50%) of the amount of the refund.

Any cancellation, expiration, or termination of this Service Contract, including by You or by Us, shall not cancel, expire or terminate the Arbitration Agreement and Class Action Waiver, which shall remain in effect (unless You opted out of the Arbitration Agreement and Class Action Waiver in a timely and proper manner). Pursuant to O.C.G.A. 33-7-6 (c) (2), nothing contained in the Arbitration Agreement provision shall affect your right to file a direct claim under the terms of this contract against Insurance Company of the South.

**Mississippi: Section 4 of this Service Contract is amended to add:**

### **IMPORTANT NOTICE ABOUT YOUR COVERAGE:**

- 1.) This Service Contract includes a binding Arbitration agreement.
- 2.) The Arbitration agreement requires that any dispute related to Your coverage must be resolved by Arbitration and not in a court of law.

- 3.) The results of the Arbitration are final and binding on You and Us.
- 4.) In an Arbitration, one or more arbitrators, who are independent, neutral decision makers, render a decision after hearing the positions of the parties.
- 5.) When You become a Service Contract holder under this Service Contract You must resolve any dispute related to the Service Contract by binding arbitration instead of a trial in court, including a trial by jury.
- 6.) Binding arbitration generally takes the place of resolving disputes by a judge and jury.
- 7.) Should You need additional information regarding the binding arbitration provision in the Service Contract, You may contact Our toll free assistance line at **888-835-8740**.

**North Carolina:** CANCELLATION section is deleted in its entirety and replaced with the following: You may cancel this Service Contract for any reason at any time. If You cancel Your Service Contract within ninety (90) days of receipt of Your Service Contract You will receive a full refund of the price of this Service Contract, less the cost of claims paid. If You cancel after ninety (90) days of receipt of Your Service Contract You will receive a pro-rata refund based on the period expired under this Service Contract, less the cost of claims paid. We may not cancel this Service Contract except for nonpayment by You or for violation of any of the terms and conditions of this Service Contract; or if required to do so by a regulatory authority. Notice of such cancellation will be in writing and given at least thirty (30) days prior to cancellation. If We cancel, the refundable portion of the purchase price of this Service Contract is based upon one-hundred percent (100%) of the unearned pro-rata amount of the purchase price of this Service Contract on the date of its cancellation. Any cancellation, expiration, or termination of this Service Contract, including by You or by Us, shall not cancel, expire or terminate the Arbitration Agreement and Class Action Waiver, which shall remain in effect (unless You opted out of the Arbitration Agreement and Class Action Waiver in a timely and proper manner).

**South Carolina:** If You purchased this Service Contract in South Carolina, complaints or questions about this Service Contract may be directed to the South Carolina Department of Insurance, P.O. Box 100105, Columbia, South Carolina 29202-3105, telephone number 803-737-6180. CANCELLATION section is amended to add the following: A ten percent (10%) penalty per month shall be applied to refunds not paid or credited within forty-five (45) days of receipt of returned Service Contract, if You cancel Your Service Contract within ninety (90) days of receipt of Your Service Contract. Any cancellation, expiration, or termination of this Service Contract, including by You or by Us, shall not cancel, expire or terminate the Arbitration Agreement and Class Action Waiver, which shall remain in effect (unless You opted out of the Arbitration Agreement and Class Action Waiver in a timely and proper manner).

**Texas:** If You purchased this Service Contract in Texas, unresolved complaints or questions concerning the regulations of service contracts may be addressed to the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, telephone number (512) 463-2906 or (800) 803-9202. Administrator: 4warranty Corporation, 10751 Deerwood Park Blvd, Suite 200, Jacksonville, FL 32256 (888-835-8740) Lic # 275. CANCELLATION section is amended to add the following: You, the Service Contract Holder may apply for reimbursement directly to the insurer if a refund or credit is not paid before the 46<sup>th</sup> day after the date on which Your Service Contract is returned to Us. A ten percent (10%) penalty per month shall be applied to refunds not paid or credited within forty-six (46) days of receipt of returned Service Contract, if You cancel Your Service Contract within ninety (90) days of receipt of Your Service Contract. Any cancellation, expiration, or termination of this Service Contract, including by You or by Us, shall not cancel, expire or terminate the Arbitration Agreement and Class Action Waiver, which shall remain in effect (unless You opted out of the Arbitration Agreement and Class Action Waiver in a timely and proper manner).

**Virginia:** If any promise made in this Service Contract has been denied or has not been honored within sixty (60) days after Your request, You may contact the Virginia Department of Agriculture and Consumer Services, Office of Charitable and Regulatory Programs at [www.vdacs.virginia.gov/food-extended-service-contract-providers.shtml](http://www.vdacs.virginia.gov/food-extended-service-contract-providers.shtml) to file a complaint.