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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY
DOCKET NO.

C-27-14

JOHN J. HOFFMAN, Acting Attorney General of the
State of New Jersey, and ERIC T. KANEFISKY, Director
of the New Jersey Division of Consumer Affairs,

Plaintiffs,

v.

DIRECT BUY ASSOCIATES INC. D/B/A DIRECT BUY
AUTO WARRANTY, JANE AND JOHN DOES 1-20,
individually and as officers, directors, shareholders,
founders, owners, managers, agents, servants, employees,
representatives, sales representatives and/or independent
contractors of DIRECT BUY ASSOCIATES INC. D/B/A
DIRECT BUY AUTO WARRANTY, and XYZ
CORPORATIONS 1-20,

Defendants.

Civil Action

COMPLAINT

Plaintiffs John J. Hoffman, Acting Attorney General of the State of New Jersey
("Attorney General"), and Eric T. Kanefsky, Director of the New Jersey Division of Consumer
Affairs ("Director"), with offices located at 124 Halsey Street, Newark, New Jersey, by way of
Complaint state:

PRELIMINARY STATEMENT

1. Since at least June 2009, Direct Buy Associates Inc. d/b/a Direct Buy Auto Warranty ("DBAW" or "Defendant") has advertised, offered for sale and sold merchandise to consumers in the State of New Jersey ("State" or "New Jersey") and elsewhere.

2. DBAW advertises on the internet and elsewhere that it sells auto warranties and/or extended auto warranties providing "comprehensive" coverage for the repair and/or replacement of motor vehicle parts. Additionally, consumers have reported that during telephone calls and/or in emails, DBAW sales representatives have described the coverage as "bumper to bumper" and as including, among other things, repair and/or replacement of motor vehicle parts because of "wear and tear" and auto repair facilities' labor costs.

3. However, the merchandise DBAW actually sells to consumers is significantly different. At all relevant times, DBAW has sold motor vehicle service contracts ("MVSCs") with coverage that is limited by numerous and substantial exclusions.

4. Additionally, DBAW serves as administrator of the MVSCs it sells. In that capacity, DBAW is responsible for authorizing and paying for the repair and/or replacement of motor vehicle parts. At times, DBAW failed to offer any credible basis for denying claims. When DBAW has denied claims, it has done so only verbally. Further, DBAW failed to provide consumers, when they canceled their MVSCs, with refunds in a timely manner or in the promised amount.

5. To date, the New Jersey Division of Consumer Affairs ("Division") has received, either directly or indirectly, two hundred forty eight (248) complaints from consumers concerning, among other things, the DBAW business practices outlined above.

6. Defendant's conduct constitutes multiple violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), the Regulations Governing General Advertising, N.J.A.C. 13:45A-9.1 et seq. ("Advertising Regulations"), the Plain Language Act, N.J.S.A. 56:12-1 et seq. ("PLA"), as well as the Business Corporations Act, N.J.S.A. 14A:1-1 et seq. ("Business Corporations Act"). The Attorney General and the Director submit this Complaint to halt Defendant's deceptive business practices and to prevent consumers from suffering further harm.

PARTIES AND JURISDICTION

7. The Attorney General is charged with the responsibility of enforcing the CFA, the Advertising Regulations, the PLA and the Business Corporations Act. The Director is charged with the responsibility of administering the CFA, the Advertising Regulations and the PLA on behalf of the Attorney General.

8. By this action, the Attorney General and Director (collectively, "Plaintiffs") seek injunctive relief and other relief for violations of the CFA, the Advertising Regulations and the PLA. Plaintiffs bring this action pursuant to their authority under the CFA, N.J.S.A. 56:8-8, 56:8-11, 56:8-13 and 56:8-19, and the PLA, N.J.S.A. 56:12-12. The Attorney General also brings this action pursuant to his authority under the Business Corporations Act, N.J.S.A. 14A:13-11(3) and 14A:13-12(1).

9. Venue is proper in Middlesex County, pursuant to R. 4:3-2, because it is the county in which Defendant has maintained a business address and otherwise conducted business.

10. On June 19, 2009, DBAW was registered as a Domestic Business Corporation with the New York State Department of State, Division of Corporations, with the following mailing address: 563 Kings Highway, Brooklyn, New York 11223.

11. To date, DBAW has not procured a Certificate of Authority to transact business in New Jersey from the Division of Revenue in the New Jersey Department of the Treasury.

12. At varying times, DBAW has maintained business addresses at the following locations: (a) 120 Wood Avenue, Iselin, New Jersey 08830; (b) 510 Thornall Street, Edison, New Jersey 08837; (c) 33 Wood Avenue South, Suite 6000, Iselin, New Jersey 08830; and (d) 402 Main Street, Metuchen, New Jersey 08840.

13. Upon information and belief, John and Jane Does 1 through 10 are fictitious individuals meant to represent the owners, officers, directors, shareholders, founders, managers, agents, servants, employees, and/or representatives of DBAW who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

14. Upon information and belief, XYZ Corporations 1 through 10 are fictitious corporations meant to represent any additional corporations who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

GENERAL ALLEGATIONS COMMON TO ALL COUNTS:

**Distinction Between Warranties
And Service Contracts:**

15. At all relevant times, Defendant has sold MVSCs to consumers in the State and elsewhere.

16. According to the Federal Trade Commission Bureau of Consumer Protection Business Center ("FTC Business Center"), "a warranty is your promise, as a manufacturer or seller, to stand behind your product. It is a statement about the integrity of your product and about your commitment to correct problems when your product fails." *Businessperson's Guide*

to *Federal Warranty Law*, available at <http://www.business.ftc.gov/documents/bus01-businesspersons-guide-federal-warranty-law>.

17. The FTC Business Center further states that: “Warranties come with a product and are included in the purchase price. In the language of the [Magnuson-Moss Warranty Act, 15 U.S.C.S. 2301, et seq. (“Warranty Act”)], warranties are ‘part of the basis of the bargain[.]’” Id.

18. The Warranty Act, among other things, sets forth the requisite terms and conditions of warranties. See 15 U.S.C.S. 2302.

19. The Warranty Act defines “written warranty” as:

(B) any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking, which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

[15 U.S.C.S. 2301(6)(B) (emphasis added).]

20. According to the FTC Business Center: “Service contracts are similar to warranties in that both concern service for a product. However, there are differences between warranties and service contracts.” *Businessperson’s Guide to Federal Warranty Law*.

21. According to the FTC Business Center:

A service contract is an optional agreement for product service that customers sometimes buy. . . . Service contracts . . . 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.

[Id. (emphasis added).]

22. The Warranty Act also defines “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.” 15 U.S.C.S. 2301(8).

23. According to the FTC Business Center, “a service contract is not a warranty as defined by federal law.” *Auto Service Contracts and Warranties*, available at <http://www.consumer.ftc.gov/articles/0054-auto-service-contracts-and-warranties>.

24. On January 17, 2014, an Act Concerning Service Contracts (“Service Contracts Act”) was enacted by the New Jersey Legislature.¹

25. The Service Contracts Act “regulates the sale and implementation of certain service contracts for the repair, replacement, maintenance, or service of property used for personal, family or household purposes.” *Assembly Consumer Affairs Committee Statement to Assembly, No. 1740*, available at http://www.njleg.state.nj.us/2012/Bills/A2000/1740__S1.PDF.

26. The Service Contracts Act defines “Warranty” as:

made solely by the manufacturer, importer, or seller of property or services without additional consideration, that is incidental to, and not negotiated or separated from, the sale of the property or services, that guarantees indemnity for defective materials, parts, mechanical or electrical breakdown, labor, or workmanship, or provides other remedial measures, including repair or replacement of the property or repetition of services.

[N.J.S.A. 56:12-87 (emphasis added.)]

27. The Service Contracts Act defines “Service contract” as:

a contract or agreement . . . to perform, or to provide indemnification for the performance of, the maintenance, repair, replacement, or service of property for the operational or structural failure of the property due to a defect in materials or workmanship or due to normal wear and tear, and which may include additional provisions for incidental payment of indemnity under limited circumstances.

[Id.]

¹ The Service Contracts Act will be effective on July 16, 2014.

DBAW Websites Generally:

28. At all relevant times, DBAW has maintained a website located at <http://www.directbuywarranty.com> ("Direct Buy Warranty Website").

29. Upon information and belief, since the creation of the Direct Buy Warranty Website on or about June 2009, DBAW modified the format and/or content of the website on or about November 2011 and on or about January 2014.

30. Additionally, since on or about January 2014, DBAW has maintained a website located at <http://www.dbwarranty.com> ("DBWarranty Website"). (Direct Buy Warranty Website and DBWarranty Website are collectively referred to as "DBAW Websites").

31. At varying times, DBAW internet advertisements directed consumers to the DBAW Websites. At least as of January 2014, DBAW advertisements appeared on Google stating "America's #1 Auto Warranty – We Pay Parts Labor & 24/7 Roadside"; "America's #1 Auto Warranty – Why Pay Dealer Warranty Prices?"; and "Americas [sic] #1 Auto Warranty – Bumper to Bumper & 24/7 Roadside."

**Direct Buy Warranty Website
Advertisement of Warranties, Extended
Warranties, Coverage Plans and Promotions:**

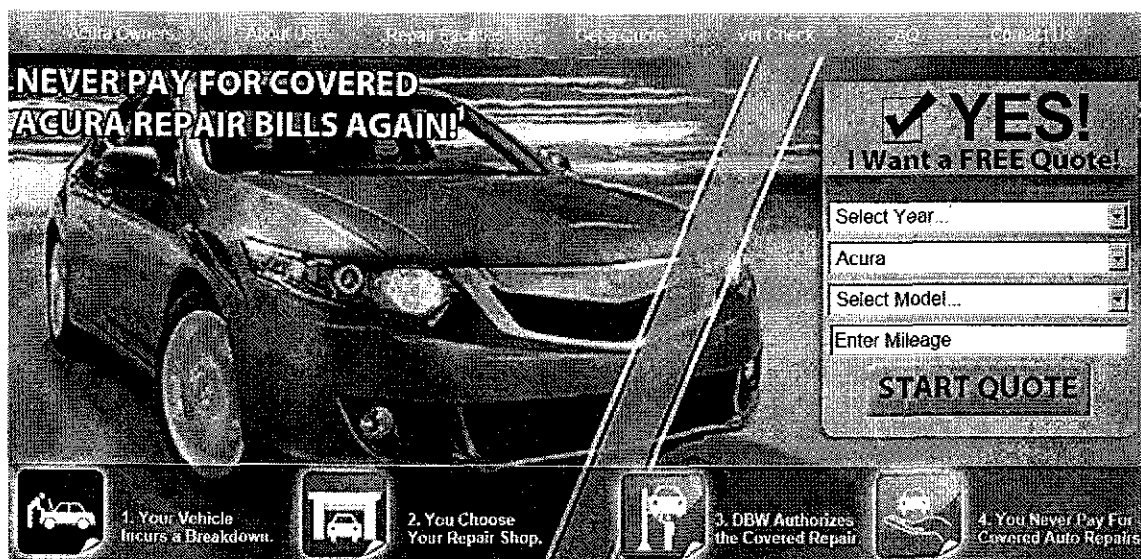
32. At varying times, the Direct Buy Warranty Website homepage stated that "When your manufacture [sic] warranty expires, an auto warranty covers to [sic] repair or replace electrical & mechanical components that may fail over time."

33. At varying times, the Direct Buy Warranty Website homepage stated that "Extended Auto Warranties are designed to offer similar peace of mind [as auto warranties] by literally extending the overall length that the consumer can expect to receive such coverage."

34. The Direct Buy Warranty Website homepage provided a list of “auto warranties,” which was presented as follows:

Acura Auto Warranty	Dodge Auto Warranty	Lamborghini Auto Warranty	Porsche Auto Warranty
Aston Martin Auto Warranty	Ferrari Auto Warranty	Land Rover Auto Warranty	Rolls-Royce Auto Warranty
Audi Auto Warranty	Ford Auto Warranty	Lexus Auto Warranty	Saab Auto Warranty
BMW Auto Warranty	GMC Auto Warranty	Lotus Auto Warranty	Subaru Auto Warranty
Bentley Auto Warranty	Honda Auto Warranty	Maserati Auto Warranty	Toyota Auto Warranty
Buick Auto Warranty	Hummer Auto Warranty	Maybach Auto Warranty	Volkswagen Auto Warranty
Cadillac Auto Warranty	Hyundai Auto Warranty	Mazda Auto Warranty	Volvo Auto Warranty
Chevrolet Auto Warranty	Infiniti Auto Warranty	Mercedes-Benz Auto Warranty	Luxury Auto Warranty
Chrysler Auto Warranty	Jaguar Auto Warranty	Nissan Auto Warranty	Deisel Auto Warranty

35. Consumers were able to click on an “auto warranty” (e.g., “Acura Auto Warranty”). When consumers clicked on an “auto warranty,” they were directed to a page such as, for example, the “Acura Auto Warranty” page. The “Acura Auto Warranty” page was presented as follows:

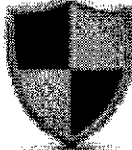


36. The Direct Buy Warranty Website, in the section titled “Why DBW?” provided answers to the questions: (a) “What is an Auto Warranty?”; (b) “Why Buy a Direct Buy Auto Warranty?”; and (c) “Benefits of Owning a Direct Buy Auto Warranty.”

37. The Direct Buy Warranty Website, in the section titled "DBW Guarantee," stated that "We guarantee, whether or not you have ever had a[n] [sic] auto warranty before, Direct Buy Warranty will be the best experience you have ever had."

38. Additionally, the Direct Buy Warranty Website included a section titled "Our Plans," which provided information about the four (4) coverage plans offered by DBAW: PlatinumElite ("PlatinumElite Plan"), PlatinumPlus ("PlatinumPlus Plan"), Platinum ("Platinum Plan") and PlatinumWrap ("PlatinumWrap Plan").

39. The "Our Plans" section of the Direct Buy Warranty Website was presented as follows:

VEHICLE OWNERS - OUR PLANS	
 PlatinumElite Most Comprehensive Plan Available Platinum Elite is similar to the warranty that was on your vehicle when it was brand new. Click here to learn more about Platinum Elite	 PlatinumPlus Powertrain protection made to fit your budget Platinum Plus is built to cover components on your vehicle that will fail more often than not. Click here to learn more about Platinum Plus
 Platinum Drive Train Protection for High Mileage Vehicles Platinum is designed for high mileage vehicles. It is a basic plan but covers big ticket items prone to fail at higher mileage. Click here to learn more about Platinum	 PlatinumWrap Wrap Around Your Powertrain Warranty Platinumwrap is designed to wraparound the powertrain warranty provided by your manufacture covering the componets that are not curently covered. Click here to learn more about Platinum Wrap

40. As shown above, the "Our Plans" section of the Direct Buy Warranty Website permitted consumers "to learn more" by "click[ing]" on one of the plans. When consumers

clicked on a plan, they were directed to a checklist demonstrating the “Items Covered” under the plan.

41. The Direct Buy Warranty Website included the following checklist for the PlatinumElite Plan:

Items Covered*	PlatinumElite
Engine	✓
Transmission	✓
Steering System	✓
Cooling System	✓
Electrical System	✓
Ignition System	✓
Fuel System	✓
Drive Axle	✓
Brake System	✓
ABS Brakes	✓
Differential Assembly	✓
Seals	✓
Gaskets	✓
Air Conditioning	✓
Heating	✓
Front Suspension	✓
Rear Suspension	✓
Hi-Tech	✓
Super/Turbo Charger	✓
AWD/4x4	✓
Parts	✓
Labor	✓
Towing	✓
Rental Car	✓
Locksmith Service	✓
Out of Gas	✓
Dead Battery	✓
Trip Interruption	✓
*View Service Agreement	
Go Back to Plans Page	

42. The Direct Buy Warranty Website included the following checklist for the PlatinumPlus Plan:

Items Covered*	PlatinumPlus
Engine	✓
Transmission	✓
Steering System	✓
Cooling System	✓
Electrical System	✓
Ignition System	
Fuel System	
Drive Axle	✓
Brake System	✓
ABS Brakes	
Differential Assembly	✓
Seals	✓
Gaskets	✓
Air Conditioning	
Heating	
Front Suspension	
Rear Suspension	
Hi-Tech	
Super/Turbo Charger	✓
AWD/4x4	✓
Parts	✓
Labor	✓
Towing	✓
Rental Car	✓
Locksmith Service	✓
Out of Gas	✓
Dead Battery	✓
Trip Interruption	✓
*View Service Agreement	
Go Back to Plans Page	

43. The Direct Buy Warranty Website included the following checklist for the Platinum Plan:

Items Covered*	Platinum
Engine	✓
Transmission	✓
Steering System	
Cooling System	✓
Electrical System	✓
Ignition System	
Fuel System	
Drive Axle	✓
Brake System	✓
ABS Brakes	
Differential Assembly	
Seals	✓
Gaskets	✓
Air Conditioning	
Heating	
Front Suspension	
Rear Suspension	
Hi-Tech	
Super/Turbo Charger	✓
AWD/4x4	✓
Parts	✓
Labor	✓
Towing	✓
Rental Car	✓
Locksmith Service	✓
Out of Gas	✓
Dead Battery	✓
Trip Interruption	✓
*View Service Agreement	
Go Back to Plans Page	

44. The Direct Buy Warranty Website included the following checklist for the PlatinumWrap Plan:

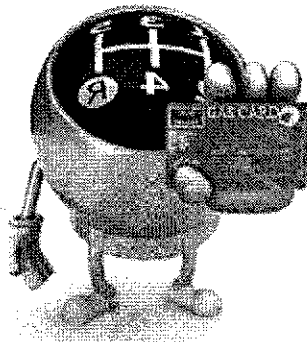
Items Covered*	PlatinumWrap
Engine	
Transmission	
Steering System	✓
Cooling System	
Electrical System	✓
Ignition System	✓
Fuel System	✓
Drive Axle	
Brake System	✓
ABS Brakes	✓
Differential Assembly	
Seals	
Gaskets	
Air Conditioning	✓
Heating	✓
Front Suspension	✓
Rear Suspension	✓
Hi-Tech	✓
Super/Turbo Charger	✓
AWD/4x4	✓
Parts	✓
Labor	✓
Towing	✓
Rental Car	✓
Locksmith Service	✓
Out of Gas	✓
Dead Battery	✓
Trip Interruption	✓
*View Service Agreement	
Go Back to Plans Page	

45. The Direct Buy Warranty Website did not include the price of the PlatinumElite Plan, the PlatinumPlus Plan, the Platinum Plan or the PlatinumWrap Plan.

46. The Direct Buy Warranty Website included a section titled "Specials," which provided promotional offers to consumers.

47. At varying times, DBAW advertised in the "Specials" section of the Direct Buy Warranty Website a limited time offer of a fifteen percent (15%) discount and a "free" gas gift card, which was presented as follows:

LIMITED TIME OFFER:
TAKE 15% OFF
+
GET A FREE \$500
GAS GIFT CARD



*gas card is only valid with purchase of any single payment plan. the promotion for the gas card is a rebate. to redeem your gas card you must take the following steps. once your contract term begins as noted on your vehicle service contract you will receive a rebate form to complete and send back to DBW. once validated you may redeem your gas gift card after your contract term has expired as of the expiration date noted within your vehicle service contract. other restrictions may apply. void where prohibited.

CLICK HERE FOR THE GAS CARD PROMOTION FORM

48. The bottom of the Direct Buy Warranty Website advertisement includes the following statement:

gas card is only valid with the purchase of any single payment plan. the promotion for the gas card is a rebate. to redeem your gas card you must take the following steps: once your contract term begins as noted on your vehicle service contract you will receive a rebate form to complete and send back to DBW. once validated you may redeem your gas gift card after your contract term has expired as of the expiration date noted within your vehicle service contract. other restrictions may apply. void where prohibited.

49. At varying times, the Direct Buy Warranty Website included a link to the "Gas Card Promotion Form" which, once accessed, led to the "\$500 GAS GIFT CARD REDEMPTION FORM."

50. The "\$500 GAS GIFT CARD REDEMPTION FORM" contained, among other things, "RULES & RESTRICTIONS," which provided that:

GAS card is only valid with any single payment plan. Direct Buy Warranty must receive this form back no later than the end date of your vehicle service contract as noted with your vehicle service contract. If it is received later then the end date of your service contract, your \$500 GAS gift card will be null and void. . . . If you choose to cancel your vehicle service contract prior to the expiration date your \$500 GAS gift card will be null and void. Direct Buy Warranty must receive your redemption form in the proper time frame to validate your \$500 GAS gift card.

51. The Direct Buy Warranty Website advertisement does not disclose that if DBAW receives the "\$500 GAS GIFT CARD REDEMPTION FORM" after the MVSC's expiration date, the five hundred dollar (\$500) gas gift card is null and void.

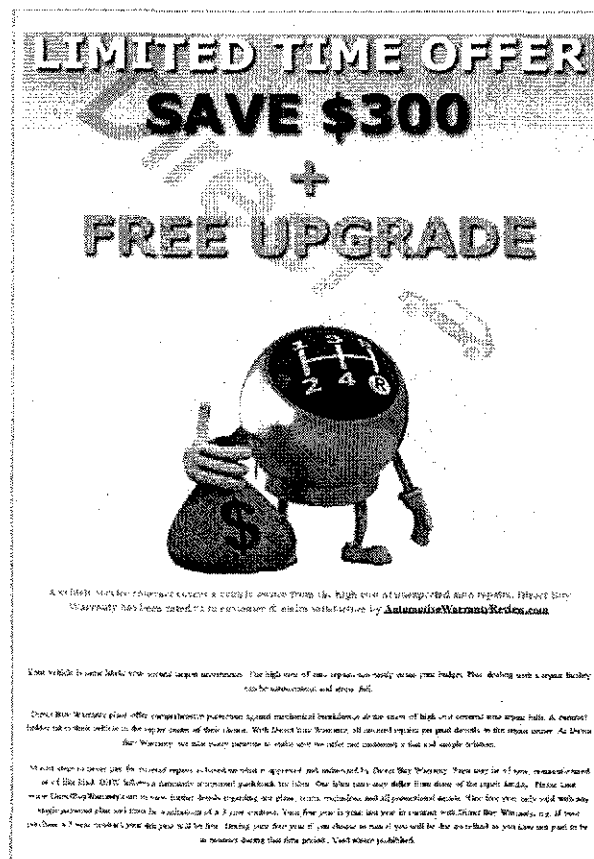
52. The Direct Buy Warranty Website advertisement does not disclose that if a consumer cancels the MVSC prior to the MVSC's expiration date, the five hundred dollar (\$500) gas gift card is null and void.

53. The Direct Buy Warranty Website advertisement does not include a price or range of prices for MVSCs.

54. The Direct Buy Warranty Website advertisement does not include a former price or former range of prices for MVSCs or the amount of the reduction in dollars for MVSCs as a result of the fifteen percent (15%) discount.

55. Additionally, the Direct Buy Warranty Website advertisement does not include the period of time during which the offer of a fifteen percent (15%) discount applies.

56. At varying times, DBAW advertised in the "Specials" section of the Direct Buy Warranty Website a limited time offer of a three hundred dollar (\$300) discount and a "free upgrade," which appeared as follows:



57. The bottom of the Direct Buy Warranty Website advertisement includes the following as to the "free upgrade":

One free year only void [sic] with any single payment plan and must be a minimum of a 3 year contract. Your free year is your last year in contract with Direct Buy Warranty, e.g. if your [sic] purchase a 3 year contract your 4th year will be free. During your free year if you choose to cancel you will be due no refund as you have not paid to be in contract during that time period.

58. The Direct Buy Warranty Website advertisement does not include a price or range of prices for MVSCs.

59. Additionally, the Direct Buy Warranty Website advertisement does not include a period of time during which the limited time offer of a three hundred dollar (\$300) discount applies.

**The DBWarranty Website
Advertisement of Warranties, Extended
Warranties and Coverage Plans:**

60. The DBWarranty Website homepage states "Rated America's #1 Auto Warranty" and "America's #1 Auto Warranty."

61. The DBWarranty Website homepage states "Rated America's #1 Extended Auto Warranty."

62. The DBWarranty Website homepage states "Your Car Is Insured. But Are You Protected? the right extended auto warranty coverage makes all the difference."

63. The DBWarranty Website homepage states "Extended auto warranties are designed to offer similar peace of mind [as auto warranties] by literally extending the overall length that the consumer can expect to receive such coverage."

64. The DBWarranty Website, in the section titled "Why Choose DBW?," provides answers to the questions: (a) "What is an Auto Warranty?"; (b) "Why Do I Need to Purchase a Direct Buy Auto Warranty?"; and (c) "How Do I Benefit From A Direct Buy Auto Warranty?"

65. The DBWarranty Website, in a section titled "Extended Auto Warranty 101," states: "Extended auto warranties are very similar to an auto insurance plan. If you were to have your vehicle incur a breakdown, extended auto warranties are in place to repair or replace the failed component."

66. The DBWarranty Website includes a section titled "Plans," which provides information about the three (3) coverage plans currently offered by DBAW: the PlatinumElite Plan, the PlatinumPlus Plan and the Platinum Plan.

67. The DBWarranty Website did not include the price of the PlatinumElite Plan, the PlatinumPlus Plan or the Platinum Plan.

68. The "Plans" section of the DBWarranty Website appears as follows:

We Pay Parts, Labor & 24/7 Roadside Assistance
 Call (888) 865-4484 to learn more about getting covered today.

Platinum	Platinum Plus	Platinum Elite
Platinum Plan covers the most common repairs on your vehicle. With no extra extended auto warranty coverage, it's an affordable plan. You can get your money's worth by choosing the right plan for your vehicle.	Platinum Plus plan builds on the Platinum plan with extra coverage for an additional year. You can get your money's worth by choosing the right plan for your vehicle.	Platinum Elite. Our most comprehensive extended auto warranty plan available. This plan is similar to the "Tougher to Toughest" warranty that was on your vehicle when it was new. For maximum protection and the lowest price of all, you need Platinum Elite.
Engine	Engine	Engine
Transmission	Transmission	Transmission
Commercial Vehicles		Commercial Vehicles
Hybrid/Electric Car		Hybrid/Electric Car
Steering	Steering	Steering
Cooling System	Cooling System	Cooling System
Electrical System	Electrical System	Electrical System
Fuel Systems		Fuel Systems
Drive Axle	Drive Axle	Drive Axle
Brake System	Brake System	Brake System
ABS Brakes		ABS Brakes
Seals & Gaskets	Seals & Gaskets	Seals & Gaskets
Air Conditioning		Air Conditioning
Suspension System	Suspension System	Suspension System
4x4 AWD	4x4 AWD	4x4 AWD
Super/Turbo Charger	Super/Turbo Charger	Super/Turbo Charger
Hi-Tech		Hi-Tech
Parts & Labor	Parts & Labor	Parts & Labor
Towing	Towing	Towing
Rental Car	Rental Car	Rental Car
Locksmith Service	Locksmith Service	Locksmith Service
Dead Battery	Dead Battery	Dead Battery
Trip Interruption	Trip Interruption	Trip Interruption

See service agreement for full coverage details.

Get a Free Quote

**DBAW Sales Representatives Provide
Information About Coverage to Consumers:**

69. At all relevant times, DBAW maintained a toll free telephone number, (888) 865-4484, to address consumer inquiries.

70. During telephone calls with consumers, DBAW sales representatives provided, among other things, information about the MVSC and promotional offers.

71. Upon information and belief, during telephone calls with consumers, DBAW sales representatives stated that DBAW provides "bumper to bumper" coverage.

72. At all relevant times, DBAW's MVSC did not cover all motor vehicle parts.

73. Upon information and belief, DBAW sales representatives stated that DBAW provides coverage for "wear and tear."

74. At all relevant times, DBAW's MVSC did not cover "wear and tear."

75. Upon information and belief, DBAW sales representatives stated that DBAW provides coverage for certain parts (e.g., tires) when such parts were not covered under DBAW's MVSC.

76. Upon information and belief, on at least one (1) occasion, a DBAW sales representative stated that DBAW provides coverage that includes repair facilities' "diagnostic charges."

77. At all relevant times, DBAW's MVSC did not cover "diagnostic charges."

78. Upon information and belief, on at least one (1) occasion, a DBAW sales representative stated that consumers are only required to retain maintenance records after the MVSC's effective date.

79. However, upon information and belief, DBAW denies consumers' claims when consumers cannot produce, upon DBAW's request, records that demonstrate maintenance occurring prior to the MVSC's effective date.

80. Upon information and belief, DBAW sales representatives stated that consumers who purchased used motor vehicles are only required to retain maintenance records after the purchase of the used motor vehicle.

81. However, upon information and belief, DBAW denies consumers' claims when consumers who purchased used motor vehicles cannot produce, upon DBAW's request, records that demonstrate maintenance occurring prior to the consumer's purchase of the used motor vehicle.

82. Upon information and belief, on at least one (1) occasion, a DBAW sales representative stated that the consumer would receive a five hundred dollar (\$500.00) gas gift card without purchasing a "single payment plan" for a MVSC, when the consumer could only receive the gas gift card by purchasing a "single payment plan."

83. Upon information and belief, DBAW sales representatives stated that consumers would receive a five hundred dollar (\$500.00) gas gift card shortly after purchasing a MVSC (e.g., thirty (30) days, twelve (12) to sixteen (16) weeks), when consumers could only receive gas gift cards after the MVSC's expiration date.

84. At varying times, DBAW sales representatives also sent emails to consumers.

85. Upon information and belief, in an email to a consumer, a DBAW sales representative stated that "platinum elite protection [] [] will cover full bumper to bumper protection on the vehicle," when DBAW's MVSC did not cover all motor vehicle parts.

DBAW's Sale of MVSCs to Consumers:

86. During telephone conversations with DBAW sales representatives, some consumers indicated that they wanted to purchase a MVSC. At this time, DBAW sales representatives obtained payment information from consumers.

87. Afterwards, some consumers received an email confirmation that states "Thank you for purchasing a Direct Buy Warranty!"

88. Additionally, the email confirmation requests the consumer review his or her "account information," which includes information about the consumer's motor vehicle (e.g., year, make and model), the consumer's billing address and the coverage plan (e.g., the PlatinumElite Plan) purchased.

89. A short time after receiving a confirmation email, consumers received by mail "member kits" which consist of a "Declarations Page," MVSC and "Letter of Credit Card Authorization."

90. At varying times, the "Declarations Page" stated that:

You have made an excellent decision by choosing a Direct Buy Auto Warranty VSC to protect your vehicle and budget. You can keep your mind at peace knowing that it is protected by an industry leader in today's market.

Please take a moment to review your account information as well as your terms of service agreement.

91. The "Declarations Page" includes, among other things, the following account information: (a) the plan purchased; (b) the parts covered; (b) the term of coverage; (c) the total price; (d) the down payment, if applicable; (e) the monthly payment, if applicable; and (f) the deductible, if applicable.

92. Since on or about 2009, on several occasions, DBAW modified the format and/or content of its MVSC. Upon information and belief, as of November 2011, DBAW used the MVSC described below (a copy of which is attached as Exhibit A).

93. The MVSC begins with "This CONTRACT consists of the following terms and conditions and the DECLARATIONS PAGE that accompanies this Agreement. THE PURCHASE OF THIS CONTRACT IS NOT A CONDITION OF THE SALE OF THE VEHICLE."

94. The "**DEFINED TERMS**" section of the MVSC defines "COVERED PART" as:

a part which is specifically covered under Section III of this CONTRACT, provided, however, – COVERED PART does not include any part which is excluded from coverage by or not covered under any provision of section VI of this CONTRACT.

[Exhibit A, at Section I, C.]

95. The "**DEFINED TERMS**" section of the MVSC defines "BREAKDOWN" as:

The inability of a properly maintained COVERED PART to perform the function for which it was designed, due to defects in the materials or workmanship. BREAKDOWN does not mean (a) the gradual reduction in operating performance of a COVERED PART due to wear and tear, or (b) the gradual or sudden reduction in operating performance of a COVERED PART due to any lack of proper maintenance or to non-use of a COVERED PART or non-covered part.

[Id., at Section I, K.]

96. The "**DEFINED TERMS**" section of the MVSC defines "REPAIR COST" as:

the part, labor expenses and taxes, if applicable, necessary to repair or replace a covered part due to a BREAKDOWN of a covered part. REPAIR COST is determined by regular retail parts prices, not to exceed the Manufacturer's Suggested Retail Price for a covered part, and the current national flat rate hourly guide for labor, and is subject to the aggregate and single repair, visit limitations on liability in Section III.

[Id., at Section I, N.]

97. The "NOTICE AND GENERAL CONSIDERATIONS" section of the MVSC states:

THIS CONTRACT IS NOT: . . . AN EXPRESS, IMPLIED, GENERAL OR EXTENSION OF A WARRANTY.

. . .

STATE AND FEDERAL LAWS MAY PROTECT YOUR INTERESTS AS A CONSUMER. IN RESPECT TO THE MAGNUSON-MOSS WARRANTY ACT, THE CONTENTS OF THIS CONTRACT SHOULD BE INTERPRETED AND UNDERSTOOD TO MEAN A 'SERVICE CONTRACT' AS USED THEREIN.

[Id., at Section II.]

98. The "COVERAGE PROVIDED UNDER YOUR CONTRACT" section of the MVSC states:

Subject to the terms and conditions of this CONTRACT, the VEHICLE parts specified on the DECLARATIONS PAGE as COVERED PARTS under section IV, except as excluded by or not covered under section VI. (i) If YOU selected **PLATINUM ELITE**, refer to COVERED PARTS under section IV A. --- P; (ii) If YOU selected **PLATINUM PLUS**, refer to COVERED PARTS under section IV A. --- K; (iii) If YOU selected **PLATINUM**, refer to COVERED PARTS under section IV, A. --- H; and (iv) If YOU selected **PLATINUM WRAPAROUND**, YOUR COVERED PARTS are LIMITED to those parts that are not covered by the FACTORY WARRANTY for YOUR VEHICLE. REPLACEMENTS AND REPAIRS UNDER THIS CONTRACT WILL BE MADE WITH NEW, REMANUFACTURED OR COMPARABLE NON-ORIGINAL MANUFACTURED PARTS OF LIKE KIND AND QUALITY.

[Id., at Section III, A.]

99. Section IV of the MVSC provides as follows: "**COVERED COMPONENTS. COVERAGE IS DEPENDENT ON PLAN SELECTED AND COVERED COMPONENTS UNDER YOUR PLAN. PLEASE REFER TO YOUR DECLARATION PAGE FOR A LIST OF YOUR COVERED COMPONENTS.**"

100. Section IV of the MVSC includes the following as "COVERED COMPONENTS":

B. Transmission: Transmission case, transfer case, transmission mounts and pan if damage by internally lubricated parts. Internally lubricated parts including: torque converter, vacuum modulator, internal linkage, Seals and gaskets.

...

F. Brakes: Non - ABS master cylinder, power booster, calipers, wheel cylinders, hydraulic lines and fittings; proportioning valve, backing plates, springs, clips and retainers, self-adjusters, parking brake linkage and cables, Seals and gaskets.

101. Section V of the MVSC which is titled "**YOUR OBLIGATIONS**" concerns "**Records and Maintenance**" and "**If a BREAKDOWN occurs.**"

102. The "**Records and Maintenance**" obligations in the MVSC include the following:

YOU must retain all original receipts, invoices and any other MAINTENANCE RECORDS that demonstrate that all required maintenance has been performed at proper intervals. We may request that YOU produce MAINTENANCE RECORDS and may deny coverage if YOU fail to produce MAINTENANCE RECORDS that confirm that maintenance has been performed at proper intervals regarding YOUR VEHICLE.

103. Section VI of the MSVC identifies seventeen (17) types of exclusions, and provides, in pertinent part:

VI. EXCLUSIONS; PARTS AND SERVICES NOT COVERED. THE FOLLOWING ARE EXCLUDED BY OR NOT COVERED UNDER THIS CONTRACT:

...

B. ANY REPAIR OF A SYSTEM, ANY EQUIPMENT OF PART IF IT IS DETERMINED THAT THERE IS A REASONABLE MECHANICAL PROBABILITY THAT THE CONDITION CAUSING THE FAILURE EXISTED PRIOR TO OR AT THE TIME OF PURCHASE OF YOUR

CONTRACT, WHETHER KNOWN OR UNKNOWN AT THE TIME OF PURCHASE OF YOUR CONTRACT.

...

- E. ANY OF THE FOLLOWING PARTS INCLUDING BUT NOT LIMITED TO, . . . MANUAL TRANSMISSIONS COMPONENTS SUCH AS, CLUTCH FRICTION, CLUTCH DISC AND PRESSURE PLATE, THROW OUT BEARING, PILOT BEARING, CLUTCH MASTER AND SLAVE CYLINDER . . . BRAKE PADS, BRAKE SHOES, BRAKE ROTORS AND DRUMS . . .

...

- N. ANY REPAIR COST: . . . (III) IF YOU FAIL TO PROVIDE ALL MAINTENANCE RECORDS FOR ROUTINE MAINTENANCE RELATING TO COVERED PARTS THAT SUSTAIN A BREAKDOWN.

104. Section VII of the MVSC is titled "**CANCELLATION OF CONTRACT**" and provides, in pertinent part: "Within thirty (30) days following commencement of the CONTRACT period, YOU may cancel this CONTRACT and receive a full purchase price refund, if no services have been rendered to or on behalf of YOU."

105. Additionally, Section VII of the MVSC provides "If YOU are entitled to a refund under this CONTRACT, WE will pay the refund to YOU if YOUR purchase of this CONTRACT was not financed."

106. Section VIII of the MVSC is titled "**MEDIATION AND ARBITRATION**" and provides, in pertinent part:

In respect to any controversy or claim that may arise or relate to this CONTRACT in any manner, including but not limited to a breach of this CONTRACT, the parties initially shall submit such controversy or claim to mediation conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association. Any controversy or claim not resolved following mediation conducted in conformity with this Section shall be settled by arbitration according to the Commercial Arbitration Rules of the American Arbitration Association.

107. Section IX of the MVSC is titled “**OBLIGATIONS**” and provides “OUR obligations as the provider under this service CONTRACT are backed by the full faith and credit of Direct Buy Associates, the provider.”

108. The “Letter of Credit Card Authorization” form requests consumers provide “payment information” and then “mail [the] completed form” to DBAW.

109. Upon information and belief, DBAW represents to consumers that they do not charge consumers for purchasing MVSCs prior to receiving a signed “Letter of Credit Card Authorization.”

110. Upon information and belief, at times, DBAW has charged consumers for purchasing MVSCs prior to receiving a signed “Letter of Credit Card Authorization.”

111. Upon information and belief, DBAW offered for sale and sold MVSCs to consumers for varying terms and prices (e.g., for a two (2) -year/30,000 mile plan \$1,190; for a three (3) -year/80,000 mile plan \$1,500; for a four (4) -year/19,500 mile plan \$3,379; and for a five (5) -year/100,000 mile plan \$2,400).

112. Upon information and belief, the terms and prices of MVSCs were based upon, among other things, motor vehicles’ year, make and model.

113. Consumers paid for MVSCs by making either a single, upfront payment (i.e., a “single payment plan”) or a down payment followed by incremental payments.

**DBAW’s Claim
Evaluation Process:**

114. On the DBWarranty Website, DBAW describes its role as an administrator of MVSCs as follows:

Many extended auto warranty companies are a [sic] third party broker (TPB).

A TPB has just 3 agendas on their [sic] mind, sell, sell and sell more. But what about servicing the customer?

A TPB has no long-term obligations to the customer. You see, a TPB sells someone else's extended auto warranty and acts as a middle-man/broker between you and the extended auto warranty provider.

...

Once the TPB has made the sale, their job is, pretty-much, complete. They provide your information to the administrator and the administrator will take it from there. After the sale is made, you will file any repair claims with the administrator (a company, you have not even had a chance to research) and hope that they will cover your repair bill.

...

Direct Buy Warranty does not work with TPBs and provides you with the extended auto warranty directly!

115. The DBWarranty Website, in a section titled "How Does A Direct Buy Extended Auto Warranty Work?," provides as follows:

With Direct Buy Warranty, your covered repair costs will be taken care of. All you would have to do[] is choose a repair facility. Direct Buy Auto Warranty allows you to go to any [Automotive Service Excellence] certified mechanic or dealership of your choice. . . . Your mechanic will contact our award winning staff at Direct Buy Auto Warranty with the diagnosis of your vehicle. Direct Buy Auto Warranty will then authorize and pay the repair facility directly for all of your covered auto repair bills. You can pick up your vehicle and go about your day as if nothing happened. That is Direct Buy Auto Warranty's philosophy; to make your vehicle repair experience as seamless and as stressless as possible.

116. The DBWarranty Website states that DBAW has a "claim response time average of 2.5 hours."

117. However, consumers reported that DBAW failed to notify them whether it would authorize repair and/or replacements of parts for extended periods of time – some times for a number of weeks.

118. Consumers reported that, during these extended periods of time, they were deprived of the use of their motor vehicles and, as a result, missed work and other obligations.

119. Upon information and belief, DBAW generally evaluates claims under MVSCs without performing its own inspection of a consumer's motor vehicle.

120. Pursuant to the MVSC, DBAW reserves the right to "inspect YOUR VEHICLE to gather diagnostic or other necessary information regarding any claim."

121. Upon information and belief, DBAW rarely exercises its right to perform its own inspection of the consumer's motor vehicle.

122. DBAW issues claim denials verbally.

123. Upon information and belief, when consumers request that DBAW provide written explanations for claim denials, it refuses to do so.

124. On at least one (1) occasion, during a telephone call with a consumer, a DBAW claims representative stated that it was DBAW's policy not to provide written explanations for claim denials.

125. On at least one (1) occasion, during a telephone call with a consumer, a DBAW claims representative stated that the MVSC provides that claim denials are issued verbally.

126. The MVSC does not address the method by which DBAW will issue claim denials.

127. Consumers reported that during telephone calls with DBAW claims representatives, when consumers questioned DBAW representatives, the latter several times changed the basis for denying consumers' claims under the MVSC.

128. Upon information and belief, at times, DBAW has refused to accept technicians' diagnoses and reached its own contrasting conclusions – despite the fact that the technicians inspected the motor vehicle and DBAW did not.

129. Further, consumers have reported that DBAW failed to provide adequate explanations for refusing to accept technicians' diagnoses.

130. Upon information and belief, when consumers submitted claims shortly after the effective date of their MVSC, DBAW denied such claims based on "pre-existing conditions" without adequate support.

131. During telephone calls, when consumers disputed claim denials, claims representatives argued with consumers, threatened consumers, laughed at consumers and/or abruptly hung up on consumers.

132. According to DBAW's internal electronic log system, claims representatives memorialized their telephone calls with consumers with notes such as "customer called bitching that battery is not covered."

**DBAW's Partial
Payment of Claims:**

133. In those instances in which DBAW approved claims under MVSCs, at varying times, DBAW notified consumers by email that "Authorization has been approved in the amount of \$[] for work to be performed at [sic] in relation to your" motor vehicle.

134. At varying times, the Direct Buy Warranty Website homepage stated "We Pay 100% of Covered Repairs."

135. At varying times, the Direct Buy Warranty Website homepage stated "NEVER PAY FOR COVERED AUTO REPAIRS!"

136. The DBWarranty Website homepage states "Never Pay For Covered Auto Repair Bills. AGAIN!"

137. The DBWarranty Website homepage states "Never Pay Again! **Fact:** Auto repair bills are expensive. **DBW Fact:** Never pay for a covered auto repair bill again. We pay it for you!"

138. Upon information and belief, at times, DBAW has not authorized payment for the repair facility's total bill, but authorized payment for only a portion of the bill because of the MVSC's limitation that "REPAIR COST is . . . not to exceed the Manufacturer's Suggested Retail Price for a covered part."

139. The Direct Buy Warranty Website, in the section titled "Why DBW?," stated that "In today's economy, labor rates are higher than ever. Direct Buy Auto Warranty has no limit on how much we will pay your shops labor rate."

140. The DBWarranty Website, in the section titled "Why Choose DBW?," states:

Other service contracts limit how much they will pay your dealership per hour for labor repair costs. Direct Buy Auto Warranty's contract does not. . . Why pay for a vehicle service contract and still pay a portion of your needed covered repairs? Last time we checked, that makes no sense!

141. Upon information and belief, at times, DBAW has not authorized payment for the repair facility's total bill, but authorized payment for only a portion of the bill because of the MVSC's limitation that "REPAIR COST is . . . not to exceed the . . . current national flat rate hourly guide for labor."

142. Additionally, upon information and belief, at times, DBAW, after authorizing payment to repair facilities, failed to make such payments to repair facilities.

143. Consumers reported that, when DBAW failed to make such payments to repair facilities, consumers were required to pay repair facilities out of pocket.

**DBAW's Policy Regarding the
Cancellation of MVSCs and Refunds:**

144. Upon information and belief, DBAW required consumers to complete and return to DBAW a "Cancellation Request Form" to receive a refund.

145. In emails to consumers, DBAW representatives stated that "[o]nce the form is complete the refund will show on your original method of payment within 7-10 business days."

146. Consumers reported that, despite making numerous telephone calls and/or sending emails and faxes, they did not receive refunds from DBAW for extended periods of time – some times for a number of weeks.

147. Additionally, consumers further reported that after inquiring about the status of their refunds, DBAW representatives advised that they would not receive refunds directly from DBAW, but should contact their credit card companies and dispute the amounts charged by DBAW for the MVSC.

148. When consumers obtained refunds, the amounts refunded were inconsistent with statements on the DBAW Websites and the MVSC's terms and conditions.

149. The Direct Buy Warranty Website stated that DBAW had an "Unconditional 30 Day Money Back Guarantee" and that "All Direct Buy Warranty plans include a full 30 day money back guarantee. For any reason you are not happy, call us and we will provide you with a full refund. NO QUESTIONS ASKED[.]"

150. The DBWarranty Website states that "All Direct Buy Warranty plans include a full 30 day money back guarantee. NO QUESTIONS ASKED!"

151. However, at varying times, the "Declarations Page" referenced a "Processing Fee." The "Declarations Page" provided the following statement as to the "Processing Fee":

“At the time the sale was conducted . . . there was a deferred processing fee of \$250.00 and is only due if the contract is cancelled prior to the term start.” (Emphasis added.)

152. Additionally, on at least one (1) occasion, DBAW refused to provide a refund for the full purchase price of the MVSC despite the fact that the consumer requested a refund ten (10) minutes after purchasing the MVSC.

153. On at least one (1) occasion, DBAW refused to provide a refund for the full purchase price of the MVSC to a consumer who made the request within thirty (30) days of the commencement of the contract period, stating that refunds for the full purchase price are only permitted within thirty (30) days of purchase of the MVSC.

Consumers' Dispute of Claim Denials:

154. Upon information and belief, at times DBAW informs consumers who seek to dispute claim denials that they must write an “appeal letter.”

155. Upon information and belief, DBAW representatives, during telephone calls with consumers, have provided verbal denials of “appeal letters.”

156. Upon information and belief, DBAW representatives have refused to provide to consumers written explanations regarding appeal denials.

157. Upon information and belief, the American Arbitration Association (“AAA”), at least as of August 2013, does not administer disputes between consumers and DBAW because of DBAW’s refusal to participate in arbitration.

158. Upon information and belief, at least as of at least August 2013, the AAA requested that DBAW remove its name from the MVSC.

159. To date, the AAA’s name remains in the MVSC.

**DBAW “Underwriting” and
Insurance of MVSCs:**

160. At all relevant times, during telephone calls and in emails, DBAW representatives identified themselves as underwriters (e.g., “Senior Underwriter”).

161. At all relevant times, DBAW was not a provider of insurance for MVSCs or otherwise.

162. Upon information and belief, prior to June 21, 2013, DBAW MVSCs were not guaranteed under an insurance policy.

163. On December 14, 2012, Continental Risk Underwriters Risk Retention Group, Inc. (“Continental Risk Underwriters RRG”) registered as a Domestic Corporation with the Nevada Secretary of State. On June 21, 2013, Continental Risk Underwriters RRG became licensed with the Nevada Division of Insurance as a captive insurer, specifically, as an “Association-RRG.”

164. Upon information and belief, DBAW is a member of and is insured by Continental Risk Underwriters RRG.

165. Currently, the MVSC does not: (1) disclose that DBAW’s obligations under its MVSCs are guaranteed by an insurance policy issued by Continental Risk Underwriters RRG; or (2) provide information about Continental Risk Underwriters RRG so that consumers may contact it directly in the event that DBAW fails to meet its obligations.

COUNT I

VIOLATION OF THE CFA BY DEFENDANT (UNCONSCIONABLE COMMERCIAL PRACTICES AND DECEPTION)

166. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 165 above as if more fully set forth herein.

167. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing[] concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise. . .

168. The CFA defines "merchandise" as including "any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale." N.J.S.A. 56:8-1(c).

169. The MVSCs advertised, offered for sale and sold by Defendant comprise merchandise within the meaning of the CFA.

170. Since at least June 2009, DBAW, through its owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives and/or independent contractors, has advertised, offered for sale and sold MVSCs to consumers in this State and elsewhere.

171. In so doing, DBAW, through its owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives and/or independent contractors, has engaged in the use of unconscionable commercial practices and deception.

172. DBAW's conduct in violation of the CFA includes, but is not limited to, the following unconscionable commercial practices:

- a. Through the DBAW Websites and otherwise, marketing its merchandise as an "auto warranty" and/or "extended auto warranty," when the merchandise it actually sells is a MVSC;
- b. Through the DBAW Websites and otherwise, marketing the coverage it provided as "bumper to bumper," but then including in the MVSC extensive additional exclusions from coverage;
- c. Failing to provide MVSCs with coverage that is consistent with its advertising and other representations to consumers (e.g., that coverage includes "wear and tear");
- d. Placing onerous obligations on consumers (e.g., the obligation that consumers who purchased used motor vehicles produce, upon DBAW's request, the previous owner's maintenance records) for the approval of claims, which were not fully disclosed or explained until after consumers purchased MVSCs;
- e. Charging consumers for the purchase of MVSCs prior to receiving a signed "Letter of Credit Card Authorization," after representing to consumers that they would not be charged for purchasing MVSCs until after it received a signed "Letter of Credit Card Authorization";
- f. Failing to notify consumers whether it would authorize repairs and/or replacements of motor vehicle parts in a timely manner;
- g. Verbally denying claims and refusing consumers' requests for written explanations for claim denials;
- h. During telephone calls with consumers, changing the basis for claim denials under the MVSC;
- i. Refusing to accept technicians' diagnoses and reaching contrasting conclusions without adequate justification;
- j. Denying claims made shortly after the MVSC's effective date on the basis of "pre-existing condition" without adequate support;
- k. Summarily and offensively denying claims without regard to the substance of consumers' claims;
- l. On the DBAW Websites, representing that there is no limit on the labor costs it will pay to repair facilities, but then providing in the MVSC that labor costs are limited to the "current national flat rate hourly guide for labor";

- m. Failing to provide payment to repair facilities for authorized repairs and/or replacements, thus requiring consumers to pay for such repairs and/or replacements out of pocket;
- n. Failing to provide consumers with refunds in a timely manner;
- o. Failing to provide refunds to consumers directly and advising consumers to contact their credit card companies to receive refunds, when the MVSC states that it will pay refunds to consumers;
- p. Representing to consumers that it provides a full thirty (30) day "money back guarantee," but then assessing consumers a "Processing Fee" that is "only due if the contract is cancelled prior to [the MVSC's] term start";
- q. Failing to provide consumers with full refunds after they cancelled MVSCs within thirty (30) days from the commencement of coverage;
- r. Verbally denying consumers' written appeals and refusing consumers' requests for written explanations for appeal denials;
- s. Restricting consumers' ability to assert claims under the MVSC by referring claims to mediation and/or arbitration;
- t. Continuing to include in the MVSC a reference to mediation and/or arbitration before the AAA, when the AAA advised DBAW that it would no longer administer disputes under the MVSC; and
- u. After June 21, 2013, failing to inform consumers that Continental Risk Underwriters RRG insures DBAW's MVSCs and how consumers can be reimbursed by Continental Risk Underwriters RRG if DBAW fails to meet its obligations under MVSCs.

173. DBAW's conduct in violation of the CFA includes, but is not limited to, the following deception:

- a. Conducting business under the name "Direct Buy Auto Warranty," implying that it sells warranties, when it actually sells MVSCs;
- b. In Google advertisements, stating "Bumper to Bumper," implying that coverage includes all motor vehicle parts, when such is not the case;
- c. On the DBAW Websites, using the terms "auto warranty" and "extended auto warranty," implying that it sells warranties, when it actually sells MVSCs;

- d. On the Direct Buy Warranty Website, providing a list of "auto warranties" (e.g., "Acura Auto Warranty"), implying an affiliation with certain manufacturers of motor vehicles, when no such affiliation existed;
- e. On the Direct Buy Warranty Website, using checklists to demonstrate coverage under the four (4) plans previously offered, implying certain "items" were completely and entirely covered under MVSCs, when such was not the case;
- f. On the DBWarranty Website, using graphics to demonstrate coverage under the three (3) plans currently offered, implying certain "items" were completely and entirely covered under MVSCs, when such is not the case;
- g. During telephone calls with consumers, stating that DBAW provided "bumper to bumper" coverage, implying that all motor vehicle parts were covered under MVSCs, when such is not the case;
- h. In an email to a consumer, stating that "platinum elite protection [] [] will cover full bumper to bumper protection on the vehicle," implying that the PlatinumElite Plan covered all motor vehicle parts, when such is not the case;
- i. On the DBAW Websites, stating that consumers will "never pay for covered auto repair bills," implying that consumers would not be required to pay any portion of the repair facility's bill, when such was not the case; and
- j. Prior to June 21, 2013, on the Direct Buy Warranty Website and elsewhere, using the term "underwriter," implying that DBAW was either an insurance provider and/or or that MVSCs were insured, when such was not the case.

174. Each unconscionable commercial practice and/or deception by Defendant constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

COUNT II

VIOLATION OF THE CFA BY DEFENDANT (FALSE PROMISES AND/OR MISREPRESENTATIONS)

175. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 174 above as if more fully set forth herein.

176. DBAW's conduct in violation of the CFA includes, but is not limited to, the following false promises and/or misrepresentations:

- a. Misrepresenting to a consumer, during a telephone call with a sales representative, that it provides coverage for "wear and tear";
- b. Misrepresenting to a consumer, during a telephone call with a sales representative, that it provides coverage for parts (e.g., tires) that are not covered under the MVSC;
- c. Misrepresenting to a consumer, during a telephone call with a sales representative, that it provides coverage including repair facilities' "diagnostic charges";
- d. Misrepresenting to a consumer, during a telephone call with a sales representative, that the consumer is only required to retain maintenance records after the MVSC's effective date;
- e. Misrepresenting to consumers, during telephone calls with sales representatives, that consumers who purchased used motor vehicles are only required to retain maintenance records after the purchase of the used motor vehicle;
- f. Misrepresenting to a consumer, during a telephone call with a sales representative, that the consumer would receive a five hundred dollar (\$500) gas gift card with the purchase of a MVSC, without purchasing a "single payment plan";
- g. Misrepresenting to consumers, during telephone calls with sales representatives, that consumers would receive a five hundred dollar (\$500) gas gift card shortly after (e.g., thirty (30) days, twelve (12) to sixteen (16) weeks) their purchase of MVSCs;
- h. Misrepresenting to a consumer, during a telephone call with a sales representative, that consumers are charged for purchasing MVSCs only

after consumers sent a signed "Letter of Credit Card Authorization" to DBAW;

- i. Misrepresenting to a consumer, during a telephone call with a claims representative, that the MVSC states that claim denials will be issued verbally;
- j. Misrepresenting to consumers, on the Direct Buy Warranty Website, that "Direct Buy Auto Warranty has no limit on how much we will pay your shops labor rate";
- k. Misrepresenting to consumers, on the DBWarranty Website, that "Other service contracts limit how much they will pay your dealership per hour for labor repair costs. Direct Buy Auto Warranty's contract does not"; and
- l. Misrepresenting to consumers, on the DBAW Websites, that consumers may obtain "a full thirty (30) day money back" refund.

177. Each false promise and/or misrepresentation by DBAW constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

COUNT III

VIOLATION OF THE CFA BY DEFENDANT (FAILURE TO DISPLAY SELLING PRICE)

178. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 177 above as if set forth more fully herein.

179. The CFA requires that persons offering merchandise for sale display the selling price, as follows:

It shall be an unlawful practice for any person to sell, attempt to sell or offer for sale any merchandise at retail unless the total selling price of such merchandise is plainly marked by a stamp, tag, label or sign either affixed to the merchandise or located at the point where the merchandise is offered for sale.

[N.J.S.A. 56:8-2.5.]

180. In addition, the CFA provides:

For purposes of this act, each day for which the total selling price

is not marked in accordance with the provisions of this act for each group of identical merchandise shall constitute a separate violation of this act and the act of which this act is a supplement.

[N.J.S.A. 5:8-2.6.]

181. Each instance where and each day when Defendant advertised MVSCs without labeling or displaying the total selling price constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.5 and N.J.S.A. 56:8-2.6.

COUNT IV

VIOLATION OF THE ADVERTISING REGULATIONS BY DEFENDANT

182. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 181 above as if more fully set forth herein.

183. The Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., promulgated pursuant to the CFA, among other things, address advertising practices.

184. The Advertising Regulations define "Advertisement" as:

any attempt by an advertiser . . . to directly or indirectly induce the purchase or rental of merchandise at retail, appearing in any newspaper, magazine, periodical, catalog, circular, in-store or out-of-store sign or other written matter placed before the consuming public, or in any radio broadcast, television broadcast, electronic medium or delivered to or through any computer.

[N.J.S.A. 13:45A-9.1.]

185. Specifically, the Advertising Regulations govern general advertising practices and provide, in pertinent part:

- (a) Without limiting the application of N.J.S.A. 56:8-1 et seq., the following practices shall be unlawful with respect to all advertisements

....

5. The use of any type, size, location, lighting, illustration, graphic depiction, or color resulting in the obscuring of any material fact.

Disclaimers permitted or required under this section, such as "terms and conditions apply" and "quantities limited," shall be set forth in a type size and style that is clear and conspicuous relative to the other type sizes and styles used in the advertisement.

9. The making of false or misleading representations of facts concerning the reasons for, existence or amounts of price reductions, the nature of an offering or the quantity of advertised merchandise available for sale.

[N.J.A.C. 13:45A-9.2 (a)(5), (9).]

186. Additionally, the Advertising Regulations govern price reduction advertisements and provide, in pertinent part:

- (a) An advertiser offering an item of merchandise specifically advertised for sale at a price of \$100.00 or more shall . . .
 1. State the selling price or price range;
 2. State the former price or price range or the amount of the reduction in dollars; [and]
 3. State with specificity in any price reduction advertisement the period of time during which the price reduction shall be applicable[.]

[N.J.S.A. 13:45A-9.4(a).]

187. Through its advertisement and offering for sale of MVSCs, Defendant's conduct in violation of the Advertising Regulations include, but is not limited to, the following:

- a. Representing to consumers, on the DBAW Websites that it offers "auto warranties" and/or "extended auto warranties," in violation of N.J.A.C. 13:45A-9.2(a)(9);
- b. On the Direct Buy Warranty Website, using checklists to obscure the material fact that "items" shown as "covered" were not completely and entirely covered under the MVSC, in violation of N.J.A.C. 13:45A-9.2(a)(5);
- c. On the DBWarranty Website, using graphics to obscure the material fact that "items" shown as "covered" were not completely and entirely covered under the MVSC, in violation of N.J.A.C. 13:45A-9.2(a)(5);

- d. Regarding the Direct Buy Warranty Website advertisement of an offer of a free five hundred (\$500) dollar gas gift card, obscuring the material fact that the offer is only available to those consumers who purchase "single payment plans," in violation of N.J.A.C. 13:45A-9.2(a)(5);
- e. Regarding the Direct Buy Warranty Website advertisement of an offer of a free five hundred dollar (\$500) gas gift card, obscuring the material fact that the gas gift card is not available to consumers until after their MVSC's expiration date, in violation of N.J.A.C. 13:45A-9.2(a)(5);
- f. Regarding the Direct Buy Warranty Website advertisement of an offer of a free five hundred dollar (\$500) gas gift card, obscuring the material fact that if DBAW does not receive the "\$500 GAS GIFT CARD REDEMPTION FORM" prior to the MVSC's expiration date, the consumer will not receive the gas gift card, in violation of N.J.A.C. 13:45A-9.2(a)(5);
- g. Regarding the Direct Buy Warranty Website advertisement of an offer of a free five hundred dollar (\$500) gas gift card, obscuring the material fact that if the consumer cancels the MVSC prior to the MVSC's expiration date, the consumer will not receive the gas gift card, in violation of N.J.A.C. 13:45A-9.2(a)(5);
- h. Regarding the Direct Buy Warranty Website advertisement of a limited time offer of a fifteen percent (15%) discount, failing to provide the price or range of prices for purchasing a MVSC, in violation of N.J.A.C. 13:34A-9.4(a)(1);
- i. Regarding the Direct Buy Warranty Website advertisement of a limited time offer of a fifteen percent (15%) discount, failing to provide the former price or range of former prices for purchasing a MVSC or the amount of reduction in dollars as a result of the discount, in violation of N.J.A.C. 13:34A-9.4(a)(2);
- j. Regarding the Direct Buy Warranty Website advertisement of a limited time offer of a fifteen percent (15%) discount, failing to state with specificity the period of time during which the offer was applicable, in violation of N.J.A.C. 13:34A-9.4(a)(3);
- k. Regarding the Direct Buy Warranty Website advertisement of a limited time offer of a "free upgrade," obscuring the material fact that a "free upgrade" consists of a free year of coverage, in violation of N.J.A.C. 13:45A-9.2(a)(5);

- l. Regarding the Direct Buy Warranty Website advertisement of a limited time offer of a "free upgrade," obscuring the material fact that a "free upgrade" is only available to consumers who purchase a "single payment plan" for a MVSC for a term of at least three (3) years, in violation of N.J.A.C. 13:45A-9.2(a)(5);
- m. Regarding the Direct Buy Warranty Website advertisement of a limited time offer of a three hundred dollar (\$300) discount, failing to provide the price or range of prices for purchasing a MVSC, in violation of N.J.A.C. 13:34A-9.4(a)(1); and
- n. Regarding the Direct Buy Warranty Website advertisement of a limited time offer of a three hundred dollar (\$300) discount, failing to state with specificity the period of time during which the offer was applicable, in violation of N.J.A.C. 13:34A-9.4(a)(3).

188. Each violation of the Advertising Regulations by Defendant constitutes a per se violation of the CFA, N.J.S.A. 56:8-2.

COUNT V

VIOLATION OF THE PLA BY DEFENDANT

189. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 188 above as if more fully set forth herein.

190. The PLA provides that:

A consumer contract . . . shall be written in a simple, clear, understandable and easily readable way. In determining whether a consumer contract has been written in a simple, clear, understandable and easily readable way as a whole, a court[] . . . shall take into consideration the guidelines set forth in section 10 [] of this act."

[N.J.S.A. 56:12-2.]

191. The PLA defines a "consumer contract" as "written agreement in which an individual[]," among other things, "[c]ontracts for services including professional services, for cash or on credit and the money, property or services are obtained for personal, family or household purposes." N.J.S.A. 56:12-1.

192. The guidelines set forth in the PLA are as follows:

a. To insure that a consumer contract shall be simple, clear, understandable and easily readable, the following are examples of guidelines that a court[] . . . may consider in determining whether a consumer contract as a whole complies with this act:

- (1) Cross references that are confusing;
- (2) Sentences that are of greater length than necessary;
- (3) Sentences that contain double negatives and exceptions to exceptions;
[and]
- (4) Sentences and sections that are in a confusing or illogical order[.]

....

b. The following are examples of guidelines that a court[] . . . may consider in determining whether the consumer contract as a whole complies with this act:

- (1) Sections shall be logically divided and captioned; [and]
- (2) A table of contents or alphabetical index shall be used for all contracts with more than 3,000 words[.]

[N.J.S.A. 56:12-10 (emphasis added).]

193. Through its use of its MVSC, Defendant has violated the PLA by, among other things:

- a. Using the following definition for "COVERED PART": "a part which is specifically covered under Section III of this CONTRACT, provided, however, - COVERED PART does not include any part which is excluded from coverage by or not covered under any provision of section VI of this CONTRACT";
- b. Using the following provision to describe what parts are covered under which plans: "(i) If YOU selected **PLATINUM ELITE**, refer to COVERED PARTS under section IV A. --- P; (ii) If YOU selected **PLATINUM PLUS**, refer to COVERED PARTS under section IV A. --- K; (iii) If YOU selected **PLATINUM**, refer to COVERED PARTS under section IV, A. --- H; and (iv) If YOU selected **PLATINUM WRAPAROUND**, YOUR COVERED PARTS are LIMITED to those parts that are not covered by the FACTORY WARRANTY for YOUR

VEHICLE”;

- c. Failing to define in the “**DEFINED TERMS**” section “COVERED COMPONENTS”;
- d. Failing to define in the “**DEFINED TERMS**” section “REASONABLE MECHANICAL PROBABILITY”; and
- e. Failing to use a table of contents or alphabetical index when the MVSC contains 4,535 words.

194. Taken as a whole, the DBAW MVSC is not written in a simple, clear, understandable or easily readable way.

195. Accordingly, Defendant’s use of the MVSC constitutes a violation of the PLA, N.J.S.A. 56:12-2.

COUNT VI

VIOLATION OF THE BUSINESS CORPORATIONS ACT BY DEFENDANT

196. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 195 above as if more fully set forth herein.

197. The Business Corporations Act defines a “Foreign corporation” as “a corporation for profit organized under the laws of a jurisdiction other than this State, including any state or territory of the United States or the District of Columbia, the United States of any country or other foreign jurisdiction.” N.J.S.A. 14A:1-2.1(i).

198. At all relevant times, DBAW was a foreign corporation within the meaning of the Business Corporations Act.

199. The Business Corporations Act provides “No foreign corporation shall have the right to transact business in this State until it shall have procured a certificate of authority to do so from the Secretary of State.” N.J.S.A. 14A:13-3(1).

200. Further, the Act provides that

(3) In addition to any other liabilities imposed by law, a foreign corporation which transacts business in this State without a certificate of authority shall forfeit to the State a penalty of not less than \$ 200.00, no more than \$ 1,000.00 for each calendar year, not more than 5 years prior thereto, in which it shall have transacted business in this State without a certificate of authority. Such penalty shall be recovered with costs in an action prosecuted by the Attorney General.

[N.J.S.A. 14A:13-11(3).]

201. Since at least June 2009, DBAW has transacted business in New Jersey without procuring a certificate of authority, in violation of N.J.S.A. 14A:13-3(1).

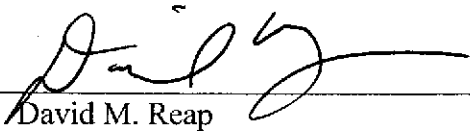
PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment:

- (a) Finding that the acts and omissions of Defendant constitute multiple violations of the CFA, N.J.S.A. 56:8-1 et seq., the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., the PLA, N.J.S.A. 56:12-1 et seq., and the Business Corporations Act, N.J.S.A. 14A:1-1 et seq.;
- (b) Permanently enjoining Defendant, along with its owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, independent contractors, corporations, subsidiaries, affiliates, successors, assigns and all other persons or entities directly under its control, from engaging in, continuing to engage in or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., including, but not limited to, the acts and practices alleged in this Complaint;
- (c) Enjoining Defendant from transacting business in this State, as authorized by the CFA, N.J.S.A. 56:8-8, and the Business Corporations Act, N.J.S.A. 14A:13-12(1)(a);
- (d) Enjoining Defendant from using its MVSC, as authorized by the PLA, N.J.S.A. 56:12-12;
- (e) Directing the assessment of amounts against Defendants to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any practice alleged herein to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- (f) Assessing the maximum statutory civil penalties against Defendant for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13;
- (g) Assessing the maximum statutory civil penalties against Defendant for violation of the Business Corporations Act, in accordance with N.J.S.A. 14A:13-11(3);
- (h) Directing the assessment of costs and fees, including attorneys' fees, against Defendant for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and 56:8-19, the PLA, N.J.S.A. 56:12-12, and the Business Corporations Act, N.J.S.A. 14A:13-11(3); and

- (i) Granting such other relief as the interests of justice may require.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
David M. Reap
Deputy Attorney General

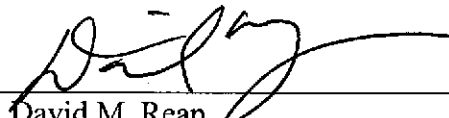
Dated: February 19, 2014
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in this action involving the aforementioned violations of the CFA, the Advertising Regulations, the PLA and the Business Corporations Act is not the subject of any other action pending in any other court of this State. I am aware of one (1) action that has been brought against the Defendant, titled Penney v. Direct Buy Auto Warranty, Superior Court of New Jersey, Middlesex County, Special Civil Part, Docket No. DC 00058014. However, I have no direct knowledge that the above-referenced action involves consumer fraud allegations. I further certify, to the best of my information and belief, that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I also certify that there is no other party who should be joined in this action at this time.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: _____

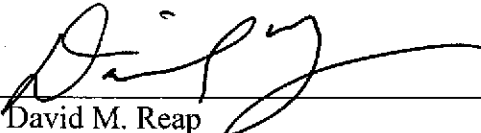

David M. Reap
Deputy Attorney General

Dated: February 19, 2014
Newark, New Jersey

RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
David M. Reap
Deputy Attorney General

Dated: February 19, 2014
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Deputy Attorneys General David M. Reap and Jeffrey Koziar are hereby designated as trial counsel for the Plaintiffs in this action.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
David M. Reap
Deputy Attorney General

Dated: February 19, 2014
Newark, New Jersey

EXHIBIT A

Direct Buy
auto warranty

33 Wood Ave. South
Iselin, NJ 08830

Toll Free: 888-865-4484
Fax: 888-676-5596

www.DirectBuyWarranty.com
cs@DirectBuyWarranty.com

Congratulations on YOUR purchase of a motor vehicle service contract from Direct Buy Warranty. This CONTRACT consists of the following terms and conditions and the DECLARATIONS PAGE that accompanies this Agreement. THE PURCHASE OF THIS CONTRACT IS NOT A CONDITION OF THE SALE OF THE VEHICLE.

- I. DEFINED TERMS. For purposes of this CONTRACT, the terms below are defined as follows:**
- A. **COMMERCIAL USE OR PURPOSE** means any use of YOUR VEHICLE for commerce or trade or to generate income, whether such use is full or part time.
 - B. **CONTRACT** means this Agreement and the DECLARATIONS PAGE.
 - C. **COVERED PART** means a part which is specifically covered under Section III of this CONTRACT, provided, however, - COVERED PART does not include any part which is excluded from coverage by or not covered under any provision of section VI of this CONTRACT.
 - D. **DEALER** means the dealer who sold the VEHICLE to YOU.
 - E. **DEDUCTIBLE** means the amount indicated on the DECLARATIONS PAGE, which you are required to pay in respect to a BREAKDOWN.
 - F. **FACTORY or DEALER WARRANTY** means the new warranty, certified pre-owned or similar warranty furnished to YOU by the MANUFACTURER, or a limited warranty furnished to YOU by or for the benefit of the DEALER, in connection with YOUR purchase of YOUR VEHICLE.
 - G. **FACTORY or DEALER WARRANTY REPAIR SERVICE** means a repair of YOUR VEHICLE which was performed or which YOU requested while the FACTORY WARRANTY or DEALER WARRANTY remained in force.
 - H. **DECLARATIONS PAGE** means the page of CONTRACT information that accompanies this Agreement.
 - I. **MAINTENANCE RECORDS** include all original receipts, invoices and any other documents that demonstrate all required maintenance has been performed at proper intervals.
 - J. **MANUFACTURER** means the company that manufactured YOUR VEHICLE.
 - K. **BREAKDOWN** means the inability of a properly maintained COVERED PART to perform the function for which it was designed, due to defects in materials or workmanship. BREAKDOWN does not mean (a) the gradual reduction in operating performance of a COVERED PART due to wear and tear, or (b) the gradual or sudden reduction in operating performance of a COVERED PART due to any lack of proper maintenance or to non-use of a COVERED PART or non-covered part.
 - L. **OUR, US and WE** mean Direct Buy Associates, Inc. which does business as Direct Buy Warranty in specific states.
 - M. **PRIOR AUTHORIZATION** means the approval of and the approval number issued by US in respect to repairs or road side services which may be covered under this CONTRACT. YOU must notify US and obtain PRIOR AUTHORIZATION from US before any repairs are performed on YOUR VEHICLE. Any costs for repairs or road side services you incur without PRIOR AUTHORIZATION, when PRIOR AUTHORIZATION is required, will not be covered under this CONTRACT.
 - N. **REPAIR COST** means the part, labor expense and taxes, if applicable, necessary to repair or replace a covered part due to a BREAKDOWN of a covered part. REPAIR COST is determined by regular retail parts prices, not to exceed the Manufacturer's Suggested Retail Price for a covered part, and the current national flat rate hourly guide for labor, and is subject to the aggregate and single repair, visit limitations on liability in Section III.
 - O. **UNITED STATES** means the 50 UNITED STATES and the District of Columbia, and does not include Puerto Rico, Guam or other territories and possessions of the United States of America.
 - P. **VEHICLE** means the VEHICLE identified on the DECLARATIONS PAGE.
 - Q. **YOU and YOUR** mean the CONTRACT holder named on the DECLARATIONS PAGE, as the person(s) entitled to coverage and benefits under this CONTRACT

II. NOTICE AND GENERAL CONSIDERATIONS

Direct Buy Auto Warranty
33 Wood Ave South.
Iselin, NJ 08830
(888) 865-4484
DBWVSC Main Nov 20 2011 | U000606001300

THIS CONTRACT IS NOT: (a) AN AUTOMOBILE LIABILITY OR PHYSICAL DAMAGE INSURANCE CONTRACT OR POLICY; (b) A MECHANICAL BREAKDOWN INSURANCE CONTRACT OR POLICY; (c) AN INSURANCE CONTRACT OR POLICY OF ANY KIND; OR (d) AN EXPRESS, IMPLIED, GENERAL OR EXTENSION OF A WARRANTY.

THIS CONTRACT MAY DUPLICATE SOME WARRANTY COVERAGE.

STATE AND FEDERAL LAWS MAY PROTECT YOUR INTERESTS AS A CONSUMER. IN RESPECT TO THE MAGNUSON-MOSS WARRANTY ACT, THE CONTENTS OF THIS CONTRACT SHOULD BE INTERPRETED AND UNDERSTOOD TO MEAN A "SERVICE CONTRACT" AS USED THEREIN.

BY ENTERING INTO THIS CONTRACT, YOU DO NOT WAIVE ANY WARRANTIES THAT MAY BE IMPLIED BY LAW. Other rights and remedies may be available to YOU if a problem cannot be resolved with US.

III. COVERAGE PROVIDED UNDER YOUR CONTRACT

YOUR CONTRACT PERIOD begins on the EFFECTIVE DATE and ends on the EXPIRATION DATE or when the VEHICLE's Odometer indicates the VEHICLE has reached the EXPIRATION MILEAGE limit, whichever occurs first. The EFFECTIVE DATE, EXPIRATION DATE and EXPIRATION MILEAGE are indicated on the DECLARATIONS PAGE. WE will arrange for the repair or replacement of COVERED PARTS, and any component damaged by a COVERED PARTS, as provided below, or pay the REPAIR COST for repair or replacement due to a BREAKDOWN during the CONTRACT PERIOD. OUR aggregate limit of liability under this CONTRACT for REPAIR COST or for any other purpose is the amount YOU paid for the VEHICLE. OUR limit of liability under this CONTRACT for REPAIR COST for a single repair visit is the reasonable trade in value of the VEHICLE at the time YOU seek a repair under this CONTRACT.

A. PARTS

Subject to the terms and conditions of this CONTRACT, the VEHICLE parts specified on the DECLARATIONS PAGE as COVERED PARTS under section IV, except as excluded by or not covered under section VI. (i) If YOU selected PLATINUM ELITE, refer to COVERED PARTS under section IV, A. -- P; (ii) If YOU selected PLATINUM PLUS, refer to COVERED PARTS under section IV, A. -- K; (iii) If YOU selected PLATINUM, refer to COVERED PARTS under section IV, A. -- H; and (iv) If YOU selected PLATINUM WRAPAROUND, YOUR COVERED PARTS are LIMITED to those parts that are not covered by the FACTORY WARRANTY for YOUR VEHICLE. REPLACEMENTS AND REPAIRS UNDER THIS CONTRACT WILL BE MADE WITH NEW, REMANUFACTURED OR COMPARABLE NON-ORIGINAL MANUFACTURED PARTS OF LIKE KIND AND QUALITY.

B. RENTAL CAR REIMBURSEMENT

If YOU require alternate transportation due to a covered BREAKDOWN, this CONTRACT provides reimbursement for the expense of a rental car up to \$60 per day, to a maximum of 3 days and a total of \$180 per BREAKDOWN. Rental car reimbursement is based on a recognized industry flat rate time required to repair YOUR VEHICLE according to the following criteria: (i) if the repair time required is a minimum of eight hours, we will allow a one day car rental and reimburse YOU a maximum of \$60 for that rental; (ii) if the repair time required is a minimum of sixteen hours, we will allow a two day car rental and reimburse YOU a maximum of \$120 for that rental; and (iii) if the repair time required is more than twenty hours, we will allow a three day car rental and reimburse YOU a maximum of \$180 for that rental. Rental car reimbursement is valid only for expenses actually incurred from the date of the BREAKDOWN until the date repairs are completed. Rental car reimbursement does not include any expense for items such as MILEAGE, GASOLINE, MAINTENANCE, INSURANCE OR COLLISION DAMAGE WAIVER CHARGES, OR OIL CHANGES. No deductible applies to the provision of Rental Car Reimbursement.

Direct Buy Auto Warranty

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Iselin, NJ 08830

(888) 865-4484

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C. ROAD SIDE SERVICES

Under this CONTRACT WE provide YOU the following additional services, if YOUR VEHICLE is disabled, in the form of reimbursement for up to a maximum of: (i) one hundred dollars per occurrence for towing to the nearest repair facility, acceptable to us, if required as a result of a BREAKDOWN; (ii) fifty dollars per day, for up to three days, for emergency trip interruption reimbursement, when you are more than 100 miles from your home; (iii) one flat tire change using YOUR good spare tire; (iv) forty dollars for a battery boost or jump start, or toward the delivery charge to have fuel purchased by you delivered to your VEHICLE; and (v) up to twenty dollars for lockout assistance. Services may vary to conform to the laws of YOUR state. No deductible applies to the provision of a Road Side Service. Road Side Services are not covered under this CONTRACT if YOUR VEHICLE was disabled due to an act of nature, war, insurrection, riot, etc. Under this CONTRACT, YOU are limited to receiving Road Side Services for just one disablement of YOUR VEHICLE for the same cause in any seven day period.

IV. COVERED COMPONENTS. COVERAGE IS DEPENDENT ON PLAN SELECTED AND COVERED COMPONENTS UNDER YOUR PLAN. PLEASE REFER TO YOUR DECLARATION PAGE FOR A LIST OF YOUR COVERED COMPONENTS.

- A. Gasoline/Diesel Engine: Cylinder block, cylinder head(s) if damage by internally lubricated parts. All internally lubricated parts including: pistons, piston rings and pins, crankshaft and main bearings, connecting rods and rod bearings, camshaft and bearings, pushrods, rocker arms, valves, valve springs, seats and guides, lifters, followers, oil pump, timing chain, timing belt and gear. Harmonic balancer, dip stick & tube. Valve covers, timing cover, and oil pan if damaged by internally lubricated parts; vacuum pump, engine mounts, Seals and gaskets.
- B. Transmission: Transmission case, transfer case, transmission mounts and pan if damage by internally lubricated parts. Internally lubricated parts including: torque converter, vacuum modulator, internal linkage, Seals and gaskets.
- C. Cooling: Radiator, radiator fan blade and motor, fan clutch, water pump, Seals and gaskets.
- D. Electrical: Alternator, voltage regulator, starter motor, starter solenoid, distributor, window regulator, heater A/C blower motor.
- E. Drive Axle: Housing(s) and cover if damage by internally lubricated parts. All internally lubricated parts including: axle shafts, universal joints and yokes, constant velocity shaft or joint or both, wheel bearings/hubs, drive shaft center bearings, supports, propeller shafts, locking hub mechanisms.
- F. Brakes: Non-ABS master cylinder, power booster, calipers, wheel cylinders, hydraulic lines and fittings; proportioning valve, backing plates, springs, clips and retainers, self-adjusters, parking brake linkage and cables, Seals and gaskets.
- G. Super/Turbo Charger: All internal parts; Housing is covered if damaged by the failure of an internally lubricated moving part, Seals and gaskets.
- H. 4x4/AWD: All components in the Differential Assembly and Transfer Case including: Drive Chain, Drive Chain Gears, Planetary Gears, Ring Shift Forks, Bearing, Bushing, Oil Pump Output Shaft, Main Shaft Washers and all other internal lubricated parts, Differential Housing, Axle Shaft, Ring and Pinion, Bearing, Bushing, Washers, Differential Cover, 4 Wheel Drive Actuator, Locking Hubs and all other internal parts contained with the differential assembly, Seals and gaskets.
- I. Steering: Steering box and rack and pinion unit and all their internal lubricated parts including: power steering pump and cylinder, main and intermediate steering shafts and couplings, steering knuckles; pitman arm, idler arm, tie rod ends and drag link, seals and gaskets.
- J. Fuel: Fuel pump, metal fuel injection lines/rails, fuel tank and metal fuel internally lubricated parts including: waste-gate, vanes, shafts and bearings, seals and gaskets.
- K. Differential Assembly: (Front and Rear) Differential Housing (if damaged by internally lubricated parts), Axle Shaft, Ring and Pinion, Bearings, Bushings, Washers, all other internal parts contained with the differential assembly, Seals and gaskets.

Direct Buy Auto Warranty

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Iselin, NJ 08830

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- L. Heater and Air Conditioning: Evaporator, condenser, compressor, compressor clutch, receiver/drier, field coil, accumulator, A/C high/low pressure compressor cutoff switches and heater core, Seals and gaskets.
- M. Front Suspension: Upper and lower control arms, control arm shafts and bushings, spindle supports, stabilizer shaft, stabilizer linkage, bushings, ball joints, spindles, wheel bearings, Seals and gaskets.
- N. Front Suspension: Upper and lower control arms, control arm shafts and bushings, spindle supports, stabilizer shaft, stabilizer linkage, bushings, ball joints, spindles, wheel bearings, Seals and gaskets.
- O. Hi-Tech: Electronic shift control unit; ABS master cylinder, ABS processor, hydraulic pump motor, pressure modulator valve, sensors; temperature control programmer, fuel management controls (including modules and sensors), fuel injector(s), fuel injection pump, ignition management controls (including modules and sensors), ignition coils, wiper motor(s), power window motors, power door locks, automatic temperature control, keyless entry system excluding remote, power antenna, speed control, electronic level control compressor.
- P. ABS-Brakes: Wheel Speed Sensors, Hydraulic Pump/Motor Assembly, Pressure Modulator Valve/ Isolation Dump Valve, Accumulator, Seals and gaskets, A.B.S. Master Cylinder, Hydro Boost and Electronic Control Processor, Seals and gaskets.

V. YOUR OBLIGATIONS

A. Records and Maintenance.

1. YOU must properly maintain YOUR VEHICLE by performing maintenance services, at the proper intervals, according to the requirements of YOUR Owner's Manual or as otherwise specified by the MANUFACTURER.
2. YOU must retain all original receipts, invoices and any other MAINTENANCE RECORDS that demonstrate all required maintenance has been performed at proper intervals. We may request that YOU produce MAINTENANCE RECORDS and may deny coverage if YOU fail to produce MAINTENANCE RECORDS that confirm that maintenance has been performed at proper intervals regarding YOUR VEHICLE.
3. Coverage will be denied if YOU fail to perform maintenance services at proper intervals, or otherwise fail to properly maintain YOUR VEHICLE, and a BREAKDOWN is caused by YOUR failure to perform maintenance services or otherwise properly maintain YOUR VEHICLE.
4. YOU must retain all original documents that demonstrate the amount YOU paid to purchase YOUR VEHICLE.

If a BREAKDOWN occurs:

1. YOU must take YOUR VEHICLE to a repair facility in the UNITED STATES which has an ASE licensed mechanic capable of and appropriate equipment for diagnosing and repairing your vehicle. If you are traveling in Canada, take YOUR VEHICLE to the nearest repair facility in the UNITED STATES or Canada which has an automotive professional capable of and appropriate equipment for diagnosing and repairing YOUR VEHICLE. In either instance, and in the event of an emergency when neither of the foregoing options is possible, YOU must obtain PRIOR AUTHORIZATION from US, by calling TOLL FREE (888) 865-4484, BEFORE INCURRING ANY REPAIR COSTS.
2. YOU must authorize the repair facility to tear down YOUR VEHICLE or to diagnose a problem. In the event that a non-covered part causes or contributes to the BREAKDOWN, there is no coverage under this CONTRACT to reimburse you or pay for the cost of tear down.
3. WE reserve the right to inspect YOUR VEHICLE to gather diagnostic or other necessary information regarding any claim. At OUR discretion, WE may move or tow YOUR VEHICLE to another location, at no expense to YOU, in order to inspect YOUR VEHICLE for these purposes.
4. YOU must pay any applicable DEDUCTIBLE to the authorized repair facility. The DEDUCTIBLE is the amount of the REPAIR COST YOU must pay for each visit for repair of a BREAKDOWN covered by this CONTRACT. YOUR DEDUCTIBLE is specified on the DECLARATIONS PAGE.

B. For Road Side Services or Rental Car Reimbursement, please contact US at (888) 865-4484.

Direct Buy Auto Warranty

33 Wood Ave South.

Iselin, NJ 08830

(888) 865-4484

DBWVSC Main Nov 20 2011 | U000606001300

VI. EXCLUSIONS; PARTS AND SERVICES NOT COVERED. THE FOLLOWING ARE EXCLUDED BY OR NOT COVERED UNDER THIS CONTRACT:

- A. ANY REPAIR, REPLACEMENT OR REIMBURSEMENT COVERED BY ANY FACTORY OR DEALER WARRANTY, REPAIR FACILITY GUARANTEE, OTHER SERVICE CONTRACT, OR ANY INSURANCE COVERAGE.
- B. ANY REPAIR OF A SYSTEM, ANY EQUIPMENT OF PART IF IT IS DETERMINED THAT THERE IS A REASONABLE MECHANICAL PROBABILITY THAT THE CONDITION CAUSING THE FAILURE EXISTED PRIOR TO OR AT THE TIME OF PURCHASE OF YOUR CONTRACT, WHETHER KNOWN OR UNKNOWN AT THE TIME OF PURCHASE OF YOUR CONTRACT.
- C. PARTS NOT AUTHORIZED BY THE MANUFACTURER. SUCH PARTS INCLUDE BUT ARE NOT LIMITED TO NON-FACTORY OR AFTERMARKET PERFORMANCE PARTS OR EQUIPMENT, AND ANY NON-FACTORY TYPE OF SECURITY, STEREO, AUDIO, TELEVISION, SATELLITE, TELEPHONE OR ENTERTAINMENT SYSTEM, EQUIPMENT OR PART.
- D. ANY REPAIR IF A NON-AUTHORIZED PERFORMANCE PART OR EQUIPMENT CAUSED OR CONTRIBUTED TO THE BREAKDOWN.
- E. ANY OF THE FOLLOWING PARTS INCLUDING BUT NOT LIMITED TO, THROTTLE BODY, BATTERY, BATTERY CABLES, SHOCK ABSORBERS, STRUTS, MANUAL TRANSMISSIONS COMPONENTS SUCH AS, CLUTCH FRICTION, CLUTCH DISC AND PRESSURE PLATE, THROW OUT BEARING, PILOT BEARING, CLUTCH MASTER AND SLAVE CYLINDER, MANUAL AND HYDRAULIC LINKAGES; SPARK PLUGS AND SPARK PLUG WIRES; GLOW PLUGS; THERMOSTAT; HOSES, PIPES, LINES; NUTS, BOLTS, HARDWARE; BELTS, PULLEYS, TUNE-UP PARTS; SAFETY RESTRAINT SYSTEMS (INCLUDING SEAT BELTS AND AIRBAGS); ANY AND ALL FLUIDS, LUBRICANTS AND RESERVOIRS; FUSES, RELAYS, FUSE PANEL, CIRCUIT BREAKERS; BRAKE PADS, BRAKE SHOES, BRAKE ROTORS AND DRUMS; EMISSION SYSTEMS; GLASS; LENSES HEAD, LAMP AND PROJECTION LAMP ASSEMBLIES, SEALED BEAMS, LIGHT BULBS; WEATHER STRIPPING, TRIM, MOLDINGS, BRIGHT METAL, CHROME, UPHOLSTERY, CARPET, ZIPPERS, CUP HOLDERS, DASH PAD AND VENTS, SEAT FRAME, PAINT, INSIDE AND OUTSIDE ORNAMENTATION; TELEPHONES, TELEVISION, VCR, ELECTRONIC AND SATELLITE TRANSMITTING DEVICES; AMPS, SPEAKERS AND WIRING, INSIDE AND OUTSIDE DOOR HANDLES, MIRRORS, HINGES, LATCHES, LIFT GATE AND HOOD SUPPORTS, HUBCAPS/WHEEL COVERS, BUMPERS, BODY SHEET METAL AND PANELS, BODY PARTS, FRAME, STRUCTURAL BODY PARTS, HARD OR VINYL OR FABRIC CONVERTIBLE TOPS; TIRES, WHEELS OR RIMS.
- F. ANY REPAIR OF AIRBAG(S) DEPLOYED DUE TO COLLISION. YOU SHOULD CONTACT YOUR DEALER IMMEDIATELY IF YOU BELIEVE THERE IS A DEFECT IN THESE PARTS.
- G. EXPENSES FOR ANY MAINTENANCE SERVICE SPECIFIED IN YOUR OWNER'S MANUAL; FUELS, FLUIDS, LUBRICANTS, ALIGNMENTS OR ADJUSTMENTS; IMPROPER REPAIRS, ADJUSTMENTS, OR SERVICING BY ANY REPAIR FACILITY, INDIVIDUAL OR YOU.
- H. REPAIRS NEEDED IN WHOLE OR IN PART DUE TO: (I) FAILURE TO STOP DRIVING OR PROTECT YOUR VEHICLE FROM FURTHER DAMAGE AFTER EVIDENCE OF A BREAKDOWN APPEARS (E.G., WARNING LIGHT, SMOKE); (II) THE USE OF FUELS, OILS, FLUIDS OR LUBRICANTS OTHER THAN THOSE REQUIRED BY YOUR OWNER'S MANUAL OR AS OTHERWISE SPECIFIED BY THE MANUFACTURER; (III) FAILURE TO PERFORM MAINTENANCE SERVICES, OTHER NEGLIGENCE, MISUSE OR ABUSE (E.G., OVERLOADING, RACING, COMPETITIVE DRIVING ACTIVITIES OR SNOW PLOWING), OR FROM MODIFICATION, ALTERATION, TAMPERING, DISCONNECTION, IMPROPER TOWING, IMPROPER ADJUSTMENTS OR SERVICING, OR USING THE VEHICLE IN ANY MANNER NOT RECOMMENDED BY THE MANUFACTURER; (IV) ACCIDENTAL LOSS, OR EXTERNAL CAUSES SUCH AS WAR, RIOT, VANDALISM, OR OTHER CAUSE BEYOND THE REASONABLE CONTROL OF THE PARTIES; (V) RUST, SALT, CORROSION, WATER INTRUSION/LEAKS, ACID RAIN, CHEMICALS, TREE SAP, HAIL, FLOOD, LIGHTNING, FIRE, WINDSTORM, EARTHQUAKES OR OTHER ENVIRONMENTAL CAUSES OR ACTS OF NATURE; (VI) VIBRATION,

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DETERIORATION, DISCOLORATION, DISTORTION, DEFORMATION AND/OR FADING; OR (VII) SLUDGE, CONTAMINATED FLUIDS, OR LUBRICANTS.

- I. ANY WORK PERFORMED TO IMPROVE COMPRESSION OR REDUCE OIL OR FUEL CONSUMPTION, OR OTHER WORK WHEN A BREAKDOWN HAS NOT OCCURRED.
- J. REPAIRS PERFORMED OUTSIDE THE UNITED STATES OR CANADA.
- K. REPAIRS PROHIBITED BY A FEDERAL, STATE OR LOCAL LAW, REGULATION, OTHER AUTHORITY OR AGENCY.
- L. ANY CONSEQUENTIAL OR INCIDENTAL PECUNIARY DAMAGES, INCLUDING BUT NOT LIMITED TO: LOSS OF USE OF THE VEHICLE, LOSS OF TIME, INCONVENIENCE, LOST REVENUE, FAILURE TO REALIZE EXPECTED SAVINGS, OR ANY OTHER ECONOMIC LOSS OF ANY KIND.
- M. MINOR LOSS OF FLUID OR SEEPAGE FROM ANY SEAL OR GASKET IS CONSIDERED NORMAL AND IS NOT CONSIDERED A FAILURE.
- N. ANY REPAIR COST: (I) IF THE ODOMETER IS ALTERED, DISCONNECTED OR INOPERABLE SO THAT THE MILES TRAVELED CANNOT BE ACCURATELY DETERMINED; (II) IF THE VEHICLE'S FACTORY WARRANTY HAS BEEN VOIDED FOR ANY REASON; OR (III) IF YOU FAIL TO PROVIDE ALL MAINTENANCE RECORDS FOR ROUTINE MAINTENANCE RELATING TO COVERED PARTS THAT SUSTAIN A BREAKDOWN.
- O. ANY REPAIR COST IF YOUR VEHICLE HAS BEEN USED FOR A COMMERCIAL USE OR PURPOSE, INCLUDING BUT NOT LIMITED TO USE OR FOR HIRE FOR RENTAL, TAXI, LIMOUSINE OR SHUTTLE SERVICE, CHERRY PICKING, DUMPING, PLOWING SNOW FOR HIRE, HAULING, PLOWING, TOWING OR ROAD SERVICE OPERATIONS, POLICE, LAW ENFORCEMENT, FIRE, RANGER, AMBULANCE OR EMERGENCY OR RESCUE SERVICES.
- P. ANY SERVICE THAT THE MANUFACTURER RECOMMENDS PURSUANT TO A RECALL ANNOUNCEMENT OR SERVICE BULLETIN THAT APPLIES TO YOUR VEHICLE, AND ANY BREAKDOWN OF AN OTHERWISE COVERED PART IF YOU FAIL TO HAVE THE VEHICLE REPAIRED OR REPROGRAMMED PURSUANT TO A NOTICE OF RECALL OR SERVICE BULLETIN, AND SUCH REPAIR OR REPROGRAMMING WOULD HAVE PREVENTED THE BREAKDOWN.
- Q. NEGLIGENCE, ERROR, OR OMISSION ON THE PART OF ANY SERVICING DEALER, REPAIR FACILITY OR PROVIDER OF ROAD SIDE SERVICES, OR ANY BREAKDOWN OR CONSEQUENTIAL DAMAGE TO YOUR VEHICLE CAUSED BY NEGLIGENCE, ERROR OR OMISSION.

VII. CANCELLATION OF CONTRACT

- 1. YOU may cancel this CONTRACT.
- A. Within thirty (30) days following the commencement of the CONTRACT period, YOU may cancel this CONTRACT and receive a full purchase price refund, if no services have been rendered to or on behalf of YOU. If services have already been rendered under this CONTRACT to or on behalf of YOU, the refund will be the lesser amount calculated as: (i) a time pro-rated amount, based upon the time expired since the CONTRACT was purchased; or (ii) a mileage pro-rated amount, based upon the number of miles the VEHICLE has been driven since YOU purchased the CONTRACT.
- B. After thirty (30) days following the commencement of the CONTRACT period, YOU may cancel this CONTRACT. The refund will be the lesser amount calculated as: (i) a time pro-rated amount, based upon the time expired since the CONTRACT was purchased; or (ii) a mileage pro-rated amount, based upon the number of miles the VEHICLE has been driven since YOU purchased the CONTRACT. ALL CANCELLATION REFUNDS AFTER THIRTY (30) DAYS ARE SUBJECT TO A \$25 PROCESSING FEE.
- C. WE may cancel this CONTRACT at any time if: (i) YOU fail to timely pay any part of the CONTRACT purchase price; (ii) YOU made a material misrepresentation or substantially breached YOUR duties under this CONTRACT relating to the VEHICLE or its use; (iii) the VEHICLE has been sold or traded or repossessed, unless this CONTRACT has been transferred in accordance with section X; (iv) the VEHICLE identification number no longer can be read or has been altered; (v) WE cannot determine the true mileage of the VEHICLE due to replacement, alternation, disconnection or failure of the Odometer; (vi) the VEHICLE has been declared a total loss or sold for salvage purposes; or (viii) the

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VEHICLE has been modified for or used in any competitive events or used for a COMMERCIAL USE or PURPOSE. If WE cancel this Contract, WE will refund to you or the Lender, as applicable, the lesser of: (i) a time pro-rated amount, based upon the time expired since the CONTRACT was purchased; or (ii) a mileage pro-rated amount, based upon the number of miles the VEHICLE has been driven since YOU purchased the CONTRACT.

- D. If YOU are entitled to a refund under this CONTRACT, WE will pay the refund to YOU if YOUR purchase of this CONTRACT was not financed. If YOU financed YOUR purchase of this CONTRACT with a Lender, WE will issue a cancellation refund directly to that Lender unless YOU present to US written confirmation that YOU have paid the Lender in full all sums due under the Finance Agreement and the Lender has discharged all liens it had in respect to the Finance Agreement. YOU acknowledge that OUR payment of a cancellation refund to a Lender in respect to a Finance Agreement regarding the VEHICLE constitutes payment to YOU and YOU have no claim against US in respect to such payment. In the event of repossession or total loss of the VEHICLE, the LENDER may cancel this CONTRACT. The provisions of this Section VI.D apply to all cancellation requests. No other rights or benefits under this CONTRACT transfer to the LENDER. A CONTRACT holder who obtains this CONTRACT through a Transfer is not eligible to request or receive a cancellation refund. SHOULD YOU OR WE CANCEL THIS CONTRACT, THIS CONTRACT SHALL TERMINATE IF WE ISSUE A REFUND TO YOU OR THE LENDER AND NO COVERAGE CAN BE REINSTATED FOR YOU.
- E. To inquire about cancellation, contact US at our toll free number and complete a Cancellation Request Form.

VIII. MEDIATION AND ARBITRATION

In respect to any controversy or claim that may arise out of or relate to this CONTRACT in any manner, including but not limited to a breach of this CONTRACT, the parties initially shall submit such controversy or claim to mediation conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association. Any controversy or claim not resolved following mediation conducted in conformity with this Section shall be settled by arbitration according to the Commercial Arbitration Rules of the American Arbitration Association. Following entry of an award by the Arbitrator, a party seeking to enforce the award may have the judgment entered in any court having jurisdiction over the other party. If YOU intend to exercise your right to seek arbitration, YOU must give us notice of YOUR intent to seek arbitration by delivering a written statement of the controversy or claim to US at:

Direct Buy Auto Warranty
33 Wood Ave South.
Suite 600
Iselin NJ, 08830
Attention: Claims Administration

If YOU have any questions regarding this CONTRACT, please contact US at (888) 865-4484

IX. OBLIGATIONS

OUR obligations as the provider under this service CONTRACT are backed by the full faith and credit of Direct Buy Associates, the provider.

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X. TRANSFER OF CONTRACT

The original retail CONTRACT purchaser may transfer this CONTRACT to an individual purchaser of the VEHICLE for the remainder of the original CONTRACT PERIOD. This CONTRACT may not be transferred to a Dealer, wholesaler or business entity, or to an individual purchaser who will use the VEHICLE for a COMMERCIAL USE OR PURPOSE at any time.

To transfer this CONTRACT, you must complete OUR Transfer Form, submit that to US, and follow these procedures: (a) provide a complete copy of YOUR MAINTENANCE RECORDS to US; and (b) provide documentation that evidences change of ownership and an Odometer Reading of the actual miles the VEHICLE has traveled, measured by a functioning, unaltered odometer as of the date of transfer to US.

1. A TRANSFER IS SUBJECT TO THE FOLLOWING CONDITIONS:

- A.** This CONTRACT can only be transferred to a private owner, within 15 days of change of VEHICLE ownership. For the Transfer to become effective, YOU also must transfer every remaining FACTORY or DEALER WARRANTY to the new owner of the VEHICLE. A transferee cannot cancel this CONTRACT.
- B.** THIS CONTRACT CANNOT BE TRANSFERRED TO A DIFFERENT VEHICLE.
- C.** If YOUR MAINTENANCE RECORDS are not available, WE may require inspection of the VEHICLE to assure that the VEHICLE has been properly maintained. If the inspection discloses abnormal conditions, the transfer request may be denied.
- D.** A transferee may not transfer this CONTRACT to a subsequent purchaser of the VEHICLE. Upon transfer of the VEHICLE by a transferee to a subsequent purchaser, this coverage under this CONTRACT is no longer in force.

XI. OTHER TERMS

A. SUBROGATION

In the event that WE pay any reimbursement or expense to YOU or for YOUR benefit in respect to services YOU obtained under the CONTRACT, WE shall be subrogated to all of the rights, claims and interest which YOU may have against any person or legal entity liable or responsible for the loss or incident in issue, to the extent of the amount paid or expense incurred by US. YOU agree to execute any documents WE require YOU to sign under this section XI and avoid doing anything that would impair OUR rights. In respect to these benefits, YOU authorize US to sue, compromise, or settle in OUR name or YOUR name, or otherwise, all such claims, and you hereby agree that WE shall be fully substituted in your place and subrogated to all of your rights on account thereof. YOU agree to pay to US any amounts YOU recover that relate to benefits WE provided hereunder and agree that those amounts belong to US.

X. TRANSFER OF CONTRACT

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