

# SAMPLE AGREEMENT

"Colorado Consumer Protection Act" or the "Unfair Practices Act" articles 1 and 2 of title 6, C.S.R., and that a party to such a agreement may have the right of civil action under such laws, including obtaining the recourse or penalties specified in such laws.

## In Georgia:

Section H - #1 Cancellation section is amended as follows: Cancellations will comply with Section 33-24-44 of the Code of Georgia. In the event of cancellation, **We** cannot demand immediate payment of the cost of all service provided to **You**. Any refund owed and not paid as required is subject to a penalty equal to 25% of the refund owed and interest of 18% per year until paid; however, such penalty shall not exceed 50% of the amount of the refund.

Claims paid and cancellation fees shall not be deducted from any refunds owed as a result of cancellation. Section (H) General Conditions #9 "Arbitration" is deleted in its entirety.

**In Illinois:** Section H - #1 Cancellation has been amended to: **You** may cancel this Agreement at anytime. To cancel, **You** must provide written notice to TWG Home Warranty Services, Inc. If no coverage has been provided, **You** may cancel within thirty (30) days from the receipt of this agreement; the purchaser shall be entitled to a full refund. If **You** cancel after thirty (30) days from the receipt of this agreement, a pro-rata refund of the Agreement Charge will be made less claims paid and a cancellation fee of \$25 or 10% of the purchase price whichever is less. The following statement has been added: **You** may cancel this agreement by notifying US.

**In Iowa:** The following statement has been added: The issuer of this contract is subject to regulation by the Insurance Division of the Department of Commerce of the State of Iowa. Complaints that are not settled by the issuer may be sent to the Insurance Division.

Section (D) Your Responsibility Regarding Service is amended as follows: Meaningful service for non-emergency and emergency service must be initiated within 48 hours. If meaningful service is not initiated within 48 hours, **You** may engage **Your** own licensed repair provider at **Our** expense.

**In New Hampshire:** The following statement has been added: In the event you do not receive satisfaction under this contract, you may contact the New Hampshire Insurance Department at New Hampshire Insurance Department, 21 South Fruit Street, Concord, New Hampshire 03301, telephone number 603-271-2261.

**In New Mexico:** Section (H) General Conditions #1 cancellation is amended to include the following: No service agreement that has been in effect for at least (70) days may be cancelled by the provider before the expiration of the agreed terms or one year after the effective date of the service agreement, whichever occurs first, except for the following reasons: 1.) Agreement holder's failure to make full payment by the due date. 2.) Conviction of a crime that results in an increase in the service required under the service agreement. 3.) Discovery of fraud or material misrepresentation by the agreement holder in obtaining the service agreement or in presenting a claim for service there under. 4.) Discovery of either of the following if it occurred after the effective date of the service agreement and substantially and materially increased the service required under the service agreement: a.) An act or omission by the agreement holder; or b.) A violation by the agreement holder of any conditions of the service agreement.

**In North Carolina:** The following statement has been added: NOTICE: The purchase of this agreement is not mandatory and may be waived.

**In Oklahoma:** Section (H) general Conditions #1 Cancellation has been amended to: **You** may cancel this **Agreement** at anytime. To cancel, **You** must provide written notice to Us. If no claims have been paid or authorized within thirty (30) days from the effective date; the purchaser shall be entitled to a full refund. If **You** cancel thirty (30) days after the effective date or a claim was paid within the first thirty (30) days of the effective date, the purchaser shall receive a refund of ninety percent (90%) of the unearned pro-rata **Agreement Charge**. In the event of cancellation by the Company or Association: The purchaser shall be entitled to one hundred percent (100%) of the unearned pro-rata premium. The following statement has been added: NOTICE: This service warranty is not issued by the manufacturer or wholesale company marketing the product. This warranty will not be honored by such manufacturer or wholesale company.

**In Texas:** Section (D) Your Responsibility Regarding Service is amended as follows: For any non-emergency, service will be initiated within 48 hours and completed as soon as reasonably possible

The following statements have been added: This contract is issued pursuant to a license granted by the Texas Real Estate Commission, and complaints in connection with this contract may be directed to the Commission at PO Box 12188, Austin, TX 78711, phone # 512-465-3917. The purchase of a home warranty contract is optional and similar coverage may be purchased through other residential companies or insurance companies authorized to transact business in Texas.

**NOTICE: YOU THE BUYER HAVE OTHER RIGHTS AND REMEDIES UNDER THE TEXAS DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT WHICH ARE IN ADDITION TO ANY REMEDY WHICH MAY BE AVAILABLE UNDER THIS CONTRACT. FOR MORE INFORMATION CONCERNING YOUR RIGHTS, CONTACT THE CONSUMER PROTECTION DIVISION OF THE ATTORNEY GENERAL'S OFFICE, YOUR LOCAL DISTRICT OR COUNTY ATTORNEY, OR THE ATTORNEY OF YOUR CHOICE.**  
SIGNATURE \_\_\_\_\_

**In South Carolina:** Section (H) General Conditions #1 cancellation the first paragraph is replaced with the following: **You** may cancel this Agreement at anytime. To cancel, **You** must provide written notice to TWG Home Warranty Services, Inc. If no coverage has been provided, **You** may cancel within thirty (30) days from the receipt of this agreement; the purchaser shall be entitled to a full refund. A ten percent (10%) penalty per month shall be added to a refund that is not paid within forty-five (45) days after provider receives a written request to cancel from the agreement holder. The refund shall be paid to the purchaser, or to the person authorized by the purchaser. If **You** cancel after thirty (30) days from the receipt of this agreement, a pro-rata refund of the Agreement Charge will be made less claims paid. The following statement has been added: For customer services, contact South Carolina Department of Insurance, PO BOX 100105, Columbia, SC 29202-3105, Telephone # 1-803-737-6180.

**In Utah:** Section (H) General Conditions #1 cancellation is amended as follows: We can cancel the Agreement during the first sixty (60) days of the initial annual term by mailing to **You** a notice of cancellation at least thirty (30) days prior to the effective date of cancellation except that **We** can also cancel the Agreement during such time period for nonpayment of premium by mailing **You** a notice of cancellation at least ten (10) days prior to the effective date of cancellation. After sixty (60) days have elapsed, **We** may cancel the Agreement by mailing a cancellation notice to **You** at least ten (10) days prior to the cancellation date for cancellations due to nonpayment of premium, and thirty (30) days prior to cancellation date for any of the following reasons: (a) material misrepresentation, (b) substantial change in the risk assumed, unless **We** should reasonably have foreseen the change or contemplated the risk when entering into the Agreement, (c) substantial breaches of contractual duties, conditions, or warranties. Section (F) Exclusions #7 is amended as follows: Proof of loss should be furnished by **You** to **Us** as soon as reasonably possible. Failure to furnish such notice or proof within the time required by this agreement does not invalidate or reduce a claim.

Section (D) Your Responsibility Regarding Service is amended as follows: **Emergency repairs:** In the event an emergency repair is required outside of the normal business hours of the Administrator. **You** may engage **Your** own licensed repair provider without prior authorization. Emergency repair is defined as a failure that creates a risk to health or property and that such failure requires an immediate repair be made.

Section (H) General Conditions #9 is amended as follows: **Binding Arbitration:** Any matter between **You** and the Company may be subject to arbitration as an alternative to court action pursuant to the rules of (the American Arbitration Association or other recognized arbitrator), a copy of which is available on request from the Company. Any decision reached by arbitration shall be binding upon both **You** and the Company. The arbitration award may include attorney's fees if allowed by state law and may be entered as a judgment in any court of proper jurisdiction. There is no time limit to request arbitration.

The following statement has been added: **Coverage afforded under this Agreement is not guaranteed by the Property and Casualty Guarantee Association.**

**In Wisconsin:** Section (H) General Conditions #1 Cancellation has been amended to: **You** may cancel this Agreement at anytime. To cancel, **You** must provide written notice to TWG Home Warranty Services, Inc. **You** may cancel within thirty (30) days from the receipt of this agreement; the purchaser shall be entitled to a full refund. If **You** cancel after thirty (30) days from the receipt of this Agreement, a pro-rata refund of the Agreement Charge will be made less claims paid. Section (H) General Conditions #2 is amended to include: If **We** choose to non-renew, **We** will give sixty (60) days notice to **You**. Section (H) General Conditions #4 is amended to include: **We** can only change the rate upon renewal. **We** will give sixty (60) days notice for any rate increase of 25% or more.

Section (H.)General Conditions #8 is amended to include: The Insured will be made whole before the insurer may retain amounts it has recovered.

Section (F) Exclusions #7 is amended as follows: Proof of loss should be furnished by **You** to the Administrator as soon as reasonably possible and within one (1) year after the time required by this Agreement. Failure to furnish such notice or proof within the time required by this Agreement does not invalidate or reduce a claim.

The following statement has been added: This Agreement is subject to limited regulation by the office of the Commissioner of Insurance.

**In Wyoming:** Section (H) General Conditions #9 is amended to include the following: Arbitration can only be final and binding if agreed to by the parties involved and in a separate written agreement.

**In Washington:** The following statement has been added: Obligations of the obligor are insured by a service agreement reimbursement policy with Virginia Surety Company, Inc. [175 West Jackson Blvd., Chicago, IL 60604]. **You** may make a claim directly with Virginia Surety Company, Inc. who insures the obligations of TWG Home Warranty Services, Inc. under this contract, at the following address: 175 West Jackson Blvd., Chicago, IL 60604.

**In Hawaii, Minnesota, Nevada, Oregon, and South Carolina: This is not a contract of insurance.** Obligations of the obligor are insured by a service agreement reimbursement policy with Virginia Surety Company, Inc. [175 West Jackson Blvd., Chicago, IL 60604].

**In Alabama, Arizona, Connecticut, Georgia, Illinois, Montana, New Hampshire, New York, North Carolina, Texas, Utah and Wisconsin:** The following statement has been added: This is not a contract of insurance. Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy by Virginia Surety Company, Inc. with home offices located at [175 West Jackson Blvd., Chicago, IL 60604, 1-800-209-6206]. If we fail to pay any valid claims within sixty (60) days after proof of loss has been filed, **You** are entitled under state law to make a claim directly against Virginia Surety Company, Inc. at the address shown above.

**In Arkansas and Missouri:** The following statement has been added: This is not a contract of insurance. Our obligations are insured by a contractual liability insurance policy with Virginia Surety Company, Inc. [175 West Jackson Blvd., Chicago, Illinois 60604]. If the Administrator does not pay a claim or provide service within sixty (60) days of submitting the claim, the claim can be submitted to Virginia Surety Company, Inc. at [175 West Jackson Blvd., Chicago, Illinois 60604]. Telephone number is [1-800-209-6206]. A claim against the provider may include a claim for return of the unearned provider fee in the event of a cancellation.



**Pro-sept**<sup>TM</sup>

**SEPTIC SYSTEM PROTECTION PLAN**

Pro-Sept<sup>TM</sup> Protection Plan · c/o The Powderhorn Agency, Inc.  
P.O. Box 872 · Brookfield, CT 06804  
www.powderhornagency.com · 888-999-5208

## KEY TERMS:

Throughout this document, "You" and "Your" refer the Agreement Holder listed on the declaration page. "We", "Us", and "Our" refer to TWG Home Warranty Services, Inc., [P.O. box 1539, Golden, CO. 80402] Phone # 1-888-999-5208.. In addition, when in bold certain words and phrases are defined as follows:

**Agreement** means this document. It describes the terms, conditions, and exclusions (benefits We do not cover) that apply. The Service Agreement is the entire **Agreement** between You and Us.

## A. COVERAGE

In return for payment by You of the **Agreement** Charge and subject to all terms of this **Agreement**, We agree with You to provide coverage as stated in this **Agreement**.

Your system must have a Septic System Inspection completed by a certified inspector at least 90 days prior to the effective date. The system must be deemed satisfactory to us and pumped if required by the certified inspector.

## B. COVERAGE TERM

For existing home owners coverage begins on the effective date and continues for the **Agreement** term indicated on the declaration page. Payment is due to Us at the time of purchase and must be received by Us for Your coverage to be effective.

## C. WHAT IS COVERED UNDER YOUR AGREEMENT

We will pay for the repair or replacement of Your septic system from a **System Malfunction**. A **System Malfunction** does not include routine maintenance or where just pumping of the septic system is performed.

## D. YOUR RESPONSIBILITIES REGARDING SERVICE

We will not pay for any services performed without Our prior approval. Notice of any System Malfunction must be given to Us immediately upon discovery and during the coverage period.

- When repair is required, You are to telephone Us at 1-888-999-5208. We will accept calls 24-hours a day, 7 days a week. You or the service provider will receive an authorization number for the **System Malfunction**.
  - NON-EMERGENCIES:** Meaningful service will be initiated and completed as soon as reasonably possible. Service will be scheduled during normal business hours. You may be responsible for additional costs for any non-emergency service performed outside of normal business hours, i.e. overtime charges.
  - EMERGENCIES:** We will consider a request for service to be an emergency only if, in Our opinion, the **System Malfunction** renders Your home uninhabitable. In the event We determine that a **System Malfunction** has created an emergency, service will be requested immediately. Once service is initiated, it will be completed as soon as reasonably possible.
- The claim will be approved or disapproved only after We consult with the repairer and receive an estimate of costs.
- You agree to cooperate with Us to the fullest extent possible in making any repairs or replacements.

**System Malfunction** means, due to normal use or wear and tear, the failure of any septic system component to perform properly where such failure results in the discharge of untreated or partially-treated sewage to the surface.

During the coverage term, subject to a \$500 deductible, We agree, in the event of a covered **System Malfunction**, to arrange for a qualified service provider to repair or replace the Septic System.

Single family home or condominium or townhouse or mobile home built on a permanent foundation less than 5,000 square feet is eligible for coverage.

For the new construction home owners, coverage begins on the first year anniversary of the close of sale of the home with the septic system and coverage continues for the period noted as **Agreement** term indicated on the declaration page. Payment is due to Us at the time of purchase and must be received by Us for Your coverage to be effective..

- At Our discretion, a System Malfunction may be remedied by repair or replacement.** Repair or replacement shall be performed by a licensed repairer who provides a written parts and labor guarantee of not less than sixty (60) days for covered repairs.
- You are obligated to provide information relating to the cause and nature of any **System Malfunction**. This information may include estimates, copies of inspection reports, or other supporting information. If asked, You must sign forms needed for Us to provide service under this contract
- Misrepresentation or any attempt to defraud Us, including collusion between You and repair personnel, shall result in a denial of coverage, and We shall seek reimbursement and may pursue remedies under the law.
- You are responsible for the payment of the \$500 deductible (or actual cost of service, whichever is less) for the covered **System Malfunction**. This payment must be made to the repairer prior to completion of any work performed.
- If the service work performed under this contract fails within a sixty (60) day period, and it was performed by a licensed repairer chosen by Us, We will arrange for the necessary repairs without an additional deductible requirement even after contract expiration.
- We reserve the right to obtain a second opinion or have an inspection performed by a contractor of Our choosing on any repair or replacement.
- Claim documentation and any correspondence can be sent to Us..

## E. PAYMENT OF CLAIMS

When possible, payment arrangements will be made with the repairer prior to completion of the work. In some cases, You may be required to pay for the repair or replacement of the covered item, in which case, We will reimburse You, less applicable deductibles, when We receive Your paid invoice(s).

## F. COVERAGE DESCRIPTION

### COVERED:

- Septic Tank or Aerated Chamber including Aerated Chamber internal components (i.e. aerators, pumps, controls, valves, riser rings and lid)
- Effluent pumps, piping
- Distribution box and connecting piping and valves
- Soil absorption field and associated piping
- Main line stoppages/clogs (one time only, must have existing access or clean out); if a stoppage is due to a septic tank back-up, then we will pump the septic tank one time during the term of the **Agreement**.

## G. EXCLUSIONS

We shall not be responsible for any of the following:

- Repairs or replacements if the System Malfunction is caused by any of the following:**
  - Alteration, modification, addition to or deletion from the covered systems or appliances, negligence, abuse, misuses, inadequate plumbing, wiring, and power supply.
  - Gradual reductions in performance due to normal wear and tear where no failure has occurred.
  - Lack of capacity, adequacy, efficiency, design, or improper installation. Adding of additional loads in greater quantities or capacity than the original design.
  - Failure to perform routine maintenance/service. Including pumping as determined by the manufacturer guidelines.
  - Chemical, sediment, or mineral build-up or deposits, mold, rust, corrosion.
  - Freezing, fire, wind, water, flood, lightning, ice, hail, snow, explosion, mud, earthquake, soil movement, storm, pet damage, pest damage, vandalism, theft, electrical or water fluctuations, power surge, riot, military unrest, accident, physical damage.
- Any abuse to the septic system such as:**
  - Greater than normal amounts of household cleaners are used or harsh chemicals, paints, solvents, oil or similar materials not typical of domestic sewage are discharged into the system.
  - Installation of a subsurface automatic lawn sprinkler system which discharges water over the area of the soil absorption unit of the system.
  - Vehicles heavier than a riding lawnmower being driven on the soil absorption unit.
  - Drain water from gutters or footing drains or other surface water is directed into the system.
  - Hydraulic over load, running more water into the system than it was designed.
  - The system was used for a purpose other than that which it was designed.
- Any and all costs associated with a service visit, if it is determined that coverage under this Agreement does not apply, or no covered System Malfunction is discovered.**
- Any failure to provide service due to conditions beyond Our control, such as, delays in obtaining parts or equipment or labor difficulties.**
- Consequential or incidental damages.**

**You must report all System Malfunction to Us - unauthorized charges will not be reimbursed.**

### NOT COVERED:

- Collapse of or damage to line from house caused by roots, rocks or earth movement
- tile fields
- leach tanks
- cesspools
- seepage pits
- insufficient capacity
- clean out or pumping the septic system
- components not listed in the covered section.

- Repairs or replacements arising from manufacturer's recalls and/or class action suits.
- Repairs or replacements performed without Our prior authorization.
- Repairs or replacement of covered items otherwise covered under any other type of manufacturer warranty, service Agreement or insurance policy.
- Repairs or replacement of systems and appliances classified by the manufacturer as commercial.
- Costs associated with treatment, removal, recovery, disposal, transport or storage of any known or suspected toxic or hazardous substance/material.
- Cost to correct or upgrade any parts, equipment and/or systems in order to comply with any federal, state or local laws, code violation, regulations or ordinances or utility regulations.
- Costs associated in obtaining permits.
- Performance of routine maintenance/service or maintenance parts and/or materials.
- Residential property that is used for any commercial, business, community living, or care purposes. Mobile homes NOT built on a permanent foundation.
- Systems and appliances not properly installed, maintained and fully operational on the effective date of this Agreement.
- Repairs or replacement to residential property where all utilities were not in service throughout the coverage period.
- Breakdown caused by a non-covered part.
- Any liability to a Third Party, including ground water and soils below the ground water level.
- Any repair or replacement required under law as a prerequisite to selling, transferring or closing down property.
- Any dishonest, intentional, knowing, willful or deliberate noncompliance on your part with any statute, regulation, ordinance, administrative compliant, notice of violation, notice letter, executive order, or instruction of any governmental agency or body.
- Costs incurred in gaining access to or closing access from a covered item. This exclusion specifically includes, but is not limited to, opening or closing access to items encased in concrete, plaster, brick or behind a drywall.
- Any costs associated with excessive or inadequate water pressure, electrical surge or outage, currents artificially generated, wiring not to code or inadequate amperage.
- Any damage to the physical structure of the residence, including but not limited to, load bearing walls, roof, roof supports, structural floor base, foundation or slabs, and ceilings.

24. Evidence that the homeowner has opened any part of the system without Our permission.

## H. LIMITS OF LIABILITY

If there is a covered System Malfunction, We will at Our option, either:

- Repair the septic system; or
- Replace the septic system with equipment of similar features, efficiency, and capacity.

## I. GENERAL CONDITIONS

### 1. CANCELLATION:

You may cancel this **Agreement** at anytime. To cancel, You must provide written notice to Us. If no coverage has been provided, You may cancel within thirty (30) days from the effective date; the purchaser shall be entitled to a full refund. If You cancel after thirty (30) days from Your effective date, a pro-rata refund of the **Agreement Charge** will be made less claims paid.

We may cancel this **Agreement** at anytime for:

- Non-payment of the **Agreement Charge**.
- Fraud, or material misrepresentation.

In the event of cancellation for fraud or material misrepresentation, We may demand immediate payment of the cost of all service provided to You, less the Annual **Agreement Charge** paid and We reserve the right to pursue all available remedies under the law.

Notice of such cancellation will be in writing and given at least thirty (30) days prior to cancellation with the reason and effective date of cancellation.

### 2. NON-RENEWAL:

We have the right to Non-Renew this **Agreement** for any reason.

### 3. TRANSFERS:

Your rights and duties under this **Agreement** are transferable. You must call Us to transfer this **Agreement**.

### 4. WHERE YOU ARE COVERED:

This **Agreement** applies only to **System Malfunction** occurring within the continental United States, including Alaska and Hawaii.

### 5. NON-ORIGINAL MANUFACTURER PARTS:

We reserve the right to select and use parts other than original manufacturer parts. Parts used will be of like kind and quality.

## J. STATE AMENDMENTS

**In Alabama, Arkansas, Maryland, New Mexico, New York, Washington & Wyoming:** Section (H) General Conditions #1 cancellation the first paragraph is replaced with the following: You may cancel this Agreement at anytime. To cancel, **You** must provide written notice to TWG Home Warranty Services, Inc. If no coverage has been provided, You may cancel within thirty (30) days from the receipt of this agreement; the purchaser shall be entitled to a full refund. A ten percent (10%) penalty per month shall be added to a refund that is not paid within thirty (30) days after provider receives a written request to cancel from the agreement holder. The refund shall be paid to the purchaser, or to the person authorized by the purchaser. If You cancel after thirty (30) days from the receipt of this agreement, a pro-rata refund of the Agreement Charge will be made less a claims paid.

**In Arizona:** Section (H) General Conditions #1 is amended to add: You may cancel this Agreement at anytime. To cancel, **You** must

25. Any landscaping or additional fill placed over the on-site sewage treatment system without the express permission of Us.

Coverage for all System Malfunctions is limited to \$25,000 per Agreement term.

### 6. REPAIR OR REPLACEMENT:

At Our option, a covered System Malfunction may be remedied by repair or replacement.

### 7. EQUIPMENT ELIGIBILITY:

We reserve the right to restrict certain makes of equipment from coverage eligibility based on commercial design and use, and due to obsolete parts.

### 8. RIGHTS OF RECOVERY:

If We pay for a **System Malfunction**, We may require You to assign Us Your rights of recovery against others. We will not pay for a **System Malfunction** if You impair these rights to recover. Your right to recover may not be waived.

### 9. ARBITRATION:

In the event of a disagreement between You and Us concerning cost, either of us may make a written demand for arbitration. This must be done within (60) days after the **System Malfunction** occurred. Each of us will select an arbitrator. The two arbitrators will select an umpire. Each of us will pay the expense of the arbitrator we select. The expense of the umpire will be shared equally. Unless both of us agree otherwise, arbitration will take place in the county and state in which You live. Local rules will apply. A majority decision will be binding.

### 10. CONFORMING TO STATE STATUTES:

This **Agreement** is amended to comply with the statute of the jurisdiction:

- Where it is issued, and
- On the effective date

### 11. CUSTOMER SERVICE:

If You need additional information or have any questions regarding Your benefits, please call [1-800-747-5152].

provide written notice to TWG Home Warranty Services, Inc. If no coverage has been provided, **You** may cancel within thirty (30) days from the purchase date; the purchaser shall be entitled to a full refund. If **You** cancel after thirty (30) days from **Your** purchase date, a pro-rata refund of the Agreement Charge will be made. No claims incurred or paid will be deducted from the amount to be returned in an event of cancellation. Section (H) General Conditions #9 is amended to include: Arbitration may not conflict with the provisions of A.R.S. §§ 20-1095.04 and 20-1095.09 Section (F) Exclusion #1c is replaced with the following: Lack of capacity, adequacy, efficiency, design or improper installation of any system, component or appliance as determined by the manufacture or building codes.

**In Colorado:** The following statement has been added: Action under this agreement may be covered by the provisions of the