



HOME WARRANTY AGREEMENT

This Home Warranty Agreement, hereinafter referred to as the "Agreement", is marketed through HMS National, Inc. The Agreement is issued by the entity listed for your state in Section VIII.11. of this Agreement. Such entity is hereinafter referred to as the "Issuing Company", or "we", "us", and/or "our". The owner of the home covered by this Agreement is hereinafter referred to as "you" and/or "your". This is a Home Warranty Agreement, not an insurance policy.

This Agreement is intended to provide protection against the cost of repairing certain types of mechanical failures of specific items in your home. **Please read the Agreement carefully. Coverage includes only certain mechanical failures of the specific items listed as covered on your Agreement Coverage Summary and excludes all other failures and/or items. The Agreement Coverage Summary is attached to and made a part of this Agreement.** Coverage is subject to the limitations and conditions specified in this Agreement.

I. TYPES OF WARRANTIES/EFFECTIVE DATES

Your Agreement type, effective date and expiration date are listed on your Agreement Coverage Summary. Types of warranties are as follows:

1. **A Seller Home Warranty**, which is placed on the home by a prospective home seller at or near the time of listing, is effective immediately upon receipt and processing of the Seller Home Warranty application by us and continues for the remaining term of the listing agreement, not to exceed one hundred and eighty (180) days from the date of listing, unless sooner terminated by the sale of the dwelling (see Buyer Conversion Warranty below) or cancellation of the listing agreement. The Seller Home Warranty may be extended by us at our sole discretion. The Seller Home Warranty converts to a Buyer Conversion Warranty (see below) on the date of closing (title transfer), provided required payment has been received by us within seven (7) business days of closing.
2. **A Buyer Conversion Warranty**, which is a Seller Home Warranty that has converted to benefit a home buyer after closing, is effective on the date of closing, provided required payment has been received by us within seven (7) business days of closing.
3. **A Buyer Direct Warranty**, which is purchased by or on behalf of a home buyer at the time of closing, is effective on the date of closing, provided required payment has been received by us within seven (7) business days of closing, unless otherwise agreed to by us in writing.
4. **A New Home Warranty**, which is purchased by or on behalf of a home buyer at the time of closing of a newly constructed single family home, is effective on the date of closing, provided required payment has been received by us within seven (7) business days of closing, unless otherwise agreed to by us in writing.
5. **An Open Direct Warranty**, which is available to homeowners not immediately purchasing or selling their home (i.e., when the home is not listed for sale and/or it is more than seven (7) business days after closing), is effective thirty (30) days after required payment has been received by us, unless we otherwise agree in writing.

II. BASIS FOR COVERAGE

We agree to pay the covered costs to repair or replace the items listed as covered on your Agreement Coverage Summary if any such items become inoperable during the term of this Agreement due to mechanical failure caused by routine wear and tear, subject to the terms and conditions of this Agreement. Determination of coverage for any claim will be made solely by us, considering but not limited to, our independent contractor's diagnosis. We reserve the right, at our option, to replace items rather than repair them. The definitions of the specific items that may be listed on your Agreement Coverage Summary as covered, as well as other limitations on coverage and other terms and conditions, are listed below.

This Agreement covers only mechanical failures relating to the mechanical parts and components of those domestic-grade items that were in the home and in proper operating condition on the Agreement effective date. "Mechanical failure" occurs when a covered item becomes inoperable and unable to perform its designed function, subject to the limitations and conditions set forth herein. Mechanical failure is not covered if it is due to: conditions that existed prior to Agreement effective date; lack of routine care and maintenance; misuse; and rust and/or corrosion. "Domestic-grade" items are those that were designated by the manufacturer, manufactured and marketed solely for installation and use in a residential single family dwelling. The covered item will be deemed to have been in "proper operating condition" on the Agreement effective date if it was correctly located within the home, was properly installed to code at the time of installation, was fully connected, was capable of successfully performing all operations commensurate with the manufacturer's original design intention, and did not pose any hazard to life or property. Determination of the operating condition as of Agreement effective date, and the nature of any failure, will be made by us based upon the professional opinion of our direct employees, considering but not limited to, our independent contractor's diagnosis.

III. DEFINITION OF ITEMS

This Agreement provides coverage only for those items specifically listed as being covered on your Agreement Coverage Summary. Please refer to your Agreement Coverage Summary. An additional fee may be required for certain coverages. Coverage of some items is not available under all plans or in every state

This Agreement defines precisely what mechanical systems and appliances, and which of their parts and components, are covered; only those items specifically so described are covered, subject to the limitations and conditions herein. The items listed in this section as "Examples of Items/Conditions Not Covered" are not meant to be all-inclusive and are provided for illustration. They do not limit our right to decline coverage for items not on the lists and should not in any way be deemed an expansion of items specified as Covered.

1. Kitchen/Laundry Appliances (Individual appliances may be available only as an option in some states)

Description of Covered Items: Mechanical parts and components affecting the proper operation of one (1) of each of the following appliances located in the primary kitchen: refrigerator or combination refrigerator/freezer; built-in dishwasher; built-in microwave oven; range/oven/cook-top; self-contained range exhaust unit located above the range; and built-in trash compactor. Kitchen appliance coverage is only for primary units. Mechanical parts and components affecting the proper operating condition of one (1) of each of the following appliances are also covered: clothes washer and clothes dryer. Covered mechanical parts and components include only the following: automatic soap dispenser; belts; compressor; condensers; control timers (oven/range clock-timers are excluded unless failure prohibits normal cooking function); defrost heaters; clothes dryer heating elements; clothes dryer drum rollers; electronic components; evaporators; fan motors; gas valves; hinges; hoses; ignitor and pilot assemblies; internal wiring; latch assemblies (excluding self cleaning latch mechanisms); motors; power cords; pulleys; pumps; ram assembly; range/cooktop/heating elements/burners (sensi-temp elements/burners will be replaced only with standard elements/burners); solid state control boards; switches and relays; thermostats; touch pads; tracks; transmissions; wash arm assemblies (dishwasher only); and water valves (dishwasher and clothes washer only). In no event shall we be liable for claims in excess of \$1,000 in the aggregate per appliance per Agreement term for: top or down-draft cook tops, convection ovens; combination convection/microwave or convection/standard ovens; double wall ovens; and commercial-like or ultra-premium appliances (see V. General Exclusions and Limitations, Item 8.)

Examples of Items/Conditions Not Covered: Automatic deodorizers; buckets; commercial units; damage to clothing; doors; door cables; door glass; door seals; drawers; drip pans; drums; exhaust fan not solely for venting range/cooktop fumes; independent telescoping range exhaust; filters and screens; food spoilage; ice makers; ice and beverage dispensers and their respective components including water supply lines; interior lining; internal shelves; knobs and handles; light bulbs and fixtures; lock and key assemblies; panels and/or cabinetry; racks; removable minitubs; rollers other than clothes dryer drum rollers; rooftop exhaust units; rotisseries and probes; secondary units; sensi-temp/sensi-heat burners; shelves; springs; stand-alone freezers; structural components; timers and clocks; self cleaning mechanisms including door latches; trays; tubs; venting; washing machine agitators; conditions of water flow restriction due to scale, rust, minerals and other deposits.

2. Primary Central Air Conditioning/Cooling System

Description of Covered Items: Mechanical parts and components of a centrally ducted air conditioning system, heat pump system (geothermal or water source), or evaporative (swamp) cooler unit, as follows: accessible ductwork from the air conditioning unit to the point of attachment at registers/grills; air handler; blower fan motors; capacitors; compressors; condensers; condenser fan motors; condenser coils; evaporator coils; fan blades; freon gas lines interior to the unit; internal system controls; internal wiring; motors (excludes dampers); refrigerant (excludes reclamation); refrigerant filter dryer; refrigerant piping (excluding inter-connecting line sets and geo-thermal piping); relays; reversing valves; switches and controls; and thermostats (electronic set back units will be replaced only with standard units). We cover one (1) system with maximum of five (5) ton capacity, and designed for residential application. If the primary cooling system in the home is comprised of wall units, three (3) wall units will be covered.

Examples of Items/Conditions Not Covered: Primary/secondary condensate drain pans, pumps, and lines; asbestos insulated ductwork or piping; concrete encased or inaccessible ductwork; dampers; filters (including electronic/electrostatic and de-ionizing filter systems); fossil fuel control systems and other energy management systems and controls; geothermal piping; heat recovery unit; humidifiers; interconnecting freon lines (external of the equipment); panels and/or cabinetry; registers and grills; recapture/reclaim of refrigerant; structural components; water pumps, valves and lines (external of the condenser unit); wall units (except as noted above); window units, and water cooling towers. Gas systems, including ammonia systems, and chilled water systems, are not covered.

3. Primary Central Heating System

Description of Covered Items: Mechanical parts and components of one (1) system, either hot water and steam heating system or centrally ducted forced air gas/electric/oil heating system or electric baseboard units, if providing the primary source of heat in dwelling, as follows: accessible ductwork from covered heating unit to point of attachment to register/grill; blower fan motors; burners; controls; fan blades; heat/cool thermostats (electronic set back units will be replaced only with standard units); heat exchangers; heating elements; ignitor and pilot assemblies; internal system controls, wiring, and relays; motors (excludes dampers); and switches. Electric baseboard units are covered if they are the primary source of heating for the property. In no event shall we be liable for claims in excess of \$1,500 in the aggregate per Agreement term, per covered property for systems that have been converted from coal-to-oil, coal-to-gas, or oil-to-gas; or for hot water or steam heating systems including radiators, vent pipes/lines, or oil-fired forced air systems.

Examples of Items/Conditions Not Covered: Chimneys, flues, and liners; cleaning and re-lighting of pilots; concrete encased or inaccessible ductwork; concrete encased or inaccessible steam or radiant heating coils or lines; conditions of water flow restriction due to scale, rust, minerals and other deposits; fossil fuel control systems and other energy management systems and controls; dampers; asbestos insulated ductwork or piping; electric baseboard heat unless primary heating system in home; filters (including electronic/electrostatic and de-ionizing filter systems); fireplaces and their respective components and gas lines; free-standing or portable heating units; fuel storage tanks, lines, and filters; gas log systems, including gas feed lines; humidifiers; inaccessible water/steam lines leading to or from system; individual space heaters; maintenance and cleaning; panels and/or cabinetry; pressure regulators; radiant heating systems built into walls, floors or ceilings; registers and grills; secondary units; solar heating devices and components; and structural components.

4. Plumbing System/Plumbing Pipes

Description of Covered Items: Mechanical parts and components of the following: garbage disposal; interior hose bibs; shower and tub valves; toilet tanks, bowls, and toilet mechanisms within the toilet tank. Leaks and breaks, except those caused by plumbing stoppages, of water, gas, drain, waste and vent lines/pipes within the perimeter of the main foundation are also covered. We cover up to three (3) toilets.

Examples of Items/Conditions Not Covered: All plumbing in or under the ground, foundation or slab; all piping and plumbing outside of the perimeter of the foundation; any piping or plumbing in a detached structure; bath tubs; bidets; caulking or grout; color or purity of the water in the system; concrete encased plumbing; conditions of insufficient or excessive water pressure; conditions of water flow restriction due to scale, rust, minerals and other deposits; exterior hose bibs; faucets; freeze damage; holding and pressure tanks; inaccessible plumbing; jet pumps; laundry tubs; lawn sprinkler systems; pressure regulating devices; plumbing stoppages and conditions causing or caused by plumbing stoppages; repair and finish of any walls, floors or ceilings where it is necessary to break through to effect repairs; septic tanks and systems in or outside of the home; sewage ejector pumps; sewer and water laterals; shower enclosures and base pans; shower heads; sinks; solar systems; sump pumps; toilet tank lids and toilet seats; water damage; water filters; water purification systems; water softeners; wells and well pumps; whirlpools, spas and their respective plumbing and mechanical components.

5. Water Heater

Description of Covered Items: Mechanical parts and components of one (1) water heater, including circulatory pumps and domestic hot water coils attached to boilers, but excluding solar and heat recovery units.

Examples of Items/Conditions Not Covered: Auxiliary and secondary holding/storage tanks; base pans; color or purity of water; flues; vent pipes/lines; insulation and insulation blankets; heat recovery units; any noise without a related mechanical failure; point of service and/or hot water dispensers; racks; straps; timers; sediment build-up; and solar heaters, including all parts and components.

6. Water Softener

Description of Covered Items: Mechanical parts and components of basic single water softener unit, including central head assembly; multi-level/twin softeners; piping to and from unit(s) and system tanks.

Examples of Items/Conditions Not Covered: Any and all treatment, purification, odor control, iron filtration components and systems; discharge drywells; failure due to excessive water pressure or freeze damage; failures due to mineral and/or sediment; multi-level/twin softeners; resin bed replacement; salt.

7. Electrical System

Description of Covered Items: Standard mechanical parts or components located within the perimeter of the outer load bearing walls consisting of ceiling fan motors and their controls (excluding transmitters and remotes); interior standard light switches, main breaker or fuse panel/box receptacles and general line voltage wiring.

Examples of Items/Conditions Not Covered: Attic, bathroom, and/or whole house exhaust fans; direct current (DC) wiring and systems; door bells and chimes; exterior wiring and components (except main panels mounted to exterior wall); any wiring or components servicing a detached structure; exhaust fans; fire, smoke or carbon monoxide alarm and/or detection systems and batteries; intercom or speaker systems; lighting fixtures; load control devices; low voltage systems including wiring and relays; service entrance cables; telephone systems; timers; touch pad assemblies; transmitters and remotes; utility meter base pans; and wall fans. Failures and conditions caused by inadequate wiring capacity, circuit overload, power failure/shortage or surge, and corrosion caused by moisture are not covered.

8. Garage Door Opener

Description of Covered Items: Mechanical parts and components of a single primary unit as follows: drive trains; motor; receiver board; relays; switches and sensors. If there is no attached garage, we will cover one (1) opener if installed in a detached garage.

Examples of Items/Conditions Not Covered: Batteries; damage caused by door malfunctions; all door assemblies including door panels, tracks, rollers, hinges, cables and springs; frequency interference; lights; sending units; touch pad and/or key pads; transmitters and remotes.

9. Sump Pump

Description of Covered Items: Mechanical parts and components of the pump assembly located within the home.

Examples of Items/Conditions Not Covered: Any unit located outside the covered property and/or within crawl spaces; back-up power assemblies.

10. Well Pump System

Description of Covered Items: Mechanical components and parts of the submersible or above ground well pump utilized as the sole source of water supply only for the main dwelling, excluding irrigation system, as follows: controls; impellers; motor; pump; seals. For units that also supply water for use outside the main dwelling, only the capacity required to supply water to the main dwelling, excluding irrigation system, is covered.

Examples of Items/Conditions Not Covered: Contamination or lack of water; excavation or other charges necessary to gain access to, or to remove, or to reset the pump; failure attributed to well impurity; joint wells; piping and electrical lines leading to and from the unit; pressure, holding or storage tank(s); re-drilling of wells; auxiliary, secondary or booster pumps; and well casings.

11. Swimming Pool

Description of Covered Items: Mechanical parts and components as follows: Above ground accessible piping lines leading to and from the unit; filters (housings, laterals, pressure gauges, back flush valves); gaskets; primary circulator pump and motor; and relays and impellers.

Examples of Items/Conditions Not Covered: Automatic feeders and chemicals; chlorinators; "creepy crawlers" and similar cleaning units; electrical lines; filter elements or media (i.e., cartridges, grids and sand); heaters; jets; lighting; pop up heads and turbo valves; secondary/auxiliary cleaning equipment and accessories including built-in or detachable cleaning equipment; skimmers; solar heaters and related components; structure, liner or shell of the pool; timer and remote control systems and their components; and inaccessible underground and/or concrete encased plumbing.

12. Heater for Swimming Pool and/or Spa

Description of Covered Items: Mechanical components and parts of gas, electric, oil, and heat pump units. In no event shall we be liable for claims in excess of \$1,000 in the aggregate per Agreement term, per covered property with respect to pool or spa heaters.

Example of Items Not Covered: Cabinetry and structural components; freon reclamation; timer and remote control systems and their components.

13. Spa

Description of Covered Items: Mechanical parts and components as follows: above ground accessible plumbing lines leading to and from unit; air pumps; blower motor; filters (free-standing housing body, laterals, pressure gauges, back flush valves); gaskets; impellers; internal spa pack heater; internal switches; primary circulator pump and motor; and relays.

Examples of Items/Conditions Not Covered: Automatic feeders and chemicals; chlorinators; "creepy crawlers" and similar cleaning units; electrical lines; external heaters; filter elements or media (i.e., cartridges, grids and sand); inaccessible underground and/or concrete encased plumbing; jets; lighting; portable spas or spas without hard pipe or hard wire installation; pop up heads and turbo valves; secondary/auxiliary cleaning equipment and accessories including built-in or detachable cleaning equipment, skimmers; solar heaters and related components; structure, liner or shell of the spa; timer and remote control systems and their components.

14. Combination (shared equipment) Swimming Pool and Spa

Description of Covered Items: Mechanical parts and components as follows: above ground accessible plumbing lines leading to and from unit; air pumps; blower motor; filters (free-standing housing body, laterals, pressure gauges, back flush valves); gaskets; impellers; internal spa pack heater; internal switches; primary circulator pump and motor; and relays.

Examples of Items/Conditions Not Covered: Automatic feeders and chemicals; chlorinators; "creepy crawlers" and similar cleaning units; electrical lines; filter elements or media (i.e., cartridges, grids and sand); heaters; inaccessible underground and/or concrete encased plumbing; jets; lighting; pop up heads and turbo valves; secondary/auxiliary cleaning equipment and accessories including built-in or detachable cleaning equipment, skimmers; solar heaters and related components; structure, liner or shell of the pool and spa; timer and remote control systems and their components.

15. Jetted Bathtub

Description of Covered Items: Mechanical parts and components as follows: accessible electrical controls; accessible plumbing lines; air pumps; drains; gaskets; jets; and primary circulation pump and motor.

Examples of Items/Conditions Not Covered: Bathtub shell; caulking and grout; conditions of water flow restriction due to scale, rust, minerals and other deposits; failures due to dry operation of equipment; gaining access to electrical, component parts, and/or piping; tiles and marble; and tub enclosure.

IV. SERVICE

1. **When repair or replacement services covered by this Agreement are required, you must telephone us at 1-800-432-1033 or submit a claim through the web site www.hmsnational.com.** You must notify us immediately upon discovery of any mechanical failure, and prior to the expiration of the term of the Agreement during which the failure occurred. **If you fail to notify us of any mechanical failure prior to the expiration of the term of the Agreement during which the failure occurred, we will not be responsible for the cost of any repairs and/or replacements resulting from the mechanical failure.**

2. We will provide you with a referral to an independent contractor. We will use reasonable efforts to provide a referral to an independent service contractor within two (2) hours after the service request is received during normal business hours and within twenty-four (24) hours for requests received after normal business hours and on weekends or holidays. In the event we determine, at our sole discretion, that there is an emergency situation requiring expedited service, we will make reasonable efforts to expedite service. We will determine, at our sole discretion, which repairs constitute an emergency and will give consideration to covered mechanical failures that affect the habitability of the dwelling.

3. We have sole authority to select independent contractors. All repair and/or replacement work covered by this Agreement must be performed by an independent contractor and approved by us in advance. **We are not responsible for expenses you incur without our express consent.** We will not reimburse you for any costs associated with unauthorized repairs or work performed by unauthorized contractors.

4. **This Agreement includes a deductible charge, listed on your Agreement Coverage Summary, that you must pay per trade on each service call made towards the covered portion of any claim.** When a covered claim requires more than one trade to complete the covered repair/replacement only one deductible charge will be required. Trades include appliance, air conditioning, heating, electrical, plumbing, and any other trade specifically required to service items listed on your Agreement Coverage Summary. You will be responsible for and shall pay the independent contractor directly for the service call and for actual work performed and/or items installed, up to the amount of the deductible at the time of visit(s), in a manner acceptable to the independent contractor. You are responsible and must pay the independent contractor for any amounts due for services performed or parts installed that are not covered under the terms, conditions and provisions of this Agreement. A service call includes, without limitation, the action of inspecting, diagnosing, and/or performing service for the repair or replacement of a malfunctioning item.

5. You agree to provide access to the covered property during normal business hours for the independent contractor to diagnose, obtain approval for, and/or complete repairs for covered mechanical failures. You agree to pay us and/or our independent contractor any service charge and additional charges assessed by our independent contractor resulting from your failure to provide access and/or for missed appointments.

6. Should any building or zoning permits be necessary, you are responsible for paying for and/or obtaining these permits and the cost associated with these permits.

7. At our discretion, we may elect to replace a covered item rather than repair it. **The decision to replace rather than repair items is solely our option.** Should we choose to replace an item, the replacement will be the base model that meets all applicable federally mandated minimal manufacturers' standards, performs the same primary function, and has a capacity comparable with the covered item, when available with domestically assembled units. With respect to kitchen/laundry appliances, we will make reasonable efforts to provide replacement items of similar mechanical capabilities and/or efficiency of the original unit, when available. We are not liable to provide exact match in color, dye, lot, material, type or brand. When replacing systems or appliances, we will be responsible for the installation of the replacement item but not for the cost of the construction, modifications, carpentry or transitional work made necessary in order to accommodate the replacement, nor for any costs to upgrade or modify items for any reason. Should we determine to replace an item and you instead choose to effect a repair, that item is excluded from further coverage under this Agreement and subsequent renewals.

8. At our discretion, we may give you the option to elect to receive a repair/replacement credit or cash payment (net of deductible) in lieu of providing a repair/replacement. In such cases, the amount of such credit shall be equal to the lesser of our approved cost of repair/replacement or your actual and/or estimated cost of repair/replacement. If you elect a credit to our independent contractor, we will pay that amount directly to the independent contractor after the work has been completed. If you elect the cash payment, you must supply documentation supporting that the item in question has been purchased, replaced or repaired prior to receiving the cash payment. Any replacement item must be installed in the covered property as listed on the Agreement Summary Page. **The amount of the approved cost of repair or replacement will be established by us at our sole discretion.** We reserve the right to inspect repaired and/or replacement items.

9. We reserve the right to obtain, at our expense, a second opinion by an independent contractor prior to determining eligibility for coverage.

V. GENERAL EXCLUSIONS AND LIMITATIONS

1. This Agreement provides coverage for the mechanical failure of only those systems, appliances and components thereof listed as covered on your Agreement Coverage Summary and only to the extent described herein. This Agreement does not cover any items not specifically named as covered on your Agreement Coverage Summary.

2. This Agreement shall not cover any item(s) if they are: mismatched (systems with incompatible components and/or systems with components having incompatible capacity ratings); modified from the original manufacturer design or application; items determined to be defective by the Consumer Product Safety Commission or the manufacturer and for which either has issued, or issues, a warning or recall, or which is otherwise necessitated due to failure caused by the manufacturer's improper design, use of improper materials and/or formulas, manufacturing process or any other manufacturing defect; improperly installed; or below the slab or basement floor of the home; or located outside the perimeter of the main foundation (i.e., outside the outer load bearing walls of the structure with the exception of central air conditioning units, main electrical panels mounted on outside walls, pool, spa, sump pump and well pump).

3. This Agreement covers only repairs and/or replacements due to mechanical failure attributable to ordinary wear and tear. Accordingly, the Agreement does not cover failures which may result from other causes, such as without limitation: abuse or misuse; improper installation; improper or insufficient maintenance; neglect or misuse; lightning strikes; missing parts; animal, pet and/or pest damage; power failure; power surge; fire; casualty; acts of God; structural and/or property damage; flood; smoke; earthquake; freeze damage; accidents; war; acts of terrorism; nuclear explosion, reaction, radiation or radioactive contamination; insurrection; riots; vandalism; or intentional destruction of property. This Agreement does not cover mechanical failures resulting directly or indirectly from or caused by mold, mildew, mycotoxins, fungus, bacteria, virus, condensation, and/or wet or dry rot regardless of the source, origin, or location and any other cause or event contributing concurrently or in any sequence to the mechanical failure.

4. This Agreement does not cover upgrading or making modifications to items due to, but not limited to, the following reasons: capacity (over or undersized); dimensional or design change; conditions of insufficient or excessive water pressure; conditions of inadequate wiring capacity; circuit overload; power failure and/or surge; failure to meet building code(s); zoning requirements; utility regulations; or failure to comply with local, state or federal laws or regulations.

5. This Agreement does not cover any costs associated with construction, carpentry, or other modifications made necessary by the repair or replacement of existing equipment or installing different equipment. This Agreement does not cover any costs associated with any upgrades or modifications to comply with federal, state, and/or local law, code, regulation, or ordinance. All such costs are your responsibility.

6. SEER (Seasonal Energy Efficiency Ratio) operational compatibility: If we elect to replace an air conditioning condenser or heat pump unit, and it becomes necessary to make a mechanical modification to the evaporator coil in order to provide operational compatibility, we agree to pay the covered costs for one (1) of the following (determination is at our sole discretion) only: expansion metering device, or coil, or air handler. This Agreement does not cover any costs associated with modifications or upgrades required to match efficiency value, rating or ratio.

7. This Agreement does not cover: fees associated with the removal and disposal of old systems, appliances and components; any fees or costs, including but not limited to, disposal fees arising from hazardous or toxic material, asbestos, freon or freon reclamation.

8. This Agreement does not cover repair or replacement of systems, appliances or components classified by the manufacturer as commercial-grade. In no event shall we be liable for claims in excess of \$1,000 in the aggregate, per agreement term, per commercial-like or ultra-premium appliance such as, but not limited to: brand names such as Sub-zero, GE Monogram Series, Thermador, JENN-AIR, Viking, and Delfield (individual trademarks are owned by the brand name company).

9. This Agreement does not cover (a) fees associated with use of cranes or other lifting equipment required to service any item or system; or (b) excavation or other charges associated with gaining access to the well pump; or (c) electronic computerized energy management systems or devices, or lighting and/or appliance management systems.

10. This Agreement does not cover ductwork with the sole exception of ductwork that is exposed and readily accessible to service a mechanical failure of a covered air conditioning or heating system or item. This Agreement does not cover: asbestos insulated ductwork; concrete encased or inaccessible ductwork; crushed/collapsed ductwork; ductwork damaged by moisture, water, pests and/or animals; insulation; registers, grills and dampers; underground ductwork. Inaccessible ductwork refers to ductwork that is used in central heating and/or air conditioning systems that is not exposed and cannot readily be accessed for replacement or repair due to design and installation obstacles such as, but not limited to, permanent partitions, chimneys, etc., and ductwork embedded in floors, walls or ceilings.

11. This Agreement does not cover any costs incurred to gain access to a covered item, system, appliance or component in situations where there is not adequate capacity or space for serviceability caused by, but not limited to, walls, floors, ceilings, permanently installed fixtures, cabinets, snow/ice covered areas, flooded areas, or personal property. In the event it is necessary to open walls, floors, or ceilings, or to move such fixtures, cabinets, or personal property to perform a diagnosis or service, we are not responsible for restoring such openings, items, or property. This Agreement does not cover any costs associated with equipment to gain access or permit serviceability such as but not limited to scaffolding.

12. This Agreement does not cover delays or failures to provide service caused by, or related to: any of the exclusions listed herein; shortages of labor and/or materials; or any other cause beyond our reasonable control. This Agreement does not cover additional charges to access or transport materials, supplies, or independent contractors to the covered property due to lack of or inhibited serviceability, such as but not limited to, tolls, required use of ferries or barges and/or remote locations.

13. This Agreement does not cover any incidental, consequential, special, and/or punitive damages, and you agree to waive any and all claims for such damages, arising from, resulting from and/or related to the failure of any item or system, including, but not limited to, food spoilage, loss of income, additional living expenses, and/or any loss, damage, cost or expense directly or indirectly arising out of or resulting from, or in any manner related to mold, mildew, mycotoxins, fungus, bacteria, viruses, condensation, wet or dry rot and/or other property damage.

14. This Agreement does not cover repairs or replacements of any item covered by other insurance, warranties or guarantees, including but not limited to, manufacturer's, contractor's, builder's, distributor's, or in-home warranty's. Our coverage is secondary to such insurance, warranties, or guarantees.

15. This Agreement does not cover any mechanical failure when the covered item or system has been repaired, modified, disabled or adjusted in any way which prevents us or our independent contractor(s) from inspecting, diagnosing and/or repairing the mechanical failure. If you authorize or perform any improper alterations, installations or repairs or improperly modify any system, appliance or component covered by this Agreement, or damage it in the course of remodeling or repair, we will no longer be obligated to cover such item(s).

16. This Agreement does not cover performance of routine maintenance. You are responsible for performing all routine maintenance and cleaning for all covered items and systems as specified and recommended by the manufacturer. You are also responsible for providing all routine maintenance for all areas in a covered property around covered items and/or systems to ensure that these items and/or systems are able to function properly as specified by the manufacturer. Any mechanical failures resulting from your failure to provide routine maintenance as specified in this paragraph, or as otherwise required in this Agreement, shall not be covered in accordance with Section V, General Exclusions and Limitations, Item 3 of this Agreement.

17. Subject to the limitations and exclusions in this Agreement, our maximum liability per covered claim submitted pursuant to this Agreement (i.e. a payment made as a result of a request for service due to a single mechanical failure of a single covered item) shall not exceed \$5,000.00.

18. We are not liable for any damages that result from an independent contractor's service, delay in providing service or failure to provide service. We are not liable for any incidental, consequential, special, and/or punitive damages, whether caused by negligence or any other cause, and you agree to waive any and all claims for such damages, arising from, resulting from or related to any independent contractor's service, delay in providing service or failure to provide service, including, but not limited to, damages, resulting from delays in securing parts and/or labor, the failure of any equipment used by an independent contractor, labor difficulties, and/or the negligent, tortious and/or unlawful acts or omissions of any independent contractor.

19. Under any and all circumstances, our maximum liability, in the aggregate, for any and all claims submitted per term of this Agreement shall be \$15,000.00. This aggregate maximum liability per term of the Agreement includes any and all covered claims made in accordance with the terms of this Agreement, as well as any and all claims, causes of action and/or rights of action, whether filed in arbitration or any court of law, for breach of contract, negligence, torts, strict liability, claims arising under any state or federal statute (to the extent such limitations are permitted by law), indemnification, contribution, and/or subrogation.

VI. TERMINATION AND VOIDABILITY

1. We may terminate this Agreement with thirty (30) days notice for nonpayment of the contract fee. We will follow normal cancellation procedures as outlined in Section VIII Other Conditions, Item 3.

2. We may terminate this Agreement immediately for fraud or material misrepresentation. If we terminate for fraud or material misrepresentation, this Agreement is void and we shall refund the entire purchase price if no claims have been made. If a claim has been made, we will follow normal cancellation procedures as outlined in Section VIII. Other Conditions, Item 3.

3. In the event a real estate listing agreement is cancelled while your home is covered by a Seller Home Warranty and a claim has been paid, you agree to pay to us the lesser of: (1) any claims paid under the Seller's coverage, or (2) the applicable Buyer Conversion Warranty fee. In the event a home which was covered under the Seller Home Warranty during the listing period is sold, regardless of whether a claim is paid under the contract, the seller will be liable to us for the applicable Buyer Conversion Warranty fee.

VII. PROPERTIES ELIGIBLE FOR COVERAGE

1. This Agreement covers a single family residence, including a condominium, townhouse or villa used solely for residential purposes. Two-unit multi-family property (duplex) owned and operated as residential income producing property, is also eligible for coverage. Multi-family residential income property of more than two-units is not eligible for coverage. Any dwelling used in whole or in part for commercial purposes such as, but not limited to, a day care facility, a group home (5 or more unrelated individuals cohabiting in same household) or fraternity-type house, "bed and breakfast", church or school will not be covered. Notwithstanding the exclusion of "group homes", this Agreement provides coverage under a special exception for special purpose group homes devoted to housing persons with mental and physical disabilities, as those terms are defined by the Americans with Disabilities Act at Title 42 of the United States Code Section 12102(2)(A). Homes listed in any historical register are not covered, which will include any homes registered on the National Register of Historic Places. Whether or not this Agreement covers a condominium unit, mobile home, manufactured home, or multi-family property (duplex), any repairs and/or replacements will be limited to the items solely used by and located and serviceable within such single unit (unless specified otherwise). No common area items shared by non-warranted units shall be covered by this Agreement.
2. Multi-family properties (duplexes) are eligible for coverage under the Seller Home Warranty; however, coverage is restricted to the owner occupied unit only. Tenant occupied units are not eligible for coverage under the Seller Home Warranty.
3. If coverage is provided on tenant occupied units under the Buyer Conversion Warranty, Buyer Direct Warranty, New Home Warranty, and/or Open Direct Warranty, you, the owner, (not the tenant) are responsible to report the claim and pay the deductible charge. Multi-family property is not eligible for the New Home Warranty.
4. Mobile homes constructed within ten (10) years of the effective date of the Agreement are eligible for coverage, provided they are permanently secured to the ground and that the land they are located on is owned by you. Mobile/manufactured homes that are located in a division operated similar to a condominium, where maintenance is provided, are also eligible for coverage.

VIII. OTHER CONDITIONS

1. **Term.** A Buyer Conversion Warranty, Buyer Direct Warranty or Open Direct Warranty expires one (1) year from Agreement effective date, unless renewed. A New Home Warranty expires three (3) years from Agreement effective date, unless renewed. Renewal term will be for a one (1) year period.
2. **Renewal.** A Buyer Conversion Warranty, Buyer Direct Warranty, Open Direct Warranty or New Home Warranty may be renewed on an annual basis and under the then current renewal plan, at our option and where permitted by state law. In the event this Agreement is renewable, you will be notified of the applicable rates for the renewal period and terms of coverage.
3. **Cancellation.** A Seller Home Warranty and a Buyer Conversion Warranty are non-cancelable by us, except as governed by state law. A Buyer Direct Warranty, a New Home Warranty, or an Open Direct Warranty may be cancelled by you any time upon our receipt of ten (10) days prior written notice to us. We may terminate this Agreement immediately for nonpayment of the contract fee, fraud, or material misrepresentation. Any refund under this Agreement is subject to short-rate schedules and deduction of a processing fee of \$25, and costs incurred by us on any claims made, except where specifically governed otherwise by state law.
4. **Assignment.** In the event of assignment or transfer of title of the covered property, this Agreement may be assigned and/or transferred at our option, where permitted by state law and when the applicable fee has been paid. We reserve the right to charge a transfer fee not to exceed \$25.
5. **Installment Billing.** In certain cases you may be permitted, at our sole and exclusive discretion, to pay for your coverage on an installment basis. Should you suffer a mechanical failure covered by this Agreement at a time when there are unpaid installments due from you, whether or not such payments are due or overdue, we reserve the right to deduct all or any portion of any unpaid amounts from the amount of loss covered by this Agreement for such incident, or to require payment of the entire remaining unpaid balances prior to covering the loss for you as we deem necessary or desirable. Our failure to exercise any such right on one occasion shall not be deemed a waiver of such right on other occasions.
6. **Waiver.** Should we waive any of our contractual rights, such waiver will not constitute a future waiver of said rights.
7. **Dispute Resolution.** All disputes, controversies or claims, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory, arising out of or relating to this Agreement, including the negotiation thereof, and the Services provided under this Agreement (collectively "Disputes") shall be settled by final and binding arbitration conducted within the federal district in which the covered property is located or other location mutually agreed to by both parties, by one neutral arbitrator, in accordance with this Agreement and the then current Commercial Arbitration Rules and Supplementary Procedures for Consumer-Related disputes of the American Arbitrator Association ("AAA"). The arbitrator(s) shall cause the losing party to pay the reasonable attorneys' fees and costs of the prevailing party and disbursements related to the arbitration process and any appeal thereof. Any Dispute must be submitted to arbitration within six (6) months (or other period required by law) from date in which controversy or claim first arose and if not brought within such time (time being of the essence), the party seeking to resolve such controversy or claim shall lose all rights and remedies with respect hereto.
8. **Disclosure.** The price of the Agreement includes the full amount of all fees due and payable as well as the costs of processing and administration for the Issuing Company and its agents where allowable by law. Any applicable state or local sales taxes are in addition to the price of the Agreement.
9. **Severability.** If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect.
10. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and supercedes all prior agreement and understandings of the parties hereto, oral or written, with respect to the subject matter hereof. Except as provided herein, all other warranties, expressed or implied, are hereby disclaimed.

11. **Issuing Company.** The HMS Home Warranty Agreement is issued by HomeSure Services, Inc., except in the following states where it is issued by the identified entity: in Alabama, Florida, Illinois, Iowa, Nevada, New Hampshire, New Mexico, New York, North Carolina, Oklahoma, South Carolina, Texas, Utah, Vermont, Washington, Wisconsin and Wyoming by HomeSure of America, Inc.; in California by HomeSure Protection of California, Inc.; and in Arizona and Massachusetts by HomeSure of Arizona, Inc. The HMS Home Protection Plan in Virginia and Oregon is issued by HomeSure of Virginia, Inc. Services are provided by independent tradespeople/contractors.

12. **Marketing.** This Agreement is marketed through HMS National, Inc. HMS is a registered trademark of HMS National, Inc., P.O. Box 551299, Fort Lauderdale, FL 33355-1299; telephone 954-845-9100.

13. **Corporate/Administrative Office.** Our administrative office can be reached at P.O. Box 551540, Ft. Lauderdale, FL 33355-1540.

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