

## **LIMITED WARRANTY**

### **WARRANTOR**

**TRADEMARK HOMES (“Builder”)**

### **LOCATION OF HOME COVERED BY THIS WARRANTY (“Home”)**

**Address:**

### **TO WHOM GIVEN**

**(“Client”)**

### **COVERAGE**

For one year from the date of this Limited Warranty, Builder, for itself and its subcontractors, warrants that the Home will be free from defects due to non-compliance with generally accepted standards of quality in the home construction industry as defined by the edition of the “Suggested Standards for Residential Construction” published by the Madison Area Builders Association current at the time of execution of this Limited Warranty. Coverage under this Limited Warranty includes, but is not limited to the following:

- a. structural defects of material significance appearing in load bearing walls, roof trusses, or floor joists.
- b. foundation; defects caused by the settling of any walls supported by footings will be remedied. Client is advised that small cracks will appear in concrete as it dries and, unless they result in water leakage, and/or exceed industry standards, such cracks are excluded hereunder. Industry standards for this purpose shall be ¼” wide and 3/16” ledging.
- c. warping which occurs due to normal drying of wood products including doors, windows, screens and storms.
- d. flooring squeaks when caused by expansion and contraction of heating or cooling ducts.
- e. drywall nail pops, drying cracks, or corner bead separation will be covered and re-textured. CLIENT IS REQUIRED TO RETAIN A QUANTITY OF PAINT FROM THE ORIGINAL APPLICATION in order to assure a color match after completion of repairs.
- f. cabinet doors will be adjusted if they fail to open or close properly.

- g. doors, interior and exterior, will be adjusted if they fail to open or close properly or if a separation at the threshold or joint appears.
- h. plumbing leaks in pipes or pipe joints which are not caused by Client's lack of maintenance or additions and modification or other changes made to plumbing system by Client.
- i. electrical system including failure of electric switches, outlets, wiring, GFI circuits or other circuits not caused by Client's failure to properly use or maintain, or additions and modifications and changes made to the electrical system by the Client. Damage caused by overloading and use of defective appliances shall be excluded.
- j. re-securing, tightening or adjusting of fixtures, cabinets and mirrors, which is not a result of misuse or abnormal wear and tear.

### **EXCLUSIONS**

The following are not covered by this Limited Warranty:

- a. fixtures, appliances, attachments, materials, supplies and items of equipment which are covered by the manufacturer's warranty (see "Assignment of Manufacturer's Warranty"); and any separate items of equipment, such as air conditioners, furnaces and water heaters, whether or not they are covered by a manufacturer's warranty.
- b. any defects related to services or materials supplied by Client or a third party hired by Client. Client must look solely to himself, herself or themselves or the third party for any warranty on such defects. Builder does not warrant the work of Client or Client's contractors, agents, employees, or other third parties brought in by the Client.
- c. defects in outbuildings including detached garages and detached carports (except outbuildings which contain the plumbing, electrical, heating, cooling or ventilation systems serving the Home), swimming pools and other recreational facilities, driveways, walkways, patios, boundary walls, retaining walls, bulkheads, fences, landscaping (including sodding, seeding, shrubs, trees and plantings, whether pre-existing or installed by Builder), off site improvements, or any other items or property not a part of the Home itself.
- d. settling of earth around the home or leakage created by settling of earth.
- e. any damage to the extent it is caused or made worse by:

1. negligence, improper maintenance or improper operation by anyone other than Builder or Builder's employees;
  2. failure by Client or by anyone other than Builder or its employees, agents or subcontractors to comply with the warranty requirements of manufacturers of appliances, equipment or fixtures;
  3. failure by Client to give notice to Builder of any defects within 30 days after discovery of the defects;
  4. changes in the grade of the building lot by anyone other than Builder, its employees, agents or subcontractors;
  5. changes, alterations, or additions made to the Home by anyone other than Builder, its employees, agents or subcontractors;
  6. dampness or condensation due to the failure of Client to maintain adequate ventilation.
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- f. any loss or damage caused or made worse by an unreasonable delay in allowing Builder, its subcontractors or employees access to the property to make alterations or repairs.
  - g. normal wear, tear and aging which includes small cracks in concrete, cracking, expansion, drying or shrinking of wood materials, including siding, trim, etc. and accompanying caulking and damage to flooring caused by high heels, furniture, and the like.
  - h. loss or damage, not otherwise excluded under this warranty, which does not constitute a defect in the construction of the Home by Builder, its employees, agents or subcontractors.
  - i. loss or damage resulting from accident, fire, explosion, smoke, water escape, lightning, high winds, floods, abuse, or other unusual occurrences or climactic conditions.
  - j. damage due to wild or domestic animals or insects.
  - k. any condition which does not result in actual physical damage to the Home, including, but not limited to, variation in color, grain, and texture of natural wood trim, doors, and other wood finishing materials or stone materials.
  - l. variation in temperature from one room to the next in a multi-level home.
  - m. bodily injury or damage to personal property.

- n. consequential, incidental and punitive damages.
- o. painted surfaces, caulking, grout and other maintenance items.
- p. cracking, heaving, settling, flaking, and chipping of concrete walks, service walks, patios, and driveways.
- q. any defect in, or caused by, materials or work supplied by anyone other than Builder, its employees, agents, or subcontractors. Such materials or work include, but are not limited to:
- r. normal wear and tear or normal deterioration.
- s. seeded lawns are accepted in "As is" condition. Client is responsible for repair of wash outs, settling, watering, touch-up re-seeding, and other maintenance and repair.

### **CAUTION**

Energy efficiency in this Home is achieved by construction methods which reduce air infiltration and air changes per hour. This may result in a concentration of water vapor from cooking, showering, etc., which, at excessive levels, can cause property damage. Likewise, concentrations of chemical compounds, radon or other gases or minerals released from soil, household furnishings, personal possessions, and building materials, at excessive levels, may create irritant effects or health hazards. Client can minimize adverse effects by proper utilization and maintenance of ventilation fans or other methods or systems and/or other ventilation devices installed by the Builder and by opening doors and windows to increase ventilation.

CLIENT HEREBY ACKNOWLEDGES THAT CLIENT HAS BEEN INFORMED OF SUCH HEALTH RISK, THAT CLIENT SHALL HAVE THE SOLE DUTY OF TAKING ALL ACTION TO PROTECT AGAINST THAT RISK, AND THAT CLIENT ASSUMES ALL RISK OR DAMAGE OR INJURY WHICH MAY ARISE AS A RESULT OF, OR IN ANY WAY CONNECTED WITH, SUCH CONSTRUCTION METHOD AND HEREBY FULLY, FINALLY AND FOREVER RELEASES AND DISCHARGES BUILDER, ITS OFFICERS, EMPLOYEES AND AGENTS FROM ANY AND ALL CLAIMS, LIABILITIES AND EXPENSE AND DAMAGES THEREFROM WHATSOEVER, WHETHER NOW KNOWN OR HEREAFTER KNOWN, WHICH CLIENT OR ITS ASSIGNS MAY HEREAFTER HAVE AGAINST BUILDER, ITS OFFICERS, EMPLOYEES AND AGENTS. REGARDING THE MATTERS REFERRED TO IN THIS PARAGRAPH, BUILDER MAKES NO EXPRESS OR IMPLIED WARRANTY OF HABITABILITY, MERCHANTABILITY, FITNESS OR OTHERWISE. CLIENT SHALL DEFEND, INDEMNIFY AND HOLD BUILDER HARMLESS FROM ANY CLAIMS FOR PERSONAL INJURY, PROPERTY DAMAGE OR OTHERWISE BASED ON THE MATTERS DESCRIBED IN THIS PARAGRAPH. THIS INDEMNITY INCLUDES ANY REASONABLE

ATTORNEY'S FEES AND DISBURSEMENTS WHICH BUILDER MAY INCUR IN DEFENDING ITSELF AGAINST SUCH CLAIMS.

### **EXCLUSION OF OTHER WARRANTIES AND REMEDIES**

THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE OF THIS DOCUMENT. ALL IMPLIED WARRANTIES, WHETHER OF MERCHANTABILITY, FITNESS OR OTHERWISE, ARE HEREBY EXPRESSLY EXCLUDED. BUILDER'S LIABILITY IS LIMITED TO THIS WARRANTY. BUILDER SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES WHETHER ARISING OUT OF BREACH OF CONTRACT, (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHER THEORIES OF LIABILITY, WITH RESPECT TO THE WORK PERFORMED BY BUILDER OR ANY UNDERTAKINGS, ACTS OR OMISSIONS RELATING TO THAT WORK. IF THE PRECEDING SENTENCE IS TO ANY EXTENT HELD INEFFECTIVE, ANY CAUSE OF ACTION AGAINST BUILDER BASED UPON TORT SHALL LAPSE UNLESS SUIT IS COMMENCED AGAINST BUILDER BY THE LATER OF ONE YEAR FROM THE DATE OF THIS WARRANTY OR ONE YEAR FROM THE DATE THAT THE CLAIMANT KNEW OR REASONABLY SHOULD HAVE KNOWN OF THE INJURY OR DAMAGE TO CLAIMANT.

### **ASSIGNMENT OF MANUFACTURER'S WARRANTIES**

Builder hereby assigns to Client all manufacturers' warranties, if any, on items Builder has provided as part of the Home.

### **TIME OF NOTICE OF CLAIM**

Client must give written notice to Builder of any defect in any item covered under this warranty within thirty (30) days after the discovery of the defect AND within the one-year term of this warranty. In the event of a problem associated with water infiltration or damage or any other problem which may result in further damage to the property, Client hereby agrees to notify Builder immediately after discovery. Any loss or damage caused or made worse by an unreasonable delay in notifying Builder will be the responsibility of the Client. In the event of damage or other problems with shingles or siding, Client shall notify Builder of the date and time of the occurrence.

### **NOTICE**

All notices to Client or Builder must be personally delivered or sent by first class mail to the last known address of the recipient.

## **REMEDY**

If, within one year from the date of this Limited Warranty, a defect occurs in any item which is covered by this warranty, Builder in its sole discretion shall repair, replace or pay the Client the reasonable cost of repairing the defective item. Builder has the right to choose whether to repair, replace or pay. Builder will make said repairs or adjustments within ninety (90) days of receipt of notice from Client subject to weather conditions, strikes, work stoppages, material availability, warranty coverage disputes, access to property and emergencies. In the event of an emergency which could result in further damage, Builder shall make all reasonable attempts to respond immediately upon notice from Client.

## **SERVICE AND REPAIR CHARGES**

In the event Builder, its agents, employees, or service subcontractors make a service call requested by the Client, which call results from a problem, repair, alteration, or replacement which was caused by unusual weather conditions, Client negligence, failure to perform maintenance, alteration of equipment or improper use of equipment, use of equipment in conjunction with faulty appliances or other attachments, Client shall promptly pay Builder or subcontractor for the service call. Charges for service calls will be reasonable and consistent with typical industry billing rates in the area.

## **DISPUTE SETTLEMENT**

If any dispute arises relative to this warranty, Client and Builder shall settle the dispute by arbitration. If a dispute arises out of or relates to this Limited Warranty including, but not limited to, coverage under this Limited Warranty, available remedies under this Limited Warranty, limitations on other remedies, alleged breach of this Limited Warranty, or the work performed or to be performed thereunder, and if the dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute by mediation administered by the American Arbitration Association or the National Academy of Conciliators (Builder's choice as to mediation service) before resorting to arbitration. Thereafter, any unresolved controversy or claim shall be settled by arbitration administered by the American Arbitration Association or the National Academy of Conciliators (Builder's choice as to arbitration service) and judgment upon the Award rendered by the arbitrator may be entered in any Court having jurisdiction thereof.

## **INDEPENDENCE FROM PURCHASE CONTRACT**

This Limited Warranty is independent of any building contract or offer to purchase between Builder and Client for the construction or sale of the Home. Contract disputes are not eligible for settlement by arbitration under this Limited Warranty.

## **GENERAL PROVISIONS**

If any provision of this warranty is determined to be unenforceable, that determination shall not affect the enforceability of the remaining provisions. This warranty is binding upon Builder and Client. This warranty shall not apply if there is any money owed the Builder on the Construction Contract, including extras or change orders.

## **INSURANCE**

Any repairs or replacement for items which are covered by insurance will entitle Builder to an assignment of the insurance proceeds to the extent of the cost to Builder of such repair or replacement.

## **NOTICE**

Energy efficiency in the Building is achieved by construction methods which reduce air infiltration and air changes per hour.

## **ASSIGNABILITY**

This warranty is for the personal benefit of Client, and is not assignable by Client.

Dated this        day of        , 20        .

Client:

Address:

Builder: Trademark Homes, LLC  
702 North High Point Road Suite 100  
Madison, WI 53717

By: Anthony F. Heinrichs

Title: Member