

**SEARS Home Services Home Warranty Program  
Terms and Conditions**

This SEARS Home Services Home Warranty Program (the “**SHS HW Program**”) Agreement, hereinafter referred to as the “**Agreement**”, is issued by the entity listed in the Warranty Terms of Use. Such entity is hereinafter referred to as the “**Issuing Company**”, or “**we**”, “**us**”, and/or “**our**”. The purchaser of the SHS HW Program covered by this Agreement is hereinafter referred to as “**you**” and/or “**your**”. This is a home warranty agreement, not an insurance policy.

**A) SHS HW Program – Shop Your Way® BONUS POINTS**

**1. Terms and Conditions:** These Terms and Conditions (as they may be amended from time to time,) apply to all members of the SHS HW Program, offered by Sears Holdings Management Corporation (together with its affiliated companies, “**Company**”). Upon your completion of the enrollment process you: (i) agree to enroll in the Sears Shop Your Way Program and (ii) are issued a Member Number (“**Member Number**”). Only Members who have signed up for Shop Your Way and are bonus members under the terms of the Shop Your Way Program will qualify for the SHS HW Program Shop Your Way Bonus Points Offer. (These Terms are subject to periodic changes that Company may make in its sole discretion. Company is entitled to modify the participation requirements (the “**Participation Requirements**”) for Members at any time. Unless otherwise specified herein, all changes to these Terms and the Participation Requirements of the Shop Your Way Bonus Points apply to all Members; including Members enrolled before the date the changes take effect.

**2. Eligibility:** In order to earn Shop Your Way points as part of the SHS HW Program, members must sign up for a Shop Your Way account and opt-in to receive promotional emails. The effective start and end dates for the Shop Your Way Bonus Points earn rate is aligned with the start and end dates of your purchase of an SHS Home Warranty, and you will begin earning Bonus Points on the effective date of the SHS HW Program. For those members who are not already Shop Your Way members, a sign-on process must be completed to initiate Shop Your Way benefits and it is the responsibility of the member to complete the sign-on process themselves. If you sign-up for a Shop Your Way membership after the start of your SHS Home Warranty program start date, any previous Qualifying Purchases through Sears and Kmart will not be eligible or retroactive for points earned. The Shop Your Way bonus points earn rate will terminate when the qualifying SHS HW Program membership is terminated. Termination of your SHS Home Warranty membership will not terminate your Shop Your Way membership. There are no points earned in the program from individual service events as part of the SHS HW Program service.

**3. Earn Rates and Cap limits:** The Shop Your Way “**Bonus Points**” offer is as follows: You will earn ten percent (10%) back in points on Qualifying Purchases (including base points as defined by the Shop Your Way Program Terms and Conditions, see link below) for the purchase of Systems Coverage and Appliance Coverage or fifteen percent (15%) back in points on Qualifying Purchases (including base points) for the purchase of Whole House Coverage. The Shop Your Way “**Bonus Points**” maximum earn through the SHS HW Program is \$700 (700,000 points) annually (the “**Bonus Points Cap**”) regardless of coverage type purchased. If the Bonus Points Cap is reached, you will earn points in accordance with then current Shop Your Way program terms and conditions and any related promotions. The Shop Your Way “**Bonus Points**” earn rate will be applied after all other discounts and price mark downs have been applied. Unless otherwise indicated, all Points earned under the SHS HW Program Shop Your Way Bonus Points offer will expire 90 days after issuance. The point expiration date may be subject to change from time to time.

**4. Shop Your Way Terms and Conditions:** Shop Your Way member benefits and offers are subject to the terms and conditions, available at [www.shopyourway.com/terms](http://www.shopyourway.com/terms).

**B) SHS HW Program - WAIVED SERVICE CALL VISITS**

As a benefit of your signing up for the SHS HW Program at time of request for service, SEARS will collect from you only a service call fee of \$60.00 and waive the repair costs up to \$500 retail value. If at time of the Waived Service Call Visit, SEARS in its sole discretion deems the item to be irreparable, you remain responsible for the \$60.00 service call fee. Following any completed Waived Service Call visit, in the event you elect to cancel the SHS HW Program according to the Agreement terms at

any time before the expiration of your initial term, you shall be liable for the full retail price for all fees and costs related to any such WAIVED SERVICE CALL VISIT. Any such service call visit will be administered as if a standard paid call.

**C) SHS HW Program - DISCOUNT ON NON-COVERED REPAIRS**

(Note: The Discount on non-covered repairs benefit applies only to customers who did not purchase the Whole Home option of the SHS HW Program.)

You are entitled to a twenty-five percent (25%) discount or reimbursement off the price paid on certain services performed and related parts provided by Sears that are not covered by this Agreement. For customers of the Appliance-Only option of the SHS HW Program, this discount shall apply to HVAC and Water Heater related services. For customers of the Systems Only option of the SHS HW Program, this discount shall apply to Appliance related services. In any event, the discount amount shall not exceed five hundred dollars (\$500) for the total price of the work completed.

**D) SHS HW Program - PREVENTIVE MAINTENANCE SERVICE CALLS**

1. Under the terms of this Agreement you may choose to receive up to two Preventive Maintenance Service Calls (each a "PM Service Call") (one Heating Service Call and one Air Conditioning Service Call). You may schedule only one PM Service Call at a time, and PM Services Calls must be completed within the appropriate Availability Window. The Availability Window for Air Conditioning PM Service Calls is February 1<sup>st</sup> through April 30<sup>th</sup>. The Available Window for Heating PM Service Calls is August 1<sup>st</sup> through October 31<sup>st</sup>. If you fail to schedule a PM Service Call during the Availability Windows you may not "make-up" that PM Service Call by scheduling a PM Service Call outside the Availability Window. No refund will be given for missed PM Service Calls.

2. When you call with a PM Service Call request, the program administrator will provide information on how to schedule service.

3. This Agreement covers only the labor costs (except where indicated otherwise within this Agreement) resulting from performing a specific set of preventive maintenance tasks on one Air Conditioning and one Heating system located within your home.

**E) SEARS HW Program - Warranty Plan:**

*This Home Service Agreement, hereinafter referred to as the "Agreement", is issued by the entity listed for your state on the Coverage Summary page. 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 Service 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.

**This Agreement has provisions for the use of final and binding arbitration to resolve disputes and otherwise limits the remedies available to you. Please see DISPUTE RESOLUTION section for more information about arbitration.**

**I. BASIS FOR COVERAGE**

**We agree to pay the covered costs to repair or replace the Items listed as covered on your Agreement Coverage Summary ("Covered Items") if any such Covered 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, without limitation our independent service contractor's diagnosis. We reserve the

right, at our option, to replace Covered 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 Covered Items that were in the home and in proper operating condition on the Agreement effective date. "Domestic-grade" items are those that were designed and/or designated by the manufacturer, manufactured and marketed solely for installation and use in a residential single family dwelling. "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 lack of routine care and maintenance or misuse. We will cover a pre-existing mechanical failure provided the failure could not have been detected by visual inspection or simple mechanical test prior to the effective date of the Agreement. A visual inspection of the Covered Items is considered to mean the viewing of an Item to verify that it appears structurally intact and without damage or missing parts that would indicate inoperability. A simple mechanical test means the ability to turn the unit off and on verifying the Item operates without irregular sounds or smoke that may indicate a problem. In certain instances, we may require documentation from you during a claim review.

Mechanical failure of kitchen/laundry appliances, air conditioning system and heating system due to rust and corrosion is not covered, unless such failure occurs after the Agreement effective date. The Covered Items 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, without limitation, our independent service contractor's diagnosis.

## II. 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.

**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. Primary Central Air Conditioning/Cooling System

**Description of Covered Items:** Mechanical parts and components of a centrally ducted air conditioning system 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; refrigerant gas lines interior to the unit; internal system controls; internal wiring; motors (excludes dampers); primary/secondary condensate drain pans; 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 single-family residential use. 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, 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 refrigerant 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.

### 2. 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 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 burners; concrete encased or inaccessible ductwork; concrete encased steam or radiant heating coils or lines; conditions of water flow restriction due to scale, 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.

### 3. Plumbing System/Plumbing Pipes

**Description of Covered Items:** Mechanical parts and components of the following: garbage disposal; interior hose bibs; shower and tub valves; faucets, should we choose to replace a faucet the replacement will be builder's standard; toilet tanks, bowls, and toilet mechanisms within the toilet tank. The clearing of plumbing stoppages using standard snake/auger systems, of drain, waste or vent lines up to 100 feet from point of access where accessible ground level cleanout is existing, and which can be cleared with standard cable. Request to clear the same line(s) after fourteen (14) days' time has elapsed will be considered a new claim and require a new deductible. Leaks and breaks, of water, gas, drain, waste and vent lines/pipes within the perimeter of the main foundation are also covered. We cover all toilets within the perimeter of the main foundation.

**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 grouting; color or purity of the water in the system; stoppage of concrete encased plumbing; any fees for locating, accessing or installing cleanouts; removal of water closets/toilets in order to clear stoppages, any fees for photo/video equipment, hydro-jetting equipment; jet or steam clearing; chemicals; stoppages caused by root invasion; stoppages caused by foreign objects, such as but not limited to, toys, bottle caps, etc; conditions of insufficient or excessive water pressure; conditions of water flow restriction due to scale, minerals and other deposits; exterior hose bibs; freeze damage; holding and pressure tanks; inaccessible plumbing; concrete encased plumbing; jetted bath tubs; jet pumps; laundry tubs; lawn sprinkler systems; pressure regulating devices; 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; wells and well pumps; whirlpools, spas and their respective plumbing and mechanical components. The following Items are not covered unless optional coverage is purchased: well pump, pool, spa and their respective plumbing and mechanical components.

### 4. 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. Includes mechanical failure resulting from sediment build up.

**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.

### 5. 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; resin bed replacement and salt.

### 6. Electrical System

**Description of Covered Items:** Standard mechanical parts or components located within the perimeter of the outer load bearing walls consisting of the following; ceiling fan motors and their controls (excluding transmitters and remotes); one (1)

garage door opener; 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; batteries; 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; garage door assemblies including door panels, tracks, rollers, hinges, cables and springs; intercom or speaker systems; lighting fixtures; load control devices; low voltage systems including wiring and relays; sending units; 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.

#### **7. Well Pump System** (Optional Coverage Only, requires an additional fee)

**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.

#### **8. Septic Tank/Septic Tank Pumping** (Optional Coverage Only, requires an additional fee)

**Description of Covered Items:** This plan covers the mechanical parts and components of one (1) sewage ejector pump (located within the perimeter of the main foundation). The clearing of stoppages within the connecting waste line (leading from the house to the primary septic tank ) which are attributable to normal wear and tear and can be accessed through an existing clean out without excavation. In the event the septic tank needs to be pumped or replaced, you may be responsible for locating an independent contractor to perform the necessary repairs or replacement. **In no event shall we be liable for claims in excess of \$500 to pump the septic tank or \$1000 to replace the septic tank, per agreement term.**

**Examples of Items/Conditions Not Covered:** Broken or collapsed sewer lines; tile fields; leach beds; leach lines; lateral lines; insufficient capacity; seepage pits; cesspools and sewage ejector pumps not associated with the septic system. We do not cover the cost associated with locating or gaining access to the septic tank or sewer hook-ups nor do we cover the cost of installing cleanouts or hook ups if they do not already exist; disposal of waste; chemical treatments of the septic tank or sewer lines, stoppages caused by root invasion and/or stoppages caused by foreign objects, such as but not limited to, toys and bottle caps.

#### **9. Sump Pump** (Optional Coverage Only, requires an additional fee)

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

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

#### **10. Swimming Pool/Spa/Combination Swimming Pool Spa** (Optional Coverage Only, requires an additional fee)

**Description of Covered Items:** Mechanical parts and components as follows: Above ground accessible piping lines leading to and from the unit; air pumps; blower motor; filters (housings, laterals, pressure gauges, back flush valves); gaskets; primary circulator pump and motor; and relays and impellers; internal spa pack heater; internal switches; primary circulator pump and motor; and relays; one (1) heater with respect to 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.**

**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); refrigerant reclamation (unless the Premier Upgrade Option is purchased); heater cabinetry and structural components; jets; lighting; pop up heads and turbo valves; portable spas or spas without hard pipe or hard wire installation; 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/or spa; timer and remote control systems and their components; and inaccessible underground and/or concrete encased plumbing.

### **III. SERVICE**

**1. When repair or replacement services covered by this Agreement are required, you must telephone us at the toll-free service number printed on your Agreement Coverage Summary page. Telephone service is available twenty-four (24) hours a**

**day, seven (7) days a week.** 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 service 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 service contractors. All repair and/or replacement work covered by this Agreement must be performed by a pre-approved independent service contractor, and all repair and replacement services must be approved by us in advance. **We are not responsible or liable for and will not cover any expenses you incur without our prior express consent, and we will not reimburse you for any costs you incur associated with unauthorized repair or replacement 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 Covered Items listed on your Agreement Coverage Summary. You are responsible for and shall pay the independent service contractor directly for the service call and for actual work performed and/or Item installed, up to the amount of the deductible at the time of visit(s), in a manner acceptable to the independent service contractor. You are responsible for and shall pay the independent service 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, inspecting, diagnosing, and/or performing service for the repair or replacement of a malfunctioning Item.

5. You will provide access to the covered property during normal business hours for the independent service contractor to diagnose, obtain approval for, and/or complete repairs for covered mechanical failures. You will pay us and/or our independent service contractor for any service charges and additional charges assessed by our independent service contractor resulting from your failure to provide access to the covered property 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 Covered Items is solely our option.** Should we choose to replace a Covered 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 to the Covered Item, when available with domestically assembled units. With respect to kitchen/laundry appliances, we will make reasonable efforts to provide replacement Covered Items having similar mechanical capabilities and/or efficiency of the original unit, when available. We are not required 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 Covered 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 Covered Items for any reason. Should we determine to replace Covered Item and you instead choose to effect a repair, that Covered Item shall be 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. In such cases, the amount of such credit shall be equal to the lesser of the approved cost of repair or the estimated cost of replacement. If you elect a credit to our independent service contractor, we will pay that amount directly to the independent service 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 service contractor prior to determining eligibility for coverage.

#### **IV. 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 with different capacity ratings); modified from the original manufacturer design or application; previously, or subsequently, 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 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, misuse or neglect; improper installation; improper or insufficient maintenance; 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 Covered Items due to, without limitation, 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 upgrades, components, parts, or equipment required due to the incompatibility of any existing equipment with the replacement system or appliance or component, or part thereof. This Agreement also does not cover any costs associated with or due to any incompatibility between any existing equipment, system or Item and any new type of fuel, chemical or material utilized to run the replacement equipment including, but not limited to, differences in technology, refrigerant requirements, or efficiency as mandated by federal, state, or local governments. This Agreement does not cover any costs associated with construction, carpentry, or other modifications made necessary by the existing equipment or installation of different equipment. This Agreement does not cover any costs associated with any upgrades or modifications required to comply with federal, state, and 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 any of the following: fees associated with the removal and disposal of old systems, appliances, components and Items; fees or costs, including, without limitation disposal fees arising from hazardous or toxic material, asbestos, refrigerant or refrigerant reclamation.
8. This Agreement does not cover any of the following: 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** including, without limitation, brand names such as Sub-zero, GE Monogram Series, Thermador, JENN-AIR, Viking, and Delfield.
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, or 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 service 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 service 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 IV, Paragraph 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 \$10,000.**

18. We are not liable for any damages that result from an independent service 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 service 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 service contractor, labor difficulties, and/or the negligent, tortious and/or unlawful acts or omissions of any independent service 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 \$50,000.** 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.

#### **V. PROPERTIES ELIGIBLE FOR COVERAGE**

1. This Agreement covers a single family residence, including a condominium, townhouse or villa used solely for residential purposes. 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 or registered in any historical register, including without limitation the National Register of Historic Places are not covered. Whether or not this Agreement covers a condominium unit, mobile home, manufactured home, or multi-family property (duplex), any repairs and/or replacements are 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. 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, you own the land on which the mobile home is located. Mobile/manufactured homes that are located in a division operated similar to a condominium, where maintenance is provided, are also eligible for coverage.

#### **VI. CANCELLATION**



1. You may void this Agreement within 30 days of the coverage effective date for a full refund of the contract fees paid if no claim has been made. The right to void this Agreement as provided in this paragraph is not transferable. A ten percent penalty per month will be added to any refund required under this paragraph, including any accrued penalties, that is not paid or credited within 30 days after termination of this Agreement pursuant to this paragraph.

2. You may cancel this Agreement within 30 days of the coverage effective date if a claim has been made, or at any time thereafter, at which time you may be entitled to a refund of unearned contract fees paid based on the short rate schedule less a processing fee of twenty-five dollars (\$25) and less the cost of any services performed pursuant to the Agreement, where permitted by law. If the refund calculation results in you owing us payment for services provided, we may bill you for the lesser of the net amount due to us or the unpaid annual term contract fee. We will bill or charge you any balance owed to us through the same mechanism as any previous installment billings, or we will direct bill you if such a mechanism is not available.

3. We may terminate this Agreement immediately, after any applicable notice provisions, for non-payment, fraud or material misrepresentation. If we terminate for fraud or material misrepresentation, this Agreement is void and we shall refund all paid contract fees if no claims have been made. If a claim has been made, we will follow normal cancellation procedures as outlined in this section.

## VII. DISPUTE RESOLUTION

**1. ARBITRATION:** All disputes, controversies or claims of any sort, arising out of or in any way relating to this Agreement, its negotiation, and the Services provided pursuant to it, whether based in contract, tort, regulation, or any other legal or equitable theory (collectively "Disputes"), shall be resolved at the consumer's choice by settlement or final and binding arbitration or in and through a small claims court having jurisdiction over such Disputes. Arbitration shall be conducted within the geographical limits of the applicable federal district court where the Covered Property is located, or such other location upon which both parties mutually agree. The Commercial Arbitration Rules and Supplementary Procedures for Consumer-Related Disputes of the American Arbitration Association (the "Arbitration Rules") in effect at the time arbitration is demanded by either party shall govern the arbitration proceeding and the selection of one neutral arbitrator to preside over the proceeding. The arbitrator is empowered to decide all Disputes and all questions related to the enforceability and scope of these Dispute Resolution provisions, including but not limited to the validity, interpretation and applicability of these Dispute Resolution Provisions. Additionally, this transaction involves interstate commerce, and these Dispute Resolution provisions shall be governed by the Federal Arbitration Act, as amended (9 USC 1). No arbitration may proceed on a class or representative basis, and the arbitrator may not consolidate any arbitration proceeding governed by these Dispute Resolution Provisions with any other person's arbitration proceeding, and may not otherwise preside over any form of a representative or class proceeding. Under the Arbitration Rules, although each party is required to pay certain administrative and arbitrator fees, the amount the consumer may be required to pay is limited. Each party to arbitration is responsible for its own attorney's fees, if the party chooses to be represented by an attorney.

**2. CLASS ACTION AND JURY TRIAL WAIVER:** Each party to this Agreement may bring a Dispute against the other only in its individual capacity and not as a plaintiff or class member in any purported class or representative proceeding. Each party gives up or waives any right it may have to have any Disputes between them resolved by a jury.

## VIII. OTHER CONDITIONS

1. **Term.** Coverage under this Agreement commences on the effective date specified on the Agreement Coverage Summary. This Home Service Agreement expires one (1) year from Agreement effective date, unless renewed.

2. **Renewal.** This Agreement will automatically renew at the option of the Issuing Company and where permitted by state law, for successive one (1) year periods, unless cancelled by you or us in accordance with the cancellation provisions. You will be notified of any rate and/or coverage changes not less than thirty (30) days prior to the expiration of the Agreement.

3. **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.

4. **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.

5. **Waiver.** Should we waive any of our contractual rights; such waiver will not constitute a future waiver of said rights.

6. **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.

7. **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.

8. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and supersedes 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.

9. **Issuing Company.** This Agreement is issued by HomeSure Services, Inc., except in the following states where it is issued by the identified entity: in Alabama, Arizona, Florida, Illinois, Iowa, Massachusetts, 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 Virginia and Oregon by HomeSure of Virginia, Inc. Services are provided by independent tradespeople/contractors.

10. **Corporate/Administrative Office.** Cross Country Home Services, Inc., P.O. Box 551540, Ft. Lauderdale, FL 33355-1540, 954-835-1900

**Description of Covered Items:** Mechanical parts and components of one (1) standalone freezer as follows: compressor; condensers; defrost heaters; electronic components; evaporators; fan motors; hinges; ice maker; motors; power cords; solid state control boards; switches and relays; thermostats; touch pads.

**Examples of Items/Conditions Not Covered:** Automatic deodorizers; commercial units; doors; door cables; door glass; door seals; drawers; drip pans; filters and screens; food spoilage; ice dispenser and their respective water supply lines; reclaim of refrigerant; interior lining; internal shelves; knobs and handles; light bulbs and fixtures; panels and/or cabinetry; racks secondary units; shelves; structural components; conditions of water flow restriction due to scale, rust, minerals and other deposits.

FRZR 07/14

SAMPLE