

## Limits of Liability

HGHW's liability is limited to failures due to normal wear and tear.

### ACCESS

HGHW is not responsible or liable for costs of construction, carpentry or other modifications necessary to remove, relocate, or install equipment, unless specifically noted in the contract.

- When a covered plumbing service is performed, access will be provided through unobstructed walls, ceilings, and floors only.
- When access is provided under this contract, restoration to wall, closets, floors, ceiling, or the like will be to a rough finish only.
- We are not responsible for providing or closing access to covered items, except as noted above and in coverage plan limits.
- We do not provide coverage to remove or install non-related systems, appliances, or equipment in order to render a covered repair or replacement.
- We do not excavate or backfill.

### GENERAL LIMITATIONS

**This plan does not cover systems or appliances, repairs, replacements or upgrades required as a result of:**

- A malfunction due to missing components or equipment.
- A malfunction due to lack of capacity of the existing system or appliance.
- A malfunction due to a system or appliance with mismatched components in terms of capacity or efficiency (unless otherwise noted in the contract).
- Routine maintenance or cleaning.
- Damage caused by people, pests, misuse and abuse and pets.
- Missing parts.
- Improper repair, installation and/or modifications (unless otherwise noted in the contract).
- Repairs or Replacements that are subject to manufacturer warranty are limited to \$1,000 aggregate (for labor only). Coverage applies with Advantage and Total Protection Plans only.
- Repair, replacement, installation or modification of any covered system or component for which a manufacturer has issued a warning, recall or other design flaw or determination of defect.

**This plan does not cover:**

- Cosmetic or other defects that do not affect the functioning of the unit.
- Solar Systems and Components (unless otherwise noted in the contract).
- Electronic, computerized, pneumatic, energy or manual management systems.
- Systems or appliances classified by the manufacturer as commercial or commercial equipment modified for domestic use. Any system or appliance that is solely been used for commercial use.
- Systems or appliances will be repaired or replaced with matching similar features, capacity and efficiency. We do not match brand, color or dimensions. If feature is no longer available, Our obligation is limited to equivalent unit based on available existing features.
- Systems and appliances that have no malfunction, that have not failed due to normal wear and tear or that are not installed for diagnosis.
- Service requested prior to the effective date of the coverage or after the expiration date of coverage.
- Service requested for Optional Coverage not purchased, or for options not available to Home Seller.

- Restocking and return shipping fees.

**HGHW will determine whether a covered item will be repaired or replaced. We have the right to a second opinion. The Homeowner may order his/her own second opinion but shall be responsible for the cost.**

#### **PERMITS AND OTHER FEES**

- When government regulations, building, and/or similar code criteria require improvements and/or additional costs to service a covered system and/or appliance including permits, the costs to meet the proper code criteria shall be Your sole responsibility except where otherwise noted in this contract.
- HGHW will be responsible for repairs and/or replacement of covered systems and/or appliances after the proper code criteria are met, except where otherwise noted in this contract.
- When upgrading covered systems, parts or components to maintain compatibility with equipment manufactured to be 14 SEER (Seasonal Energy Efficiency Ratio) compliant, HGHW is not responsible or liable for the cost of construction, carpentry, or other structural modifications made necessary by installing upgraded equipment.
- The cost to haul away components, systems or appliances that have been replaced (unless otherwise noted in this contract).
- The cost of cranes or other lifting equipment (unless otherwise noted in this contract).
- Relocation of equipment.
- The systems or appliance must have a failure in order for the code criteria to apply.

#### **GENERAL EXCLUSIONS**

- When parts are necessary for completion of service, HGHW will not be responsible for delays that occur in obtaining those parts. HGHW reserves the right to repair systems and appliances with non-original manufacturer's parts, including rebuilt or refurbished parts.
- This plan does not cover services due to smell, noise, fire, flood, smoke, power failure, surge and/or overload, soil movement, structural changes, design deficiency, inadequate design, accidents, riots, war, vandalism, land subsidence, slope failure.
- HGHW is not responsible for consequential or secondary damages resulting from the failure of a covered item and/or failure to provide timely service due to conditions beyond HGHW control, including but not limited to delays in securing parts, equipment, labor difficulties and/or weather.
- We do not pay, nor are We liable, for secondary or consequential loss or damage; personal or property loss or damage; or bodily injury of any kind.
- We do not pay for food spoilage; loss of income; utility bills; or living expenses.
- Common/shared systems and appliances are not covered except for a duplex, triplex, and/or fourplex. If this plan is for a unit within a multiple unit of five or more units, then only items contained within the actual unit will be covered. Common grounds and facilities are excluded unless otherwise covered in this policy.
- The control, remediation, abatement, or removal of mold, mildew, fungi, or bacteria or their byproducts, are not covered even if the failure of an otherwise covered system, component or appliance is the actual or suspected cause of the mold, mildew, fungi, or bacteria. Any necessary service to a covered item that is located adjacent to any area affected by mold, mildew, fungi, or bacteria, will be undertaken only after the homeowner has repaired the condition. Where toxic, hazardous or controlled

materials or containments including but not limited to asbestos, PCB's, lead paint or the like are found or suspected, HGHW shall be under no obligation to service or repair the affected item or system.

### **CASH IN LIEU/REPLACEMENT**

**In limited circumstances, e.g., where HGHW can determine that repair or replacement would be impossible or economically wasteful due to the age and obsolescence of an appliance or system, or where the cost of completing a full repair or replacement exceeds a stated contract dollar limit, HGHW will pay an amount equal to the contract dollar limit in lieu of providing repair or replacement services. Some or all of such payment may be made to You and/or a Service Provider. HGHW reserves the right to require You to accept cash in lieu of repair or replacement services in an amount based on what the ordinary customer would expect to pay after negotiating the best price for such services in Your area and without the benefits of this contract when:**

1. Following a response to a covered breakdown, the item would remain non-compliant with applicable laws, regulations or code requirements.
2. The item is subject to a manufacturer's recall for a defect unrelated to the covered breakdown.
3. An item becomes non-repairable and a replacement item is no longer available.
4. In the limited circumstance where We request or authorize You to contact an Independent Out-of-Network Service Provider directly to obtain service.

**HGHW may also offer You the option of accepting cash in lieu of repair or replacement services based on what HGHW would ordinarily expect to pay for parts and labor for covered items, an amount that is usually less than retail cost or actual cost. HGHW is not obligated to extend such an offer in any particular instance. Such offers are typically made subject to restrictions and must be submitted during contract term.**

**HGHW is not responsible for work performed by any a Service Provider once cash in lieu of work has been authorized. HGHW is also not responsible for non-covered work performed or non-covered costs charged by a Service Provider dispatched to provide covered services.**

### **CANCELLATION**

**This contract may be cancelled by HGHW for the following reasons:**

- a. Nonpayment of contract fees;
- b. Fraud or misrepresentation by You and/or Your representative of facts material to HGHW's issuance of this contract; or
- c. For contracts providing coverage prior to the time that an interest in the residential property to which it attaches is sold, upon the contingency that such sale does not occur.

**You may cancel this contract at any time and for any reason.**

**If You or HGHW cancel the contract following the beginning of the contract term, before the 30th day, the cancellation is subject to the following:**

- a. If HGHW has not provided any services, You will receive full refund of the contract fees paid the unexpired term;
- b. If HGHW has provided services and the amount of the service costs incurred by HGHW is less than the contract fees paid, You will receive a prorated refund of the contract fees paid for the unexpired term, less the service costs incurred by HGHW;
- c. If HGHW has provided services and the amount of the service costs incurred by HGHW is greater than the contract fees paid, You shall pay HGHW the less of (i) the amount by which the service costs incurred

by HGHW exceeds the contract fees paid: or (ii) the amount by which the annual rate listed on the Contract Agreement pages exceeds the contract fees paid.

**If You or HGHW cancel the contract following the beginning of the contract term, after the 30th day, the cancellation is subject to the following:**

- a. If HGHW has not provided any services, You will receive a pro rate refund of the contract fees paid the unexpired term;
- b. If HGHW has provided services and the amount of the service costs incurred by HGHW is less than the contract fees paid, You will receive a prorated refund of the contract fees paid for the unexpired term, less the service costs incurred by HGHW;
- c. If HGHW has provided services and the amount of the service costs incurred by HGHW is greater than the contract fees paid, You shall pay HGHW the less of (i) the amount by which the service costs incurred by HGHW exceeds the contract fees paid: or (ii) the amount by which the annual rate listed on the Contract Agreement pages exceeds the contract fees paid; and
- d. Additionally, You shall be responsible for an administrative fee of the lesser of (i) Your Plan Fee for one month of coverage under this contract or (ii) such amount as is permitted by law.

**If the contract fees are billed through a mortgage loan that is later sold or paid in full, then uninterrupted coverage can be arranged by immediately calling 886-993-2302 to establish an alternate payment method.**

**This contract will be deemed canceled if You fail to initiate such payment arrangements within 30 days.**

**The English version is the official version and the Spanish version is for informational purposes only. Any translated contracts are for informational purposes only. The official contract is in English. This is compliant with CIC § 394(a)(3).**

**This Plan is backed by the full faith and credit of HomeGuard HomeWarranty, Inc., 510 Madera Avenue, San Jose, CA 95112.**