

HOME BUYERS WARRANTY CORPORATION
Customer Service Office
2675 S. Abilene Street
Aurora, CO 80014
303-368-5204
303-368-4805



Home Buyers Warranty®

**Home Buyers Warrantysm Booklet
Limited Structural Warranty Coverage
10-Year Structural Only**

Dear Homebuyer(s):

Congratulations! You are purchasing a Home with express structural limited warranty protection provided by a Builder enrolled in the Home Buyers Warrantysm (HBW) program.

This Warranty Booklet and your Certificate of Warranty Coverage is your Builder's Limited Warranty to you. Your Builder warrants that, within the limitations described in these two documents, your Home will be free from qualifying structural defects.

Your Builder's Limited Structural Warranty will be insured by the insurance company stated on the Certificate of Warranty Coverage which you will receive after your Home is enrolled with HBW.

HBW is the warranty administrator, but NOT a warrantor under the contract. Your Builder's Warranty Insurer is not a party to this warranty contract, but your Builder's Warranty Insurer has agreed to perform certain tasks and undertake certain obligations which are described in this booklet.

Congratulations and enjoy your new home!

Home Buyers Warranty Corporation

HBW 309 4/1/00

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SECTION I DEFINITIONS

You means the person(s) who holds title to the Home. **Home** means the dwelling and does not include outbuildings nor any appurtenant structure or attachments to the dwelling, other than attached garages or carports (SECTION VI Exclusions). **Builder** means the Builder as listed on the Certificate of Warranty Coverage. **Warranty Insurer** is the Builder's Warranty Insurer as stated on your Certificate of Warranty Coverage. **Effective Date of Warranty** is your closing date, first title transfer or the date You or anyone else first occupied the Home if that was before closing. **Condominium** means a multifamily residential dwelling, each title holder of which has 100% ownership of his own unit and partial ownership of common elements such as hallways, walkways, elevators, and owns the land wholly in common. **Certificate of Warranty Coverage** is the document which provides proof of warranty coverage for a certain address and the coverage provided by your Builder. **Limited Warranty** means the express warranty described by the terms and provisions contained within this booklet. **HBW** means a warranty administration company which performs certain tasks for the Warranty Insurer. **Warranty Term** is the period during which a warranted defect must first occur in order to be covered hereunder, and is that period which begins on the Effective Date of Warranty as defined above and ends ten years thereafter. **Warranty Limit** is defined as the original sales price of the Home as stated in the Certificate of Warranty Coverage. **Builder Application for Home Enrollment** means the Builder Application for Home Enrollment Form signed by You and your Builder before the Home was enrolled in the HBW program. A **Common Element** is any portion of the structure in which enrolled units are located which is defined as a common element in either the state condominium law or in your Declaration of Condominium. **Common Element Stairways and Landings** are defined as stairways and landings that the Homeowners Association is obligated to maintain regardless of who performs the maintenance. **Structural Defect** is defined as actual physical damage to the designated load-bearing elements of the Home caused by failure of such load-bearing elements which affects their load-bearing functions to the extent that your Home becomes unsafe, unsanitary, or otherwise unlivable. All four parts of this definition must be satisfied in order for a condition to qualify as a structural defect. This is coverage for catastrophic failure of load-bearing elements of your home. The designated load-bearing elements that are covered under this structural warranty are:

1. Foundation systems and footings;
2. Beams;
3. Girders;
4. Lintels;
5. Columns;
6. Walls and partitions;
7. Roof framing systems;
8. Floor systems; and

Examples of elements not covered by this structural warranty which are deemed NOT to have Structural Defect potential are:

1. Non-load-bearing partitions and walls;
2. Wall tile or paper, etc.;
3. Plaster, laths, or drywall;
4. Flooring and sub-flooring material;
5. Brick, stucco, stone or veneer;
6. Any type of exterior siding;

7. Roof shingles, roof tiles, sheathing, and tar paper;
8. Heating, cooling, ventilating, plumbing, electrical and mechanical systems;
9. Appliances, fixtures or items of equipment;
10. Doors, trim, cabinets, hardware, insulation, paint, stains; and
11. Basement and other interior floating, ground-supported concrete slabs.

SECTION II EXPRESS LIMITED WARRANTY: TEN YEAR

For ten years from the Effective Date of Warranty your Builder warrants your Home against a Structural Defect. A Structural Defect is defined in Section I.

SECTION III REPORTING A STRUCTURAL DEFECT

If You believe your Home has a Structural Defect that meets the terms of this warranty as defined in Section I:

1. Complete the Notice of Claim form, which is found at the back of this warranty booklet. Fully describe the nature of the defect and the date You first noticed it on the Notice of Claim form.
2. Send a copy of your completed Notice of Claim form, a copy of your Certificate of Warranty Coverage, and a \$250 claim investigation fee for each claim to:
HBW Customer Service Office
2675 S. Abilene Street
Aurora, CO 80014

We recommend You send this information by Certified Mail, *Return Receipt Requested*. This must be received by HBW Customer Service no later than thirty (30) days after the expiration of your warranty or the claim will be denied.

As your Builder's insurer, the Warranty Insurer is entitled to assess claimed defects to determine if they are covered and decide upon an appropriate repair plan. The Warranty Insurer is also entitled to choose to repair or replace, or to pay You the reasonable value of the repair or replacement of a covered defect.

Except for authorized emergency repairs as defined in Section III of this warranty booklet, do not repair (or cause the repair of) a claimed defect before the Warranty Insurer has an opportunity to inspect the defect. Doing so will make it impossible for the Warranty Insurer to assess whether the defect was covered by your warranty; whether the repair You performed or caused to be performed was cost-effective, necessary, and effective; and whether the Warranty Insurer would have been able to solve the problem in another way. As a result, the Warranty Insurer will not accept, nor will the arbitrator be able to award to You, any claimed defect that You have had repaired or replaced. In addition, You will not be reimbursed for any costs or expenses You undertake to investigate a defect such as, but not limited to, engineering and attorney's fees.

WHAT TO DO IN THE CASE OF AN EMERGENCY An emergency is a condition which if not immediately repaired may cause danger to the Home or its occupants. If You have a ten year structural warranty coverage emergency, 1) You must contact the HBW Customer Service office at (303) 368-4805 or (303) 368-5204 in order to receive authorization for any emergency repairs. If the HBW Customer Service office is not available for emergency authorization, 1) You must make minimal repairs until authorization for more extensive repairs has been approved, 2) You must take action in order that further damage can be mitigated, and 3) You must report the emergency to the HBW Customer Service office on the next business day. Any unauthorized repairs will not be reimbursed unless You have followed the above procedures.

SECTION IV EXPRESS LIMITED WARRANTY: CONDOMINIUM

If your Home is a Condominium unit as defined in this warranty, You are being provided coverage as described under Section II which extends to Common Elements as also defined in this warranty.

EXTERIOR STAIRWAYS AND LANDINGS All exterior Common Element Stairways and Landings contained within multifamily projects will be covered only if they are constructed with metal and/or concrete materials. All exterior Common Element Stairways and Landings contained within multifamily projects that are constructed of wood are excluded from coverage unless your Builder paid an additional fee for coverage of wood materials used in exterior Common Element Stairways and Landings as reflected on your Certificate of Warranty Coverage. **EXCEPTION:** In the Las Vegas and Phoenix metropolitan areas, no additional fee is required for coverage of wood materials used on exterior Common Element Stairways and Landings. In the state of Colorado all exterior Common Element Stairways and Landings contained within multifamily projects must be constructed with metal and/or concrete materials. Wood materials are strictly excluded from coverage. Common Elements and Common Element Stairways and Landings are defined in Section I.

REPORTING A STRUCTURAL DEFECT Common Elements coverage begins on the date the Certificate of Occupancy was issued for the building containing your unit and Common Elements defects must be reported within the Warranty Term for Common Elements. Your Builder must enroll all Condominium units from your Condominium building in order to receive any structural coverage for your building's Common Elements. Claims pertaining to Common Elements must be filed by your condominium association or representative designated by the association using one Notice of Claim Form for each affected building. The Notice of Claim form must list each unit in the building and a Certificate of Warranty Coverage must be attached for each unit of the building. The maximum claim investigation fee is \$250 per unit in the building or \$5000 per building, whichever is less. By accepting this Limited Warranty, You agree to allow free access to, on, through or within your unit during normal business hours (after receiving notice from your association, your Builder, HBW or the Warranty Insurer) so that repairs may be made to any adjacent unit or Common Element area. You also agree that if emergency repairs are required which would be the responsibility of the Warranty Insurer and You cannot be contacted within a reasonable period of time, You waive such notice.

SECTION V CONDITIONS

THIS IS AN EXPRESS LIMITED STRUCTURAL WARRANTY OFFERED BY YOUR BUILDER To the extent possible under the law of your state, all other warranties, express or implied, including but not limited to any implied warranty of habitability, are hereby disclaimed and waived. No one can add to or vary the terms of this warranty, orally or in writing. In the event any provision of this Limited Warranty is determined by a court of competent jurisdiction to be unenforceable, that determination will not affect the validity of the remaining provisions.

The warranty obligations of your Builder's Warranty Insurer during the entire term of a warranty are limited to the lesser of the original sales price of your Home, or such lesser amount as HBW or the Warranty Insurer shall have established with your Builder. In addition, payments made to anyone for defects in the Common Elements of a Condominium structure reduce the Warranty Insurer's warranty obligation with respect to the structure, and reduce pro rata the warranty obligation with respect to each enrolled Condominium unit in the structure. When the limit has been paid, your warranty rights are extinguished. The obligation of the Warranty Insurer shall be excess to any valid and collectible property or casualty insurance available to You or to the Builder, whether such insurance is primary or excess insurance.

THIS IS AN INSURED WARRANTY This warranty may not be canceled by HBW or by the Warranty Insurer. In order for the Warranty Insurer to plan for the right amount of reinsurance and to insure this warranty coverage at a correct price, the Warranty Insurer needs to observe the warranty time limits carefully, and so do You, in order to avoid a material breach and the loss of warranty coverage.

WARRANTY NOT INSURANCE This warranty is not an insurance policy. You should have homeowners insurance and this is not it. Your bank or other mortgage financier may insist on homeowners insurance coverage if You have a mortgage. This is also not your Builder's CGL (commercial general liability) insurance policy. This warranty is not a maintenance agreement or service contract.

REPAIR The Builder or the Warranty Insurer shall repair, replace or pay the reasonable cost of repair of any covered Structural Defect. The design, method and manner of such repair shall be within the sole discretion of the Warranty Insurer. You are responsible for any damage to any improvement, fixture or property not constructed by the Builder which is damaged by, or during the repair of, a covered Structural Defect, and You shall pay for the cost of removal of such improvement, fixture or property necessitated by the repair of a covered Structural Defect. No repair shall extend the term of this warranty as to any covered Structural Defect, including without limitation, the Structural Defect which was the subject of the repair. Before the Warranty Insurer repairs or pays for the repair of a claim, You must assign to the Warranty Insurer any rights You may have against any other person with respect to the claim. The repair of a Structural Defect consists of, and is limited to: 1) repair of damage to the load-bearing portions of your Home which is necessary to restore their load-bearing function, 2) repair of those non-load-bearing portions damaged by the Structural Defect and whose repair is necessary to make your Home once again safe, sanitary, or otherwise livable, and 3) repair and cosmetic correction of only those surfaces, finishes and coverings, original with the Home, damaged by the Structural Defect or which require removal and replacement to repair the Structural

Defect or to repair other damage directly attributable to the Structural Defect. Repairs are intended to restore the Home to approximately the condition just prior to the Defect, but not necessarily to a like-new condition. The Warranty Insurer's costs of designing, accomplishing, and monitoring repairs to your Home (or payments to You or to another instead) are deducted from your Home's Warranty Limit. The Warranty Insurer's costs of determining the existence and/or extent of a covered Defect, are not deducted. In addition, any cost or expense You undertake to investigate a Defect such as, but not limited to, engineering and attorney's fees will not be reimbursed.

ACCESS TO YOUR HOME In order for the Warranty Insurer to carry out their responsibilities under this Agreement, they will require access to your Home from time to time. By signing the Builder Application for Home Enrollment or by using this warranty coverage, You hereby 1) agree to grant access to the Warranty Insurer and their agents and contractors during normal business hours to inspect, repair, and conduct tests in your Home as in their judgment may be required, and 2) appoint the Warranty Insurer as your attorney in fact for the purpose of applying or moving for an order to compel access to your Home during normal business hours in order for them or their agents or contractors to inspect, repair, and conduct tests in it. Failure to allow access to your Home will void the warranty.

ARBITRATION Any and all claims, disputes and controversies arising under or relating to this Agreement, including without limitation, any claim of breach of contract, negligent or intentional misrepresentation or nondisclosure in the inducement, execution or performance of any contract, and breach of any alleged duty of good faith and fair dealing, shall be submitted to arbitration by and pursuant to the rules of Construction Arbitration Services, Inc. (hereinafter "CAS") in effect at the time of the request for arbitration. If CAS shall for any reason be unable or unwilling to conduct, or is disabled from conducting such arbitration, the arbitration shall be conducted by and pursuant to the rules of the American Arbitration Association applicable to home warranty arbitration proceedings in effect at the time of the request for arbitration. The decision of the arbitrator shall be final and binding and may be entered as a judgment in any State or Federal court of competent jurisdiction.

The initiation or participation by any party in any judicial proceeding shall not be deemed a waiver of the right to enforce this arbitration provision, and notwithstanding any provision of law to the contrary, shall not be asserted or accepted as a reason to delay, to refuse to participate in, or to refuse to enforce this arbitration provision. Any party shall be entitled to recover reasonable attorney's fees and costs incurred in enforcing this arbitration provision, and the arbitrator shall have sole authority to award such fees and costs.

The administrative fee charged by the arbitration service will be paid by the Warranty Insurer in the case of single-arbitrator structural claim arbitrations. The administrative fee charged by the arbitration service will be paid by the Builder in the case of a dispute between the Builder and Warranty Insurer (and/or HBW). The arbitrator's compensation fee shall be borne equally by the arbitrating parties for single-arbitrator arbitrations. Additional fees may be assessed in accordance with the arbitration rules and fees. Any party who shall commence a judicial proceeding concerning a dispute which is arbitrable hereunder shall also be deemed to be a party requesting arbitration within the meaning of this paragraph.

A panel of three arbitrators may conduct an arbitration proceeding with the consent of all parties thereto. The decision of two of such arbitrators shall be sufficient for a decision. The party requesting the panel of three arbitrators shall submit the fees required by the arbitrators and the arbitration service to the Warranty Insurer prior to the dispute being submitted to the arbitration service. Additional fees may be assessed in accordance with the arbitration rules and fees.

The Warranty Insurer shall have the right, in advance of the arbitration proceeding, to reinspect any Home which is the subject of the arbitration proceeding if the request for arbitration was made more than 60 days following the last claim decision of the Warranty Insurer concerning such a Home. No arbitration proceeding shall involve more than one single family detached dwelling or, at the Warranty Insurer's option, no more than one multifamily building.

The parties expressly agree that this arbitration provision involves and concerns interstate commerce and is governed by the provisions of the Federal Arbitration Act, (9 U.S.C. § 1, et seq.), now in effect and as the same may from time to time be amended, to the exclusion of any different or inconsistent state or local law, ordinance or judicial rule; and to the extent that any state or local law, ordinance or judicial rule shall be inconsistent with any provisions of the rules of the arbitral association under which the arbitration proceeding shall be conducted, the latter rules shall govern the conduct of the proceeding.

If any provision of this arbitration agreement shall be determined to be unenforceable by the arbitrator or by the court, the remaining provisions shall be deemed to be severable therefrom and enforceable according to their terms.

WARRANTIES TRANSFERABLE All of your rights and obligations hereunder shall fully transfer to each successor in title to the Home, including any mortgagee in possession, for the remainder of the Warranty Term and any such transfer shall in no way affect or reduce the coverage under this warranty for its unexpired term. There is no limit to the number of such transfers during the Warranty Term, nor any cost hereunder as a result of such successions. If You sell your Home during the Warranty Term, You agree to give this warranty to your buyer to inform your buyer of warranty rights and to make it possible for the buyer to fulfill the obligations under the terms of this warranty. If You are a successor owner of the Home (that is, an owner other than the original purchaser), your Home will benefit from the coverage provided by this express Limited Warranty. Likewise, You are also bound by all the terms and conditions of the warranty including but not limited to claims procedures and participation in binding arbitration.

YOUR OBLIGATIONS The warranty coverage pays for the cost of labor and materials to correct a covered Structural Defect. Your obligations are to care for your Home in such a way as to rule out or minimize damage to it, and to pay your own expenses, should You elect to incur them, of pursuing claims against the Warranty Insurer, whether for professional services or for any other cost. You should be aware that all new homes go through a period of settlement and movement. During this period, your Home may experience some minor material shrinkage, cracking and other events which are normal and customary. Remember that You are responsible for proper maintenance of your Home including maintaining Builder-set grades around Home, planting trees and shrubs at the proper distance, and conforming to generally accepted landscape practices for your region. Any damage caused

or made worse by your negligence, improper maintenance or changes, alterations or additions performed by anyone other than your Builder or his/her agents, is excluded from coverage under this warranty.

SECTION VI EXCLUSIONS

This Warranty does not provide any coverage for the following items, which are specifically excluded.

1. Damage to land and other real property that is not part of your Home, or any property that was not included in the purchase price stated on the Certificate of Warranty Coverage;
2. Damage to swimming pools and other recreational facilities; driveways; boundary walls, retaining walls and bulkheads (except where boundary walls, retaining walls and bulkheads are necessary for the structural stability of the Home); fences; landscaping (including sodding, seeding, shrubs, trees, and plantings); sprinkler systems; patios, decks, stoops, steps and porches, outbuildings, detached garages or carports, or any other appurtenant structure or attachment to the dwelling; or other additions or improvements not a part of your Home;
3. Loss or damage which arises while your Home is being used primarily for nonresidential purposes;
4. Changes in the level of underground water table which were not reasonably foreseeable at the time of construction of your Home;
5. Failure of your Builder to complete construction;
6. Noncompliance with plans and specifications; violations of local or national building codes, ordinances or standards;
7. Any condition which has not resulted in actual physical damage to your Home;
8. Any loss or damage that is caused or made worse by any of the following causes, whether acting alone or in sequence or concurrence with any other cause or causes whatsoever:
 - a. Negligence, improper maintenance, defective material or work supplied by, or improper operation by, anyone other than your Builder or its employees, agents or subcontractors, including failure to comply with the warranty requirements of manufacturers of appliances, equipment or fixtures;
 - b. Your failure to give prompt and proper notice to HBW and your Builder of any defect;
 - c. Change of the grading of the ground that does not comply with accepted grading practices, or failure to maintain the original grade;
 - d. Riot or civil commotion, war, vandalism, hurricane, tornado or other windstorm, fire, explosion, blasting, smoke, water, rainwater, groundwater, flood, dampness, condensation, hail, snow, ice storm, lightning, falling trees or other objects, aircraft, vehicles, mudslide, avalanche, earthquake, or volcanic eruption;
 - e. Abuse or use of your Home, or any part thereof, beyond the reasonable capacity of such part for such use;
 - f. Microorganisms, fungus, decay, wet rot, dry rot, soft rot, rotting of any kind, mold, mildew, vermin, termites, insects, rodents, birds, wild or domestic animals, plants, corrosion, rust, radon, radiation, formaldehyde, asbestos, any solid, liquid or gaseous pollutant, contaminant, toxin, irritant or carcinogenic substance, whether organic or inorganic, and electromagnetic field or emission, including any claim of health risk or uninhabitability based on any of the foregoing;

- g. Your failure to minimize or mitigate any defect, condition, loss or damage as soon as practicable;
- 9. Any loss or damage caused by buried debris, underground springs, sinkholes, mineshafts or other anomalies which were not reasonably foreseeable in a building site provided by You;
- 10. Any damage You knew about prior to the Effective Date of Warranty;
- 11. Any request for warranty performance submitted to HBW or your Builder after an unreasonable delay or later than 30 days after the expiration of the applicable Warranty Term;
- 12. Loss caused, in whole or in part, by any peril or occurrence for which compensation is provided by state legislation or public funds;
- 13. Any loss or damage to the extent the loss or damage is covered by any other insurance, whether primary, excess, pro-rata or contingent;
- 14. Costs of shelter, transportation, food, moving, storage, or other incidental expenses related to relocation during repair, or any other costs due to loss of use, inconvenience, or annoyance;
- 15. Diminished market value of your Home; and
- 16. Any and all consequential loss or damage, including without limitation, any damage to property not covered by this Warranty, any damage to personal property, any damage to property which You do not own, any bodily damage or personal injury of any kind, including physical or mental pain and suffering and emotional distress, and any medical or hospital expenses, or lost profits.

HOME BUYERS WARRANTY CORPORATION
NOTICE OF CLAIM FORM
FOR STRUCTURAL CLAIMS ONLY

Customer Service Office
2675 S. Abliene Street
Aurora, Colorado 80014
303-368-5204
303-368-4805

Please read the Home Buyers Warranty Booklet for filing instructions and pertinent information

YOUR NAME _____

ADDRESS OF CLAIM _____

(Street)

(City)

(State)

(Zip)

HOME PHONE (_____) BUSINESS PHONE (_____)

EFFECTIVE DATE OF WARRANTY _____
(Mo.) (Day) (Year)
(Date of Closing or First Occupancy)

HBW Certificate of Warranty Coverage #

Please note that your Home Buyers Warranty provides Limited Structural Warranty Coverage which is subject to exclusions and conditions. You are encouraged to review the structural coverage provisions of your warranty booklet.

Please answer the following questions:

1. Have you reviewed the Definition of a Structural Defect in your warranty booklet? Yes No
2. Do you believe that you have actual physical damage to one or more of the listed load bearing portions of your home? Yes No
3. Have you reviewed the list of non-load-bearing elements which would not qualify as a Structural Defect under this coverage? Yes No
4. Do you feel that your home is unsafe, unsanitary or unlivable as a result of the defect? Yes No

NATURE OF DEFECT (BE SPECIFIC; IF AVAILABLE, ENCLOSE PHOTOGRAPHS; ATTACH SEPARATE SHEET IF NECESSARY):

DATE DEFECT FIRST OBSERVED: _____

IT IS UNLAWFUL TO KNOWINGLY PROVIDE FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES, DENIAL OF INSURANCE, AND CIVIL DAMAGES. ANY INSURANCE COMPANY OR AGENT OF AN INSURANCE COMPANY WHO KNOWINGLY PROVIDES FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO A POLICYHOLDER (BUILDER) OR CLAIMANT (HOMEBUYER) FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE POLICYHOLDER (BUILDER) OR CLAIMANT (HOMEBUYER) WITH REGARD TO A SETTLEMENT OR AWARD PAYABLE FROM INSURANCE PROCEEDS SHALL BE REPORTED TO THE INSURANCE COMMISSIONER OF YOUR STATE.

Homebuyer Signature (Date)

Homebuyer Signature (Date)