



## ATLANTIC HOME WARRANTY

Limited Renovation Warranty  
Non Structural and Structural

The following wording is applicable to all Limited Renovation Warranty Coverage provided by Atlantic Home Warranty. Please refer to your Renovation Warranty Certificate to Identify whether your Warranty is Structural or Non Structural.

### 1. DEFINITIONS

In this Renovation Warranty, the following terms shall have the meaning set forth in this Section:

**BUILDER** means the Registered Builder Member of the Atlantic Home Warranty Program named on the Renovation Warranty Certificate;

**PROGRAM** means the Atlantic Home Warranty Program;

**HOMEOWNER** means the person(s) named in the Renovation Certificate as Homeowner; the actual deeded owner or subsequent owner of the Home upon which Renovations are completed during the term of this Renovation Warranty;

**CERTIFICATE OF COMPLETION** means the document prescribed by the Program which has been signed by the Builder and the Homeowner and which records the Date of Renovation Completion;

**DATE OF RENOVATION COMPLETION** means the date upon which Renovations contemplated by this Warranty are substantially completed and accepted by the homeowner with execution of the Certificate of Completion by the Builder and Homeowner. This date also represents the first day of Renovation Warranty Coverage whether the Renovation is Non Structural or Structural;

**HOME** means the building located at the address set forth on your Renovation Warranty Certificate ONLY which is occupied as a permanent residential structure. Home does not include detached garages or detached carports, driveways, pavement or other exterior surface materials, curbs, sidewalks, fences, ancillary buildings, landscaping, light posts, swimming pools, shrubbery, flowers, plants, trees, patios, retaining walls, service lines including communications cables, wells or septic systems;

**SCOPE OF RENOVATIONS** means the renovation plan submitted by the Builder to the Program, and the basis of this Renovation Warranty;

**LIMITED RENOVATION CERTIFICATE** means the certificate prescribed by the Program as evidence of the issuance of this Renovation Warranty;

#### Applicable to the Structural Warranty Only:

**Load-Bearing Component** means any structural component essential to the structural integrity of the Home, such as beams, columns, joists, walls, trusses, footings, foundations, and other elements of the Home which support dead loads, included in the Scope of Renovations;

**Major Structural Defect** means a defect in work or materials that has resulted in a failure of a Load-Bearing Component of the Renovation which has substantially impaired its load-bearing function and has caused actual physical damage which has significantly affected the use of the Home for residential purposes. The term Major Structural Defect excludes defects in decks, driveways, basement and garage floors, patios, sidewalks, retaining walls, exterior wells (stairs, windows and doors) and in concrete which is not a Load-Bearing Component. For the

sake of clarity, only damages to the work included in the Scope of Renovations are covered by this Warranty. Any damage to the existing structure is not covered by this Warranty.

## 2. BUILDER WARRANTY

2.1 Subject to the terms, conditions and limitations of this Renovation Warranty,

2.1.1 The Builder warrants that the Renovation has been constructed in accordance with the applicable National Building Code of Canada in effect at the time the building permit was issued for this Renovation;

2.1.2 The Builder agrees to repair defects in workmanship in the Renovation and to repair or replace defective materials in the Renovation supplied by the Builder which are apparent within one year after the Date of Renovation Completion;

The Builder's obligations under Section 2.1 are conditional upon the Homeowner providing written notice as required by Section 6.1.3 of this Renovation Warranty.

2.2 The following shall not constitute defects and are Not Covered by this Renovation Warranty:

2.2.1 Loss of or damage to the existing home structure which is the subject of the Renovation whether directly or indirectly, proximately or remotely caused. For absolutely clarity, this Warranty applies to the Renovations set out in the Scope of Renovations ONLY;

2.2.2 Loss or Damage arising from improper maintenance by the Homeowner, including damage caused by dampness or condensation due to the failure of the Homeowner to maintain heat and/or adequate ventilation, humidification and dehumidification;

2.2.3 Normal cracks in plaster, paint, drywall, masonry, stucco and concrete;

2.2.4 Normal shrinkage in materials caused by drying after the date of possession;

2.2.5 Weathering, normal wear and tear, deterioration or deflection consistent with normal industry standards;

2.2.6 The actual or alleged existence, presence, growth, spread, release, discharge, reproduction or contamination on, in or about the Home of or by fungi (including but not limited to any form or type of mold whether or not toxigenic) or spores (including but not limited to any reproductive particle or microscopic fragment produced by, emitted from or arising out of any fungi), howsoever caused, and any loss or damage directly or indirectly arising therefrom or related thereto;

2.2.7 The actual or alleged existence, presence, release, discharge, or contamination on, in or about the Home of or by environmentally harmful substances or hazards, deleterious substances, or toxic conditions or materials, howsoever caused, and any loss or damage directly or indirectly arising therefrom or related thereto;

2.2.8 Defects and any resultant damage arising from workmanship or materials used in renovations by the Homeowner and any defects in workmanship or materials supplied by the Builder which have been altered by the Homeowner;

2.2.9 Subsidence of the land around the Home or along utility lines, excluding subsidence beneath the footings of the house;

- 2.2.10 Water damage arising from penetration of water through foundations walls;
- 2.2.11 Non-compliance with plans, specifications, or other design or scope of work requirements applicable to the Renovation, whether or not set forth in a written contract;
- 2.2.12 Sewer backup or seepage of water through the basement floor slab;
- 2.2.13 Water ingress caused by weather conditions beyond the manufacturer specified capacity of windows and doors;
- 2.2.14 Damage caused by acts of nature or by a third party including, but not limited to, fire, explosion, smoke, water escape, glass breakage, windstorm, hail, lightning, falling trees, aircraft, vehicles, flood, earthquake, landslide, and changes in the level of the underground water table whether reasonably foreseeable by the Builder or not;
- 2.2.15 Damage caused by insects, rodents or other animals;
- 2.2.16 Defects in workmanship or materials existing as of the Date of Renovation Completion which the Homeowner was aware or reasonably ought to have been aware, including but not limited to any such defects which were accepted by the Homeowner, defects which were included on a deficiency list or otherwise identified, or defects in respect of which an amount was held back from payment as a deficiency holdback;
- 2.2.17 Workmanship or materials or any as-built conditions which were inspected and accepted by a municipal inspector as not requiring repair, correction or any other remedial action, excluding accepted work, materials or conditions of which the Builder was aware or reasonably ought to have been aware and which the Builder knew or ought to have known would likely become impaired and/or result in future damage to the Home;
- 2.2.18 Diminution in value of the Home arising from the Scope of Renovations performed;
- 2.2.19 Damage caused or made worse by the failure of the Homeowner to take reasonable steps to mitigate any damage.

### **3. NON COMPLIANCE**

3.1 In the case of non-compliance with the requirements of the applicable National Building Code of Canada (NBC) resulting in damage to the Renovation, the obligation of the Builder under this Renovation Warranty shall be to comply with building code and repair loss or damage arising. In no event shall the Program otherwise be obliged to cause the Renovation to conform to the NBC as it appears in the jurisdiction/Province in which the Renovation is completed.

3.2 In the case of non-compliance with plans, specifications, or other design of the Renovation scope of work requirements which results in loss or damage, the builder shall be obliged to correct such non-compliance and resultant damage arising therefrom. The obligation of the Program shall be limited to repair of loss or damage arising from this non-compliance;

3.3 The Builder and the Program are not responsible for moving or removing any chattels or personal property of the Homeowner in order to allow repairs to be carried out to the Scope of Renovations under the terms of this Renovation Warranty.

### **4. PROGRAM WARRANTY**

Subject to the terms, conditions and limitations of this Renovation Warranty

In the event that the Builder fails to fulfill the Builder's obligations under the Builder Warranty, the Program will perform such Builder's obligations with the exceptions as noted in Section 2.4, For non-structural warranties, in the 11<sup>th</sup> month of the Builder's Warranty, the Program will conduct an inspection of the renovation prior to activation of Year 2 of the Non Structural Warranty;

During the Builder's Renovation Warranty Period of 12 months, claims for loss or damage to the Renovation must be apparent. If there is potential for damage based upon the Program's inspection which has yet to manifest, The Program shall be entitled to defer a decision for the remaining term of the Builder's Warranty Period. If at the end of the 12 months, if there is no damage evidenced, the Program shall have no liability hereunder;

If the Renovation Warranty purchased contains Structural Coverage, the Program shall repair any Major Structural Defect which becomes apparent during the four year period commencing one year after the Date of Renovation Completion, provided always that only Major Structural Defects caused by the negligence of the Builder are covered under this Renovation Warranty;

## **5. LIMITATIONS OF THE RENOVATION WARRANTY**

5.1 The warranties provided hereunder are limited solely to the repair of any physical damage to the property as outlined in the Scope of Renovations arising from defects in workmanship and materials provided by the Builder;

5.2 Neither the Builder nor the Program shall have any liability other than to repair the physical damage arising from defects in builder's workmanship and materials provided by the Builder. For greater certainty, in no event shall the Builder or the Program be liable for any injury, whether actual or threatened, to a person or persons, for loss or damage to property other than the Renovation outlined in the Scope of Renovations nor for any other injury or damages howsoever caused whether direct, indirect, proximately or remotely caused, consequential or otherwise;

5.3 The total aggregate limit of liability of the Program under this Renovation Warranty is Thirty Thousand Dollars (\$30,000.00). There is no coverage for damage arising from Water Penetration.

## **6. HOMEOWNER OBLIGATIONS**

6.1 This Renovation Warranty shall terminate and become null and void, and neither the Builder nor the Program shall have any obligations or liability hereunder, in the event that Homeowner fails to fulfill any of the following obligations:

- 6.1.1 The Homeowner shall properly maintain the Renovations;
- 6.1.2 The Homeowner converts the use of the Home for purposes other than a private residence;
- 6.1.3 The Homeowner shall promptly, within 12 months of the Date of Renovation Completion, notify the Builder by mail, of all loss or damage to said Renovations. Such written notice shall be by prepaid registered mail, with a copy to the Program by ordinary mail, at the address(s) shown on the Renovation Warranty Certificate;
- 6.1.4 Relating to the Structural Renovation Warranty only, the Homeowner shall promptly, and in any case no later than the expiry of five (5) years from the Date of Renovation

Completion, notify the Program in writing of any damages relating to said renovations which the Homeowner claims are Major Structural Defects covered under Section 3.2 of the Structural Renovation Warranty;

- 6.1.5 The Homeowner shall provide the Builder, the Program, or their respective representatives, and any conciliator appointed by the Program, with complete access to the Home during normal business hours for the purposes of carrying out such investigations, inspections and testing as are reasonably required or for repairing or replacing defects;
- 6.1.6 If the Homeowner has any dispute with the Builder concerning the performance of the warranty obligations of the Builder, (first 12 months of the Renovation Warranty) the Homeowner shall submit the dispute to Mandatory Conciliation to be finally resolved in accordance with Section 6. At the time of such submission, the Homeowner shall provide to the Program disclosure in writing of the particulars and amount of any holdbacks from payment to the Builder, whether as security for completion of work scope, repair of defects and deficiencies, performance of warranty obligations or otherwise;
- 6.1.7 Any claim against the Program for alleged breach or non-performance of the Program's obligations under this Warranty shall be submitted to arbitration under Section 7 within one year (1) year after the Program receives notice in writing as provided in Section 5.1.3 or Section 5.1.4.

## **7. TRANSFER OF THE WARRANTY**

In the event that the Home is sold by the original Homeowner during the term of this Renovation Warranty;

- 7.1 All of the Homeowner's obligations under this Renovation Warranty shall be binding upon any subsequent Homeowner;
- 7.2 Any acts, omissions, defaults of a Homeowner, or agreements of any kind made by a Homeowner with the Builder or the Program, shall be binding upon any subsequent Homeowner.

## **8. MANDATORY CONCILIATION PROCEDURE**

- 8.1 Any unresolved dispute between the Builder and the Homeowner relating to the Renovation Warranty shall be submitted to the Program for mandatory conciliation within sixty (60) days after the expiry of the Builder Warranty;
- 8.2 Only disputes relating to defects for which written notice has been given in compliance with Section 5.1.3 are eligible for conciliation.
- 8.3 Either the Builder or the Homeowner may submit the dispute for conciliation by completing and delivering to the Program a Request for Conciliation Form (which will be provided by the Program on request), together with any conciliation fee prescribed by the Program.
- 8.4 The Program shall appoint a Conciliator as soon as conveniently possible who shall carry out such investigations, including such inspections of the Home, as the Conciliator deems necessary, and shall receive any representations from both the Builder and the Homeowner within the time prescribed by the Program. The Builder and the Homeowner shall provide a full copy of the applicable construction contract, including all contract documents which describe the scope of the work, and such other documentation as the Conciliator reasonably requests for the purposes of investigating the dispute;
- 8.5 Within a reasonable period of time after the commencement of the Conciliation, the Conciliator shall render a written decision (the Interim Decision) determining the rights and obligations of the Builder and the Atlantic Home Warranty Renovation Warranty V06/2016

Homeowner in respect of the dispute and including, if applicable, a scope of remedial work. . The Interim Decision shall be served on the Builder and the Homeowner. Delivery of the interim decision may be in person (requiring signature to note receipt), Canada Post or Electronically;

8.6 Either party may, no later than twenty (20) days after the date of the Interim Decision, provide to the Conciliator additional documentation which the party believes is relevant to the resolution of the dispute or which was not previously made available to the Conciliator;

8.7 If no additional documentation is provided within the time required by Section 6.6, the Interim Decision shall be deemed to be final. In the event that additional documentation is provided within the time limited by Section 6.6, the Conciliator shall consider such documentation and render a final decision as soon as practicable thereafter;

8.8 If the Conciliator's final decision requires remedial work to be carried out, the Program may conduct such inspections as the Program deems necessary until the remedial work is complete;

8.9 The Conciliator's decision shall be conclusive, final and binding upon the Builder and the Homeowner. If the Builder or Homeowner wish to contest the decision, they may do so through the ARBITRATION PROCESS, bearing the costs associated therewith

## 9. ARBITRATION

9.1 With the exception of disputes which are subject to Mandatory Conciliation and subject to Section 6, any differences as to the interpretation of this Limited Warranty or claims arising out of any alleged failure to perform or breach of obligations hereunder ("disputes") shall be resolved by arbitration before a single arbitrator in accordance with this Section. The parties are encouraged to make all reasonable efforts to resolve any dispute with the assistance of a mediator prior to proceeding with arbitration under this Section 7;

9.2 The arbitration shall be conducted in accordance with the latest edition of the CCDC 40 rules for arbitration published by the Canadian Construction Documents Committee, as modified by the Program to conform to resolution of disputes under this Limited Warranty (the "Arbitration Rules"). If there is any inconsistency between the Arbitration Rules and this Limited Warranty, the terms of this Limited Warranty shall govern;

9.3 The final award of the arbitrator shall be conclusive, final and binding, and accordingly is not subject to judicial review or appeal to the court on any basis whatsoever;

9.4 The parties to the arbitration shall be deemed to have undertaken to carry out the final award without delay;

**This Warranty is Excess to any other Product Warranties and Insurance that may exist at the time a loss is reported to the Program.**