



LIMITED WARRANTY

THIS LIMITED WARRANTY EXCLUDES CONSEQUENTIAL DAMAGES

- 1) What is covered by the Limited Warranty?** The Remodeler (also referred to in various documents alternatively as “builder”, “contractor”, “seller” or “supplier”) warrants that all construction related to the project, or remodeled space, (the terms “project”, “work” or “remodeled space” are used interchangeably herein and include the Plans and Specifications together with Excess Costs/Change Orders as defined in the “Agreement to Remodel Home”), substantially conforms with the Estimates, Plans and Specifications (as applicable) and Excess Costs/Change Orders, that the materials that were used with respect to this project were new (unless expressly agreed upon by the parties), and that the construction was completed in accordance with industry standard practices.

Within one year from the substantial completion of construction or occupancy of the remodeled space by the Owner, (also referred to in various documents alternatively as “buyer”, “client”, or “customer”) whichever is first to occur, the Remodeler will repair or replace, at Remodeler’s option, any defects in material or workmanship as determined by the application of the above-referenced workmanlike standard practices and as otherwise limited by the terms and conditions of this Limited Warranty. Owner agrees to accept a reasonable match in any repair or replacement in the event the original item is no longer available.

Remodeler’s Right-to-Cure. This Limited Warranty Agreement is a separate contract entered into between the Owner and Remodeler, involves independent and sufficient consideration exchanged between the parties and is designed to address and resolve issues and alleged defects that may arise within one-year of the closing and/or legal occupancy of the home. The purpose of this Agreement is to govern such issues without resort to disputes or the expense and uncertainty of arbitration or litigation. In recognition of this purpose, and the independent consideration and mutual agreement involved, the parties agree that prior to commencing arbitration or legal actions under this Limited Warranty Agreement, the Owner hereby grants the Remodeler the right and ability to investigate, resolve and cure, when determined necessary, any alleged construction defect before the Owner may commence arbitration or legal action for any purpose, including but not limited to allegations that Remodeler failed to construct the home or complete the job in a “workmanlike” manner. (The Remodeler’s “Right to Cure” – see below for cure procedure.)

2) What is not covered by the Limited Warranty? This Limited Warranty **DOES NOT** cover the following items:

- a) Damages from the elements (such as fire, wind, hail, lightning, ground movement or other natural occurrence or casualty), misuse, abuse, ordinary wear and tear, and/or the failure of Owner to follow proper operating instructions or to otherwise fail to properly maintain the area of the home that is related to the remodeling project;
- b) Damages from the failure of utility services;
- c) Damages related to items not furnished by the Remodeler, including damage to personal property and defects in materials and workmanship or negligence attributable to persons other than the Remodeler, or its subcontractors, suppliers or employees;
- d) Items arising after the one year period referenced above;
- e) Incidental or consequential damages, such as loss of the use of the home, including secondary damages and damages from mental anguish;
- f) Damages to anyone other than the original Owner;
- g) Defects in appliances and equipment and other miscellaneous items considered "Consumer Products", as defined below, that are covered by manufacturers' warranties (the Remodeler herein having assigned these manufacturers' warranties to the Owner pursuant to Section 3 to the extent they are assignable and it accordingly being agreed that if a defect appears in these items, the Owner should follow the procedures set forth in the manufacturers' warranties relative to the same), however, the Remodeler warrants that appliances shall be properly installed;
- h) Conditions or damages caused or aggravated by any failure to give notice to the Remodeler within a reasonable time that inhibits the Remodeler's opportunity to take remedial action or denial of or lack of cooperation with the Remodeler's right to cure; and,
- i) The so called "non-warrantable" conditions as hereafter set forth in **Section 5**.

3) Manufacturers' Warranties. The Remodeler assigns and passes through to the Owner (to the extent they are assignable) the manufacturers' warranties on all appliances, equipment, and other Consumer Products. The following items are examples of such Consumer Products: appliances, heating and cooling equipment, plumbing fixtures and equipment, mechanical and/or electrical equipment, cabinets, floor coverings, roofing materials, windows, and doors, etc. NOTICE: APPLIANCES, EQUIPMENT OR OTHER COMPONENTS SUPPLIED OR INSTALLED UNDER A MANUFACTURER'S WARRANTY WILL BE REPAIRED OR SERVICED BY THE MANUFACTURER OR DESIGNATED SERVICE PERSONNEL AND NOT THE REMODELER UNDER THIS LIMITED WARRANTY AGREEMENT.

4) NO OTHER EXPRESS WARRANTIES. UNLESS OTHERWISE PROVIDED IN WRITTEN FORM BY THE REMODELER'S AUTHORIZED LEGAL REPRESENTATIVE, THIS LIMITED WARRANTY IS THE ONLY EXPRESS WARRANTY THE REMODELER GIVES.

5) Non-warrantable Conditions. As applicable, the following statement of conditions relates to items or events that are not subject to the Remodeler's warranties as set forth herein. To this end, Owner acknowledges and understands that, like other products made by humans, a remodeling project, home renovation and construction are not perfect and certain inherent elements in the materials used to construct and remodel a home are such that the following conditions cannot reasonably be warranted by the Remodeler. The Owner acknowledges that the Owner has read these items carefully and understands that the Remodeler has not contracted for the Remodeler to correct these types of problems should they occur.

- a) Radon/Indoor Air Quality. The Remodeler makes no warranty regarding the presence of radon gas at or in the vicinity of the house or the quality of the air within the house. Radon is a naturally occurring phenomenon. The Remodeler claims no special expertise regarding either the identification of or the

methods to reduce radon levels, or the risks associated with radon exposure and makes no warranty relative to the same.

1. Other Environmental Pollutants. Remodeler makes no warranty, either expressed or implied, regarding the absence of mold, fungi, bacteria or other micro-organisms or other environmental pollutants, in or about the subject property, nor does Remodeler have any knowledge of the special health conditions of any persons that comprise Owner or of those who may reside in the home with Owner. In the event any person that comprises Owner or any person who may reside with Owner in the home shall have special medical conditions which are known to Owner or become known to Owner which may adversely affect such person or persons who may reside in the home, Owner should consult with appropriate medical experts, at Owner's cost. (Please note: Any evaluation by a medical or human health expert shall meet the standards of Texas law as adopted by the Texas Supreme Court for evaluating mold, hazardous and toxic substances.) Any testing or remediation desired by Owner shall be at Owner's expense, unless Remodeler asserts Remodeler's Right to Cure as specified in this Agreement and/or the Agreement To Remodel the Home executed between the parties, and specifically agrees in writing to cover such items.
 - b) Concrete, Masonry and Mortar. Concrete, masonry, and mortar may develop hairline cracks or may develop spalling due to shrinkage, expansion, and contraction. These cracks or spalling may not affect the structural integrity of the building, are impossible to eliminate, and are considered normal.
 - c) Wood. Wood will sometimes check or crack or the fibers will spread apart because of the drying out process. This condition is most often caused by the heat inside the house or the exposure to the sun on the outside of the house. This condition is considered normal, and the Owner is responsible for any maintenance or repairs resulting from it.
 - d) Drywall/Sheetrock. Sheetrock or drywall will sometimes develop nail pops or settlement cracks. These nail pops and settlement cracks are a normal part of the drying out process. These items can easily be handled by the Owner with spackling during normal redecorating. However, if the Owner wishes, the Remodeler will send a worker at the end of the one-year term described in **Section 1** above to make the necessary repairs. The Remodeler's repairs will include repainting the repaired area only. The Remodeler is not responsible for color variations and is to match the affected areas only as closely as reasonably possible.
 - e) Caulking. Exterior caulking and interior caulking in bathtubs, shower stalls, and ceramic tile surfaces will crack or shrink somewhat in the months after installation. These conditions are normal and should not be considered a problem. Any maintenance or repairs resulting from them are the Owner's responsibility.
 - f) Frozen Pipes. The Owner must take precautions to prevent freezing of pipes and sillcocks during cold weather, such as removing outside hoses from sillcocks, leaving faucets with a slight drip, and turning off the water system if the house is to be left for extended periods during cold weather. Any damage caused by the Owner's failure to maintain adequate heat to the home, including resulting damage to personal property, is excluded.
 - g) Ice Dams. Ice dams are considered a natural phenomenon, caused by freeze/thaw cycles in the winter. Erratic weather conditions can cause the build-up of ice, snow, and water, which backs up under the shingles, causing leaks. Ice dams and ice and snow build-up should be removed from the lower portions of the roof, if at all possible. Ice dam prevention is the Owner's responsibility.
 - h) Alterations to Grade. Any alterations to grading due to the installation or addition to landscaping, patio or service walks by the Owner, which either obstructs the initial grading pattern as established by the Remodeler, exceeds the damproofing or waterproofing height of the foundation, or eliminates the positive grade (slope) away from the foundation, and any problems that result from any of the above conditions, will not be covered by this Limited Warranty.

- i) Damage Due to Adding Sprinkler System After Completion. Remodeler is not responsible for the following occurrences arising as a result of the Owner installing a sprinkler system outside of the scope of Owner's contract with Remodeler: (i) discoloration of paint, stucco or other exterior materials resulting from the sprinkler systems; (ii) severance of underground downspout tile, wires, cable or telephone lines, etc.; (iii) basement moisture/leaks; and (iv) damage to shrubbery and trees due to excessive water.
- j) Floor Squeaks. After extensive research and writing on the subject, technical experts have concluded that much has been tried but that little can be done about floor squeaks. Generally, floor squeaks will appear and disappear over time with changes in the weather and other phenomenon.
- k) Floors. Floors are not warranted for damage caused by neglect or the incidents of use and normal wear and tear. Wood, tile, natural stone, synthetic flooring, and carpet all require maintenance. Floor casters are recommended to prevent scratching or chipping of wood or tile, and stains should be cleaned from carpets, wood, or tile immediately to prevent discoloration. Carpet has a tendency to loosen in damp weather and will stretch tight again in dryer weather.
- l) Brick Discoloration. Most bricks may discolor because of the elements, rain run-off, weathering, or bleaching. Efflorescence (the formation of salts on the surface of brick walls) may occur because of the passage of moisture through the wall. Efflorescence is a common occurrence, and the Owner can clean these areas as the phenomenon occurs.
- m) Broken or Scratched Glass. Any broken or scratched glass or mirrors that are not noted by the Owner at the final inspection are the responsibility of the Owner.
- n) Stained Wood. All items that are stained will normally have a variation of colors because of the different textures and grains of the woods. Because of weather changes, doors that have panels will sometimes dry out and leave a small space of bare wood, which the Owner can easily touch up. These conditions are normal and are not considered defects; and, accordingly, are not covered by this Limited Warranty.
- o) Paint. Good quality paint has been used internally and externally on the home. Nevertheless, exterior paint can sometimes crack or check. The source of this defect is most often something other than the paint. To avoid problems with the paint, the Owner should avoid allowing lawn sprinklers to hit painted areas, washing down painted areas, and so on. The Owner should also not scrub latex-painted, inside walls and be careful of newly painted walls as they move furniture. The best paint will be stained or chipped if is not cared for properly. Any defects in painting that are not noted at the final inspection are the Owner's responsibility.
- p) Plumbing Maintenance. If the plumbing is stopped up during the warranty period and the person servicing the plumbing finds foreign materials in the line, the Owner will be billed for the service call.
- q) Lawn, Shrubs and Trees. The Remodeler accepts no responsibility for the growth of grass or shrubs. Once the Remodeler grades, seeds and/or sods the yard, the Remodeler must water the plants and grass the proper amount and plant ground cover, where necessary to prevent erosion. The Remodeler will not regrade a yard, nor remove or replace any shrubs or trees, except for those that are noted as diseased at the final inspection.
- r) Roof. During the first year the warranty on the Owner's roof as added and/or altered by the remodeling project is for workmanship and materials. After that the warranty on the roof is for material only, and it is prorated by the manufacturer, over the period of the lifetime use of the roof. Warranty claims for any defects in materials should be handled through the manufacturer with the distributor's and the Remodeler's assistance. The Remodeler will not be responsible for any damages caused by walking on the roof or by installing a television antenna, satellite dish or other item on the roof.
- s) Condensation. Condensation takes place in a home wherever warm, moist air comes into contact with colder surfaces such as windows, basement walls or exposed pipes. There is more condensation in homes today because they are built tighter, insulated better, and have improved doors and windows that have virtually eliminated drafts and numerous air exchanges in the home. The Remodeler shall assume no responsibility for condensation, or for any damages due to condensation.

- t) **Rising Truss Syndrome.** Rising truss syndrome is a naturally occurring phenomenon, referring to either a noticeable crack in the drywall, or the sudden development of floor squeaks along the center non-bearing walls directly under the center of the roof truss spans. It usually develops during the first heating season. Specifically, it involves homes that have had a “truss system” installed instead of a conventionally framed roof system. A roof truss system (which is simply a premanufactured building component made of several parts) permits longer spans with smaller framing members. However, when assembled the roof truss system is in temperature equilibrium, but after it is installed, the situation changes with parts of the truss system absorbing moisture and expanding and other parts not, thus sometimes creating an upward arching and the above referenced results. While there are methods that can be used to minimize the effect of this syndrome, it generally cannot be eliminated in its entirety and accordingly is excepted from this Limited Warranty.
- u) **Unforeseen and/or Concealed Conditions.** Unforeseen and/or concealed conditions in the home, including, but not limited to, the presence of old paint containing lead, asbestos on duct work, piping or in other areas, or hazardous materials or other environmental and health hazards that existed prior to the beginning of remodeling work or remediation under this contract shall not fall under the warranty responsibility of the Remodeler. Any work to remove such materials or substances undertaken by the Remodeler shall not be interpreted as a warranty that all such materials or substances, concealed or otherwise, have been eliminated from the home in total and do not remain.

6) Claims Procedures. If a defect appears that Owner thinks is covered by this Limited Warranty, the Owner must write a letter within 48 hours of the defect appearing describing it to the Remodeler and send it to the Remodeler at the Remodeler’s office address as set forth herein. The Owner must tell the Remodeler in writing what times during the day the Owner will be at home so the Remodeler can schedule service calls appropriately. If a delay will cause extra damage (for instance, a pipe has burst), the Owner should telephone the Remodeler. Only emergency reports should be given or taken by phone. Failure to notify the Remodeler of defects covered under this Limited Warranty or any implied warranties that are limited pursuant to this Limited Warranty shall relieve the Remodeler of liability for replacement, repair or other damages relating to the same.

7) Opportunity to Investigate, Right to Cure and Elect Remedies. In accordance with the Remodeler’s right to cure, Owner agrees to provide Remodeler with the reasonable opportunity to investigate and determine responsibility for and/or cure all alleged defects, if any, including remediating and/or making repairs or, alternatively, to elect to pay for the reasonable cost of repairs at Remodeler’s sole discretion.

8) Remodeler’s Duty to Diligently Prosecute Repairs, Homeowners’ Duty of Ongoing Cooperation with Remodeler’s Reasonable Ongoing Efforts. The Remodeler’s rights and responsibilities under this limited warranty agreement are subject to the Remodeler’s diligent prosecution of remedial work which requires the Remodeler to use commercially reasonable efforts to properly diagnose and complete covered repairs in a reasonable and timely manner so as not to allow a defective condition to worsen or to lead to the diminution in value of the property. However, this standard recognizes that the cause, diagnosis and possible cures for home construction defects can be difficult to ascertain (e.g., water intrusion or leaks) and in some cases, may only be discovered and determined through a detailed process of elimination involving significant time and effort. This may include but may not be limited to staging repair and testing under specific weather conditions and/or evaluating the effectiveness of remedies after seasonal conditions have changed.

In executing and accepting this warranty agreement, the Remodeler recognizes that so long as Remodeler is diligently pursuing discovery and/or repairs and remedies in good faith and on an ongoing basis, the Owner’s ongoing duty to cooperate in full with the Remodeler under this agreement is not waived. This is the case

even after multiple unsuccessful attempts have been made to address the issue, including incorrect diagnosis or unsuccessful remedial repairs.

- 9) Violation of Remodeler's Right to Cure Bars Claims.** Owner expressly agrees hereby that any legal claim, cause of action or submission to arbitration, made under any legal theory, and brought by Owner against Remodeler for an alleged defective condition shall be subject to the Remodeler's Right to Cure and to elect remedies under this agreement in that such claims, actions and submissions shall be barred unless and until the Owner provides the Remodeler with the reasonable opportunity to cure, and/or elect remedies, fully cooperates, including sharing any reports or data compiled by Owner's expert with Remodeler and provides ongoing access to the home for purposes of the Remodeler's diagnosing and diligently prosecuting repairs until complete.
- 10) Failure to Mitigate Damages Voids Warranty and Provides Affirmative Defenses to Remodeler.** Owner is expressly prohibited from claiming damages from an alleged defect, where Owner has denied or continues to deny Remodeler's reasonable requests and/or attempts to remedy, or pay to remedy, such defect. The Owner acknowledges that such a denial by the Owner of the Remodeler's right to cure amounts to a violation of this Agreement, and as such, the parties agree that Owner's remaining warranty rights, if any, shall be terminated. In addition, the parties agree that such denial by Owner of Remodeler's right and reasonable attempts to cure or Owner's failure to cooperate will constitute Owner's failure to mitigate damages, and thus shall provide Remodeler with this and all other affirmative defenses afforded to Remodeler under the law.
- 11) Arbitration in the Case of Disputes.** In the event after completion of such investigation and review by Remodeler, and after the Owner has fully cooperated and provided Remodeler with the right to cure and/or elect remedies as required herein, there is a claim(s), dispute(s) or other matter in question over which Remodeler and Owner cannot agree to a resolution thereof, or in the event Owner and Remodeler cannot agree to the resolution of any other dispute arising under the terms of this Agreement, Owner and Remodeler agree that a decision as to the disputed item(s) shall be reached through binding arbitration based upon the rules (the "Rules") promulgated by the Home Construction Arbitration Rules and Mediation Procedures (ARB-1) of the American Arbitration Association (AAA) which shall be conducted in a prompt and expeditious manner and in accordance with the following general guidelines. Owner and Remodeler agree that notwithstanding the Rules, the American Arbitration Association (AAA) shall select an arbitrator to perform the arbitration. To this end, Owner specifically acknowledges that the American Arbitration Association (AAA) itself will not actually be requested to conduct such arbitration. Rather, they will only assist in naming the arbitrator. The fees of the arbitrator shall be split by Owner and Remodeler. Thereafter, a hearing shall be held. The decision of the arbitrator at such hearing shall be final and binding upon the parties. Owner and Remodeler additionally agree that in the case of such a claim or dispute, time is of the essence and that the most expeditious reasonable method of arbitration as set forth above shall be used, and further, that all of the parties shall be bound by the outcome of such arbitration.
- 12) Limited Warranty Not Transferable.** This Limited Warranty is extended to the Owner only and is not transferable. When the Owner sells the home or moves out of it, this Limited Warranty automatically terminates. It is not transferable to subsequent purchasers of the home, nor to the Owner's tenants.
- 13) Interpretation of Codes, Standards and Specifications.** Relative to matters of building codes or manufacturers' recommended installation methods for specific products or materials, local building industry standards, standard practices, and any necessary repair protocols under this Limited Warranty Agreement, or otherwise, the Remodeler acknowledges that many of the standards, installation and compliance methods are interpretive in nature with more than one viable approach as the possible solution to challenges that may arise. Unless, an applicable code provision, regulatory requirement of local, state or federal law or

manufacturer's standard, specification or instruction is clearly applicable to the contrary, along with some resulting negative impact to Owner, the Owner hereby agrees that the Owner will defer to the Remodeler and it will be the Remodeler's judgment and decision-making that will govern any interpretive matter at issue. With regard to manufacturers' installations standards and instructions, it is further recognized by Owner and Remodeler that it is a common practice for manufacturers, installers and/or their respective industry trade groups to retroactively publish or issue revised standards or instructions for installation, product specifications or material use from time to time, after issues or limitations are identified and adjustments for new installations are determined to be necessary. In light of the practice of retroactively issuing "defensive instructions", adjustments or "subsequent remedial measures", the parties to this Limited Warranty Agreement recognize that it is the Remodeler's professional and practical experience in evaluating and judging the appropriate installation method, product specification and/or material use at the time of construction that will take precedence, govern and be determinative under this contract, notwithstanding subsequent or future guidance to the contrary. The Remodeler's professional and practical experience in evaluation and judgment shall also take precedence, govern and be determinative on any question relating to whether remedial work is required, and/or what action should be taken, if any, when such retroactive "defensive instructions", adjustments and/or "subsequent remedial measures" are at issue.

All disputes or questions relating to construction standards or possible defective conditions at the subject home, whether submitted to arbitration or otherwise, shall be governed by and based upon the applicable Standards as promulgated by the International Code Council's International Residential Code published as of May 1, 2008. If the International Code Council's International Residential Code published as of May 1, 2008 standards are silent on or do not cover any construction standard issue that is the subject of a dispute or question, or the matter is one that the parties mutually agree needs further interpretation, and the provisions of this Limited Warranty Agreement do not otherwise apply, then the parties shall submit the issue to the Building and Standards Commission for review and determination before submitting to arbitration or proceeding to legal action in a court of competent jurisdiction. Any conclusion reached by the Building and Standards Commission upon review shall be deemed conclusive as to that standard, whether submitted to arbitration or otherwise.

- 14) No Obligations for Voluntary Actions.** Any remedy voluntarily offered or provided by the Remodeler in one instance that is not legally required will not create an obligation to do so in any other instance, nor will any remedial action taken by the Remodeler at any time extend the time periods or alter the scope or conditions of any warranty obligation of the Remodeler related to the Home.
- 15) Subrogation.** If Remodeler repairs, replaces or pays the cost of repair or replacement under this Limited Warranty Agreement any defect or components for which Owner is covered under a manufacturer's warranty or by any insurance policy, Remodeler will be automatically subrogated to Owner's rights under same to the extent of costs paid or incurred by the Remodeler.
- 16) Exclusive Remedy and Limits of Costs.** The repair, replacement or payment remedy selected by the Remodeler shall be the exclusive remedy for which the Remodeler will be liable with respect to the specific defective condition under this Limited Warranty Agreement. In no event will Remodeler be liable for repair costs or other warranty obligations amounting in aggregate to more than the total project cost of remodeling work performed during the project under any circumstances.
- 17) Severability.** If any of the provisions of this Limited Warranty Agreement are found by a court of competent jurisdiction to be unenforceable, all the remaining provisions shall remain in effect and retain their full enforceability under the law.

OWNER:

NAME(S): [PLEASE INSERT]
STREET ADDRESS: [PLEASE INSERT]
CITY: [PLEASE INSERT]
STATE: [PLEASE INSERT]
PHONE: [PLEASE INSERT]
EMAIL: [PLEASE INSERT]

CONTRACTOR:

NAME(S): ENOVA TEXAS LLC
STREET ADDRESS: 2001 TIMBERLOCK PLACE, SUITE 500
CITY: SPRING
STATE: TX
PHONE: 77380
EMAIL: info@enovatexas.com

This Limited Warranty Agreement has been reviewed by the parties executing this document and is accepted this [PLEASE INSERT] day of [PLEASE INSERT], 20[PLEASE INSERT].

CONTRACTOR:
ENOVA TEXAS LLC

OWNER:
[PLEASE INSERT]

NAME : ROSY LIZARRAGA
TITLE : PRESIDENT
DATE : [PLEASE INSERT]

NAME : [PLEASE INSERT]
TITLE : OWNER
DATE : [PLEASE INSERT]

This document has been specifically printed in a manner to insure that, as the recipient of this Limited Warranty, you have received the original version of this document. You must inspect the same to see that it has a dark blue border, dark frame pattern, printed in light blue paper, and contains wet signatures from both parties.

This Warranty Agreement is designed to be executed in conjunction with and as part of an Agreement to Remodel Home between the issuing Remodeler and the Home Owner. It binds and is legally enforceable as to the executing parties only.