

# MAKO LIMITED WARRANTY

Tracker Marine, L.L.C. ("Tracker") warrants to the original retail purchaser that it will remedy any substantial defects in workmanship or materials pursuant to the terms of this Limited Warranty. This remedy may be by either repair of the defect or replacement of all or part of the vessel but, except where prohibited by state law, this remedy is the *sole* and *exclusive* remedy as between you and Tracker. Because different components of your boat may require different repair skills or equipment, Tracker shall have the sole discretion to select the appropriate facility for the repairs and method of repair. Please contact Tracker at 417-873-4555 and Tracker will advise you of the repair facility where your boat should be delivered. [Tracker may decide in its sole discretion to service or repair the vessel at your residence, pick up the vessel for service and repair, or arrange for transporting the vessel to the designated facility.] Tracker will commence repairs promptly after delivery of the boat to the designated repair facility and will complete the repairs in a commercially reasonable manner. Tracker will use its best efforts to complete the repairs within a reasonable time after delivery and to keep you notified of the progress. If the repairs are for a defect that does not affect the use and safety of your vessel, you may at any time during the repairs request the return of your vessel so that you can use it seasonably and/or according to your schedule. However, you agree that the time for repair may be longer under this circumstance. You also agree that in the event that the repair could affect the safe operation of the vessel that Tracker may require that the repairs and/or replacement be completed before you operate your vessel further.

IMPORTANT: THERE ARE ADDITIONAL TERMS AND CONDITIONS ON THE REVERSE SIDE INCLUDING DISCLAIMERS AND EXCLUSIONS.

THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.

## WHAT IS COVERED:

**Lifetime Hull Limited Warranty:** Tracker warrants to the original retail purchaser that it will repair substantial defects in the fiberglass hull and interior hull stringers, scantlings, bulkheads and transom (excluding gel coat defects described below) for the life of the boat pursuant to the terms of this Limited Warranty.

**Five Year Limited Warranty:** Tracker warrants that for a period of five (5) years from the date of purchase by the original retail purchaser, that it will repair any substantial defect *other than* to parts which carry their own warranty (such as the engine(s), pursuant to the terms of this Limited Warranty;

**Three Year Limited Warranty:** Tracker warrants that it will repair any substantial defects in the gelcoat involving stress cracks, air voids, and/or blisters for a period of three (3) years from the date of original retail purchase pursuant to the terms of this Limited Warranty.

## WHAT IS NOT COVERED:

- A) Equipment and accessories carrying their own individual warranties;
- B) Engines, outdrives, propellers, battery and/or controls;
- C) Chrome-plated, anodized and aluminum finishes;
- D) The color-fastness of materials;
- E) Windshield breakage;
- F) Leakage around hatches, through hull fittings or other designed openings;
- G) Estimated performance characteristics including but not limited to speed, weight or fuel consumption;
- H) Damage or failure due to tears or fading of canvas, vinyl, upholstery, fabric/trim, plastics and zippers, including, but not limited to, any damage, failure, or deterioration due to use and exposure to environmental conditions such as chemical fallout (acid rain), tree sap, salt, hail, windstorm, or other environmental factors not covered by this warranty.
- I) Commercial and/or use primarily for business and/or racing purposes;
- J) Damage, failures, or corrosion resulting from any failure to follow periodic maintenance in accordance with recommendations of Tracker;
- K) Ordinary wear and tear;
- L) Galvanic or stray current corrosion;

- M) Abuse, misuse or damage as a result of negligence including the failure to provide reasonable and necessary maintenance;
- N) Any part of the hull and/or component that has been altered, modified, vandalized and/or improperly trailered;
- O) Any part, component or part of the hull that has been involved in an accident;
- P) Damage from overpowering according to the maximum recommended engine horsepower on the capacity information plate;
- Q) Any component or part that has been subject to repair or replacement with non-Tracker recommended parts or products;
- R) Bulbs, fuses, connectors and wiring;
- S) Towing, road service charges or any other transportation charges;
- T) Changes in design and/or improvements to product;
- U) Transportation to and from the applicable repair center[, except where Tracker determines in its sole discretion that such costs would be unreasonable for the purchaser to pay];
- V) Waterline alignment with stripes or decals;
- W) "Goodwill" repairs (i.e., repairs for defects that are excluded under this limited warranty);
- X) Damage from grounding, collision, impact with pilings or buoys and/or improper anchoring or mooring;
- Y) Damage to trailers from wear and tear, abuse, neglect, overloading, improper loading, excess speed, tire and/or hitch related issues;
- Z) Representations by anyone other than a Tracker *factory* warranty representative. Ask before relying on a statement or representation about our product or warranty issues.

### **TRANSFERABILITY:**

The hull lifetime limited warranty is transferable once to a second owner during the first ten (10) years of service from the original purchase date. A \$100.00 warranty transfer fee is applicable at the time of transfer. Transfer request must be made in writing to Tracker Warranty Transfer, 2500 E. Kearney, Springfield, MO 65803 *within 30 days of sale* to a subsequent owner. We must rely on you to pass on this information to the new owner. When properly transferred, the warranty period to the second purchaser will be for a maximum of ten (10) years from the purchase date by the original owner. Equipment, components and accessories apart from the hull, such as the engine or controls, are excluded from transfer limited warranty but may have their own transfer requirements. Consult your component limited warranty for details. Any subsequent Owner to whom the Limited Warranty is transferred shall be subject to the terms and conditions set forth herein if they request coverage under this limited warranty. Repossessed units are not eligible for warranty transfer.

Any other limited warranty provided herein is non-transferable and is limited to the original owner.

### **DISCLAIMER:**

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED, IMPLIED OR STATUTORY AND IS SPECIFICALLY IN LIEU OF ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SEAWORTHINESS OR WORKMANSHIP. SOME STATES DO NOT ALLOW LIMITATIONS TO THE DURATION OF ANY IMPLIED WARRANTY, SO THE ABOVE LIMITATION MAY NOT APPLY. THE OBLIGATION OF TRACKER IS LIMITED TO THE REPAIR OR REPLACEMENT OF PARTS AND/OR COMPONENTS WHICH ARE DETERMINED TO CONTAIN A SUBSTANTIAL DEFECT, EXCEPT IN THOSE STATES THAT REQUIRE THAT WE REIMBURSE YOU IN SOME LIMITED INSTANCES. TRACKER WILL HAVE NO OBLIGATION AND THE OWNER WILL HAVE NO REMEDY AGAINST TRACKER FOR ANY MATTER OTHER THAN THOSE SPECIFICALLY MENTIONED HEREIN. OWNER AND TRACKER AGREE THAT REPAIR OR REPLACEMENT OF COMPONENTS OR PARTS CONTAINING A SUBSTANTIAL DEFECT SHALL BE THE SOLE AND EXCLUSIVE REMEDY AS BETWEEN THE OWNER AND TRACKER. ALL INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER DIRECT OR INDIRECT, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST SALES, LOSS OF TIME, BOAT PAYMENTS, INTEREST, STORAGE AND SLIP FEES, INSURANCE, POSTAGE, AFTER-MARKET GOODS, DEPRECIATION OF VALUE ARE EXCLUDED AND UNRECOVERABLE. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL AND/OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY.

### **DISPUTES:**

OUR GOAL IS TO RESOLVE ANY WARRANTY ISSUES AS QUICKLY AND FAIRLY AS POSSIBLE. PLEASE CONTACT US AT 417-873-4555 IN THE EVENT YOU HAVE ANY QUESTIONS ABOUT THE

TERMS, CONDITIONS AND LIMITATIONS CONTAINED HEREIN. THE PROCEDURE TO HAVE YOUR ISSUES RESOLVED IS TO FIRST GIVE YOUR TRACKER DEALER THE OPPORTUNITY TO REPAIR OR REPLACE THE DEFECT. IN THE EVENT YOUR DEALER CANNOT REMEDY THE DEFECT WITHIN A REASONABLE TIME, YOU AGREE TO CONTACT TRACKER CUSTOMER SERVICE IN WRITING AND EXPLAIN THE ISSUE. IF THE TRACKER FACTORY REPAIR OR REPLACEMENT IS NOT TO YOUR SATISFACTION, YOU AGREE THAT IN THE INTERESTS OF A COST EFFECTIVE AND TIMELY RESOLUTION OF ISSUES, THE FOLLOWING DISPUTE RESOLUTION PROCEDURE WILL APPLY. BEFORE SUING UNDER THE MAGNUSON-MOSS ACT THE BELOW DISPUTE RESOLUTION PROCEDURES MUST BE FOLLOWED BUT UNDER THE LAWS OF SOME STATES YOU MAY SUE WITHOUT FIRST FOLLOWING THE PROCEDURES OUTLINED BELOW.

IN THE EVENT YOUR ISSUE IS NOT RESOLVED YOU AND TRACKER AGREE TO FIRST MEDIATE THE ISSUE AS SET FORTH HEREIN. SHOULD THE ISSUE REMAIN UNRESOLVED BY MEDIATION, YOU AND TRACKER AGREE TO NON-BINDING ARBITRATION AS SET FORTH HEREIN. IN THE EVENT EITHER PARTY IS DISSATISFIED WITH THE ARBITRATION DECISION, EITHER MAY FILE A LAWSUIT. HOWEVER, BEFORE FILING A LAWSUIT THE DISSATISFIED PARTY SHALL BE RESPONSIBLE FOR ANY ATTORNEY FEES AND COSTS INCURRED BY THE PREVAILING PARTY IN THE ARBITRATION. THE PAYMENT OF THOSE FEES AND COSTS SHALL BE A CONDITION PRECEDENT TO THE FILING OF A LAWSUIT. THE MEDIATION DESCRIBED BELOW IS ALSO A CONDITION TO THE FILING OF AN ARBITRATION AND THEN TO FILING A LAWSUIT.

### **MEDIATION:**

1. IN THE EVENT YOU CANNOT RESOLVE YOUR ISSUES THROUGH YOUR TRACKER DEALER, YOU MUST GIVE TRACKER DIRECT NOTICE OF THE ISSUES AS SOON AS POSSIBLE, BUT IN NO EVENT LONGER THAN SIX MONTHS FROM THE DATE YOU FIRST REQUESTED REPAIRS FROM YOUR DEALER. USE THE ADDRESS PROVIDED ON THE FORM BELOW;
2. IN THE EVENT THAT YOU ARE NOT SATISFIED WITH YOUR TRACKER OR YOUR TRACKER DEALER'S RESOLUTION OF THE ISSUE, YOU, TRACKER AND IF NECESSARY YOUR TRACKER DEALER AGREE TO MEDIATION OF THE ISSUES;
3. TO INITIATE MEDIATION EITHER PARTY MAY MAKE A DEMAND OF THE OTHER FOR MEDIATION UNDER THE APPLICABLE RULES OF THE STATE WHERE THE BOAT IS LOCATED, OR IF THAT COURT DOES NOT HAVE A PROCEDURE FOR MEDIATION, THE MEDIATION RULES OF A STATE MUTUALLY AGREEABLE BY THE PARTIES. IF THE PARTIES CANNOT AGREE THEN THE FEDERAL RULES OF CIVIL PROCEDURE AS TO MEDIATION SHALL CONTROL;
4. THE MEDIATION SHALL BE CONCLUDED WITHIN SIXTY (60) DAYS OF THE FIRST DEMAND FOR MEDIATION, UNLESS OTHERWISE AGREED TO BY ALL PARTIES;
5. THE COST OF THE MEDIATOR SHALL BE BORN BY ALL PARTIES ON A PRO RATA BASIS;
6. THE CONCLUSION OF THE MEDIATION SHALL BE A CONDITION PRECEDENT TO ALL OTHER REMEDIES, CLAIMS AND/OR SUITS.

### **ARBITRATION:**

1. *IF THE ABOVE MEDIATION FAILS TO RESOLVE THE PARTIES DIFFERENCES, YOU and Tracker agree to submit all controversies, claims or disputes arising out of your purchase of a Tracker boat to Non-Binding Arbitration before no less than three (3) qualified arbitrators unless otherwise agreed to by all parties. It is the intent of YOU AND Tracker that this arbitration clause applies to all disputes, including contract disputes, tort claims, fraud claims and fraud-in-the-inducement claims, misrepresentation, statutory claims and/or regulatory claims arising out of or relating to your Tracker product or this Limited Warranty and/or any other relationship or dispute between the parties;*
2. *If any controversy or claim is determined for any reason to be ineligible for arbitration, or specifically exempted by law from arbitration, those controversies, claims or disputes shall instead be decided by a judge of a court of competent jurisdiction, in the state where the boat was purchased. YOU and Tracker hereby waive any right to a jury trial as to issues thus excluded from arbitration or as to disputes over the terms and conditions of arbitration or its initiation;*

3. *All arbitrations shall proceed through either the American Arbitration Association or a State or federally approved arbitration program as further agreed to by the parties. The arbitrators shall have the authority to award the relief that could be properly awarded in a civil action in the State where the boat was purchased for the type of claims presented, subject to all limitations, predicates, and conditions covering such remedies or relief under applicable state law;*
4. *YOU and Tracker may demand arbitration by filing a written demand for arbitration, along with a statement of the matter in controversy, with a state or federally approved arbitration program, and at the same time serving a copy of the demand on the other parties by overnight or two day mail to the address provided on your warranty registration form. You must provide the same notice of filing to Tracker and your Tracker dealer at the address appearing below (as to Tracker) and on your purchase agreement (as to your Tracker dealer);*
5. *YOU and Tracker agree that the arbitration proceeding shall be conducted in a venue agreed to by all parties. If no venue is agreed to, then it shall be the city nearest to the selling Tracker dealer. Each party is responsible for their own attorney fees and costs. The filing or initial fee shall be paid by the party initiating the arbitration. All other costs including any arbitrator fees shall be shared equally by the parties;*
6. *The decision of the arbitrator(s) shall be binding on the parties, unless one of the parties files an action in a court of competent jurisdiction within thirty (30) days of the date of the arbitration decision. In the event YOU prevail in the arbitration, Tracker has the right to appeal the decision of the arbitrator(s) to a trial court of competent jurisdiction for a de novo review of that decision. In the event Tracker prevails at arbitration, YOU may, at your option, either appeal the decision to a court of competent jurisdiction who shall sit de novo on the issues and/or file a separate suit for an claims, damages and/or issues YOU still maintain against Tracker.*

**LIMITED WARRANTY ACTIVATION: [NOTE: WARRANTY REGISTRATION REQUIREMENTS ARE NOT PERMITTED IN CALIFORNIA.]**

IN ORDER TO ACTIVATE THIS WARRANTY, PLEASE COMPLETE THE FORM BELOW AND RETURN IT TO THE DEALER WHERE PURCHASED.

.....  
**Tracker LIMITED WARRANTY ACTIVATION FORM**

I (we) acknowledge that I (we) have received and had the opportunity to review the terms of the Tracker Limited Warranty and all information provided by Tracker in the owner's packet. I (we) have been offered instructions by the dealer on the proper operation of the equipment, as well as a copy of the Safety DVD. I (we) understand and accept the terms and conditions of the Tracker Limited Warranty including its owner obligations, what is covered and what is not covered as well as the warranty terms, limitations and disclaimers. I (we) agree we have had the opportunity to question and/or negotiate the terms of the

**Tracker Limited Warranty prior to entry into the sale and prior to delivery of the product.**

Serial Number: \_\_\_\_\_ Model: \_\_\_\_\_  
 Selling Dealer: \_\_\_\_\_ Date of Sale: \_\_\_\_\_  
 Customer (print): \_\_\_\_\_ Customer (print) : \_\_\_\_\_  
 Customer Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Customer Signature: \_\_\_\_\_ Date: \_\_\_\_\_