

LIMITED NEW HOME WARRANTY

This Warranty Agreement Is made this _____ day _____, 20____, by and between _____ (BUILDER) and _____ (PURCHASER) involving _____ (HOME/PROPERTY ADDRESS).

WHEREAS, BUILDER has caused to be built for sale to PURCHASER or under contract with PURCHASER a HOME situated on land located in the County of _____, State of Alabama, at the above PROPERTY address; and WHEREAS, BUILDER does hereby give this warranty on the HOME located at the above PROPERTY for a period of _____ following closing or occupancy by the PURCHASER, whichever event shall first occur, upon the following conditions and in lieu of all others, express or Implied.

NOW THEREFORE, In consideration of the payment of the purchase price of the HOME, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, and the premises and agreements herein, the parties agree as follows:

1. . Not later than thirty (30) days after closing or occupancy, whichever event shall first occur, the PURCHASER shall deliver a written list of omissions or malfunctions no previously made known in writing to the BUILDER. To the extent that such items are the BUILDER'S responsibility and not excluded hereunder, corrections or adjustments will be made by the BUILDER. The PURCHASER will allow BUILDER access to cure any such problem or defects.
2. BUILDER warrants the HOME to be free from latent defects for a period of years(s) following closing or occupancy, whichever event shall first occur. A latent defect in construction is defined as a defect not apparent at time of occupancy or closing, but which becomes apparent within _____ from date of closing or occupancy, whichever event shall first occur, and such defect has been directly caused by BUILDER'S failure to construct in general conformity with the standards of construction prevailing in the geographical area of the HOME. Normal characteristic behavior of building materials, wear and tear general maintenance, and like items, do not constitute a latent defect in construction.
3. The BUILDER shall not be liable under this Agreement unless written notice of the latent defect in construction shall have been given by PURCHASER to BUILDER within the _____ warranty period. Steps taken by the BUILDER to correct defects shall not extend the warranty period. Notice to BUILDER shall be by certified mail, postage prepaid, to _____ (address)
4. BUILDER assigns to PURCHASER BUILDER'S rights, if any, under manufacturers' warranties on appliances and items of equipment included In the HOME to the extent that same are assignable. BUILDER assumes no responsibility for such manufacturer's warranties and PURCHASER agrees to follow the procedures in these warranties if defects appear in such appliances and items of equipment.
5. BUILDER does not assume responsibility for any of the following, all of which are expressly excluded from coverage under this Limited Warranty:
 - (a) Defects in appliances and pieces of equipment covered by manufacturers' warranties.
 - (b) Incidental, consequential, or secondary damages caused by a breach of this warranty. .
 - (c) Defects which are the result of characteristics common to the materials used, such as (but not limited to) warping and deflection of wood: mildew and fading, chalking, and checking of paint due to sunlight; cracks due to drying and curing of concrete, stucco, plaster, bricks, and masonry; drying, shrinking and cracking of caulking and weather stripping.
 - (d) Conditions resulting from condensation on, or expansion or contraction of materials.
 - (e) Defective design or materials supplied by PURCHASER or installed under his direction; or defects in, or caused by anything not built into, or installed in the HOME pursuant to contract between BUILDER and PURCHASER.
 - (f) Damages due to ordinary wear and tear, abusive use, or lack of proper maintenance of the HOME.
 - (g) Loss or injury due to the elements.
 - (h) Landscaping is expressly excluded from this warranty including sodding, seeding, shrubs, trees and plantings.
 - (i) Insect damage.
 - (j) Non-uniformity appearance of used or simulated used brick.
 - (k) Chips, scratches or mars in tile, woodwork, walls, porcelain, brick, plumbing fixtures, formica and glass not expressly identified to BUILDER on the preclosing inspection.
 - (l) Dripping faucets and toilet adjustments after the initial thirty (30) day period described in item 1 above.
 - (m) Utility service lines installed by developer, municipality or service company and back filling or slumping thereof.
 - (n) Deterioration or defects in asphalt paving.
 - (o) Movement, shifting, expansion or plasticity of the soils beneath the HOME and changes in the underground water table and subsurface soil structures.
6. Warranty work will be done during normal working hours except in emergencies.
7. This warranty is extended to the PURCHASER named herein. It is not transferable to subsequent purchasers of the HOME.
8. Should any term of this agreement be deemed by a Court of competent jurisdiction to be unenforceable, such determination shall not affect the enforceability of the remaining provisions.

9.

THE PARTIES TO THIS AGREEMENT ACKNOWLEDGE THAT THIS AGREEMENT NECESSARILY INVOLVES INTERSTATE COMMERCE BY VIRTUE OF THE MATERIALS AND COMPONENTS CONTAINED IN THE RESIDENTIAL STRUCTURE WHICH IS THE SUBJECT OF THIS AGREEMENT AND EACH OF THE PARTIES AGREES TO ARBITRATE ANY AND ALL DISPUTES ARISING UNDER THIS AGREEMENT AND TO BE BOUND BY THE DECISION OF THE ARBITRATION WHICH SHALL BE CONDUCTED PURSUANT TO THE CONSTRUCTION INDUSTRY RULES OF THE AMERICAN ARBITRATION ASSOCIATION.

- 10. Use of one gender shall include all genders; use of the singular shall include the plural; and use of the plural shall include the singular.
- 11. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.
- 12. Should it appear that a latent defect in construction (non-emergency nature) has developed, PURCHASER shall outline pertinent details in writing, and deliver same to BUILDER. Upon receipt of such notice, BUILDER will make an inspection. If a latent defect exists, the PURCHASER will allow the BUILDER (at BUILDER'S option) to either (1) repair, (2) replace, or (3) pay to PURCHASER the reasonable cost of such repair or replacement due to such latent defect(s); however, BUILDER SHALL NOT BE OBLIGATED TO SPEND MORE THAN THE PURCHASE PRICE OF THE HOME LESS THE VALUE OF THE LAND UPON WHICH THE HOME IS SITUATED.
- 13. This instrument is the entire agreement between the parties and all representations, agreements, understandings, etc., whether oral or written, are merged into this Agreement and unless included herein are of no further force or effect.
- 14. Other Provisions:

Notwithstanding anything to the contrary stated herein, this warranty does not cover appliances, pieces of equipment or items which is a consumer product for purposes of the Magnuson Moss Warranty Act (15USC2301-2312, as last amended)

_____ (Initials)

This warranty is given in lieu of all other warranties together with any claims of damages based upon negligence, fraud or misrepresentation, expressed or implied, including any implied, including any implied warranty of habitability, fitness for a particular purpose, merchantability and workmanship, except, if applicable, such warranty as specifically stated in any required VA/FHA warranty delivered simultaneously herewith and purchaser hereby expressly waives any such warranties.

_____ (Initials)

PURCHASER has read the entire agreement and understands same and PURCHASER acknowledges that he is waiving certain rights and remedies that he otherwise might have and/or that certain rights and remedies that he might otherwise have are being limited.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

BUILDER: _____

 (Name of BUILDER)

PURCHASER:
 BY: _____

BY: _____

BY: _____

WITNESS: _____

WITNESS: _____