



## EXHIBIT D

# The Company

## BUILDER'S LIMITED WARRANTY - SAMPLE

### 1. THE COMPANY'S LIMITED WARRANTY

- a) The Company hereby guarantees all of the work performed and materials supplied by The Company, its subcontractors and suppliers, for a period of one year from the date of shipment from the production site.
- b) The Company does not guarantee, and shall not be required to administer, any warranty situations that may arise from any work performed or materials supplied by the Purchaser or subcontractors hired by the Purchaser.

### 2. WARRANTY PERIOD COMMENCEMENT

- a) The warranty period shall begin on the date of acceptance.

### 3. WARRANTY COVERAGE

- a) This limited warranty covers the following items:
  - 1) All installations and applications of materials, devices and equipment performed by The Company and its subcontractors.
  - 2) All materials purchased and supplied by The Company and its subcontractors except as noted herein.
  - 3) The installation of consumer products to the extent that they are installed in accordance with The Company's instructions.

### 4. WARRANTY EXCLUSIONS

- a) This limited warranty does not cover the following:
  - 1) Damage resulting from fires, floods, storms, and electrical malfunctions from outside the home, accidents, nor acts of God.
  - 2) Damage from misuse, abuse, neglect, alteration, or accidents to the covered items, unless such acts were performed by The Company or its agents or subcontractors.
  - 3) Damage resulting from the Purchaser's failure to read and follow equipment operating instructions or damage resulting from the lack of proper maintenance.
  - 4) Damage resulting from malfunctioning equipment, lines or other service delivery systems installed by any telephone, gas, electrical power, water or any other utility provider.
  - 5) Damage resulting from allowing sprinkler heads to spray onto exterior building components, including doors, windows and painted surfaces.
  - 6) Damage resulting from the Purchaser's failure to prevent water pipes from freezing, including the Purchaser's failure to shut off the water supply system and drain water from system in the event of a heating system failure.
  - 7) Any item purchased, furnished or installed by the Purchaser or his agents.
  - 8) Repairs performed by anyone other than The Company, its employees or subcontractors.
  - 9) Any work for which The Company elected not to charge the Purchaser.
  - 10) Work for which the Purchaser has not been paid, including extra work orders, change orders, and other such work performed by The Company for which there remains an outstanding unpaid balance.

- 11) Any condition which does not result in actual physical damage to the project, including but not limited to uninhabitability or health risk.
- 12) Any appliance, equipment, item or other product that is classified as a “consumer product” in accordance with the Magnuson-Moss Warranty Act (15 U.S.C. Sec 2301-2311) that is included or installed in the project.

**5. PASS-THROUGH WARRANTIES**

- a) The following is a partial list of products classified as “consumer products” by the Magnuson-Moss Warranty Act.

Kitchen Appliances	Lighting Fixtures	Water Pump	Doors & Windows
Roofing Materials	Plumbing Fixtures	Water Meter	Heating Equipment
Brick Products	Refrigerators	Pool Equipment	Cooling Equipment
Siding Products	Microwave Ovens	Gar Door Opener	Fire Extinguisher
Whirlpool Tub	Stoves and Ovens	Sump Pump	Fire/Smoke Alarm
Light Bulbs	Garbage Disposal	Humidifier	Floor Coverings
Water Heaters	Security Systems	Solar Equipment	Intercom Systems

- b) The Company assigns and passes through to the Purchaser, and the Purchaser agrees to accept, the original manufacturer’s warranties for these items. The only warranty on these products themselves is that which the original manufacturer provides to the Purchaser, and The Company’s warranty on these items is limited solely to their being installed in accordance with the original manufacturer’s instructions.

**6. WARRANTY SERVICE**

- a) Requests for warranty service and the service itself shall be performed as described herein.
- b) In the event the Purchaser discovers a defect in any item covered by this warranty, the Purchaser will notify The Company of said defect in writing with ten days of discovery.
- c) Said notice shall include the Purchaser’s name, address and telephone number and a description of the defect, and shall be faxed, mailed or delivered to The Company at the address listed upon the contract or to any other address as may be designated by The Company in writing in advance.
- d) The Company shall contact the Purchaser within ten working days of the receipt of the notification and shall investigate the nature of the defect as soon thereafter as is possible. This investigation will determine if the alleged defect fails to meet the minimum standards set forth in the National Association of Home Builders (NAHB) publication “Residential Construction Performance Guidelines”.
- e) Upon determining the validity of the complaint, The Company shall have 20 working days to effect the necessary repairs, corrections or modifications to correct the defect.
- f) Repair work shall be performed during The Company’s normal working hours (8 AM to 5 PM, Monday through Friday).
- g) The Purchaser agrees to provide The Company or its agent(s) access to the house and agrees to provide a responsible adult to be present during the time the warranty work is being performed with the authority to approve and accept the repairs upon completion.
- h) In the event the alleged defect involves plumbing, electrical, HVAC or roofing systems and appears to require immediate service, the Purchaser agrees to contact the subcontractor directly, via telephone numbers provided by The Company, to schedule the service call.

	Subcontractor Name	Subcontractor Phone
PLUMBING	_____	_____
ELECTRICAL	_____	_____
HVAC	_____	_____
ROOFING	_____	_____

## **7. WARRANTY LIMITATIONS**

- a) This limited warranty is subject to limitations and restrictions, which follow.
- b) This warranty is extended to the original Purchaser and cannot be transferred in the event the property is sold or otherwise transferred.
- c) The Company shall not be held liable by this warranty for personal or property damage for whatever reason, whether direct, indirect, special or secondary, arising from the use or inability to use the property because of a construction defect.
- d) This warranty does not cover consequential damages unless such exclusion is prohibited by law.
- e) This limited warranty is not to be interpreted as an implied warranty.
- f) The Company disclaims any implied warranties, including, but not limited to, warranties of habitability and fitness of purpose, to the extent allowed by law.
- g) The Purchaser shall give The Company the first opportunity to inspect alleged defects and to effect the repair or replacement or to pay reasonable sums to effect repairs.
- h) This warranty shall be void in the event The Company has not been paid in full as provided in the contract documents.

## **8. MAINTENANCE BY PURCHASER**

- a) The Purchaser understands that a home requires more care and maintenance than most products because it is made of many different components, each with special characteristics.
- b) The Purchaser understands that the Purchaser has not contracted with The Company to perform routine maintenance.
- c) The Purchaser is responsible for performing or having performed standard routine maintenance.
- d) This section is intended to alert the Purchaser to certain types of routine maintenance that are the Purchaser's responsibility and that could lead to problems if neglected, including, but not limited to, the following:
  - 1) CAULKING - Interior caulking, specifically around bathtubs, shower stalls and ceramic tile surfaces will crack somewhat after installation. Exterior caulking will shrink as it dries. These conditions are normal and are not considered a construction defect. Application of additional caulking is part of routine maintenance.
  - 2) HVAC FILTERS – Heating, ventilating and air-conditioning systems have dust filters that need to be kept clean and changed every 30 days. Filter changes are part of routine maintenance. Failure to change filters may void The Company's warranty.
  - 3) GUTTERS – Rain gutters and downspout systems require periodic removal of leaves and other fallen debris to function properly. The Purchaser is responsible for this routine maintenance.
  - 4) SITE GRADING – To the extent that it is included in The Company's scope of work, The Company has contoured and otherwise graded the lot to provide proper drainage of rain water away from the house. It is the Purchaser's responsibility to maintain these grades.

## **9. NON-WARRANTABLE CONDITIONS**

- a) Certain construction conditions are not warrantable.
- b) Concrete foundations, walks, drives, patio and stucco finish can develop hairline cracks that do not affect the structural integrity of the building. The cracks are caused by characteristics of expansion and contraction. No method of eliminating these cracks exists, and the existence of such cracks does not constitute a construction defect.
- c) Lawn and shrubs require maintenance of proper ground cover and consistent watering. Manufacturer does not warranty the future growth of any specific landscape plantings.
- d) Drywall will sometimes develop nail pops or settlement cracks as a normal part of the drying out process. These items are considered normal maintenance and can be easily remedied by the Purchaser with spackling during normal redecorating.

## **10. WARRANTY REMEDIES**

- a) In the event the parties cannot agree to the validity of any alleged defect or as to the acceptable correction of any specific defect, the parties agree to the following remedies.
- b) In the event the Purchaser disagrees with The Company regarding the categorization of an alleged defect, or disagrees with The Company's repair of any defect, the Purchaser agrees to bring suit against The Company in any court of competent jurisdiction. In this event, both parties agree to participate fully in any court-ordered mediation and further agree to abide by the decision of any such court.
- c) In the event the Purchaser's complaint involves work performed by subcontractors separately licensed by any jurisdiction, including licensed Electrical, HVAC, Plumbing and Roofing contractors, and the Purchaser elects to bring suit against The Company for such defects and/or make formal complaints to the local Building Official and/or the Construction Industry Licensing Board, the Purchaser agrees in all such occasions to bring simultaneous suits and/or complaints against the specific subcontractor. This includes naming them as co-defendants and/or filing additional separate complaints if necessary.
- d) In the event The Company's work or materials is judged by the court to be deficient, The Company shall retain the right to repair or replace the defective work or to pay reasonable sums to effect said repairs, said decision to be at the sole option of The Company.

## **11. WARRANTY DISCLAIMER**

- a) This limited warranty is the only express warranty extended to the Purchaser by The Company.
- b) Any items and conditions not specifically covered by this warranty are excluded from coverage and are the responsibility of the Purchaser.
- c) It is expressly understood that this limited warranty is in lieu of any and all other warranties, expressed or implied, including but not limited to any warranty of merchantability, fitness for a particular purpose, and habitability.
- d) Under no circumstances shall The Company be liable for any damages (consequential or otherwise) arising from any defect in any item covered hereunder.

**Sample – Original issued at Closing**