HOME BUILDER’S LIMITED WARRANTY

Administered by Professional Warranty Service Corporation (“PWC”)

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THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION, WHICH MAY BE ENFORCED BY EITHER PARTY

PWC FORM NO. 117 SAMPLE Rev. 01/2007
Throughout this HOME BUILDER'S LIMITED WARRANTY, referred to hereinafter as the “LIMITED WARRANTY”, the words “YOU” and “YOUR” refer to the HOMEOWNER, including any subsequent owners, and, where applicable, a HOMEOWNERS ASSOCIATION. The words “WE”, “US” and “OUR” refer to the BUILDER. The other words and phrases which appear in boldface uppercase type also have special meaning. Refer to the Section IX. Definitions, so that YOU will understand the terminology applicable to this LIMITED WARRANTY.

This LIMITED WARRANTY establishes an agreed method for determining when a CONSTRUCTION DEFECT exists and a clear understanding of OUR responsibilities forremedying any such CONSTRUCTION DEFECT. This LIMITED WARRANTY also helps distinguish a CONSTRUCTION DEFECT that is OUR responsibility from those minor imperfections that can reasonably be expected in a HOME or the COMMON ELEMENTS, or that result from normal wear and tear or the neglect of routine HOMEOWNER or HOMEOWNERS ASSOCIATION maintenance responsibilities.

This LIMITED WARRANTY contains the procedures YOU must use to notify US of a condition in YOUR HOME or the COMMON ELEMENTS which YOU believe may constitute a CONSTRUCTION DEFECT. In the event a condition occurs in the HOME or the COMMON ELEMENTS that YOU believe may constitute a CONSTRUCTION DEFECT, YOU agree to submit any request for warranty performance in accordance with the procedure described in this LIMITED WARRANTY. Based on the information YOU provide and, where WE deem it necessary, information obtained from OUR onsite investigation, inspection and/or testing of the HOME or the COMMON ELEMENTS, WE will determine whether WE agree with YOU that the condition constitutes a CONSTRUCTION DEFECT. If WE determine that the condition reported by YOU is a CONSTRUCTION DEFECT, WE will remedy the condition in accordance with the remedies prescribed in this LIMITED WARRANTY. WE will make this determination in accordance with Section II, OUR Warranty Obligations, contained in this LIMITED WARRANTY.

THIS LIMITED WARRANTY PROVIDES THAT ANY AND ALL CLAIMS AND DISPUTES BETWEEN YOU AND US WHICH YOU AND WE ARE UNABLE TO RESOLVE BY MUTUAL AGREEMENT, SHALL BE RESOLVED SOLELY AND EXCLUSIVELY THROUGH FINAL AND BINDING ARBITRATION IN ACCORDANCE WITH THE TERMS AND PROCESS DESCRIBED WITHIN THIS DOCUMENT. BY THIS AGREEMENT, BOTH YOU AND WE ARE WAIVING THE RIGHT TO LITIGATE DISPUTES IN COURT.

To the extent permitted by law, all express or implied warranties other than this LIMITED WARRANTY, including any oral or written statement or representation made by US or any other person, and any implied warranty of habitability, merchantability or fitness for a particular purpose, are hereby disclaimed by US and are waived by YOU. YOUR only remedy in the event of a CONSTRUCTION DEFECT in or to the HOME or the COMMON ELEMENTS or to the real property on which the HOME or the COMMON ELEMENTS is situated is that provided to YOU under this LIMITED WARRANTY.

Enclosed with this LIMITED WARRANTY is a Limited Warranty Validation Form. The Limited Warranty Validation Form is a part of the LIMITED WARRANTY and provides the dates on which the warranty coverage period begins and expires. It is important that this form be retained with the LIMITED WARRANTY.

WE have contracted with PWC for certain administrative services relative to this LIMITED WARRANTY. PWC’s sole responsibility is to provide administrative services as set forth herein. Under no circumstances or conditions is PWC responsible for fulfilling OUR obligations under this LIMITED WARRANTY.

There may be instances where an additional PWC administered Builder’s Limited Warranty is issued together with this LIMITED WARRANTY. If both of these warranties are issued to YOU, YOU agree to request warranty performance under either warranty relative to warrantable issues on the HOME or the COMMON ELEMENTS. YOU may not collect twice relative to the same issue.

If any provision of this LIMITED WARRANTY is determined to be unenforceable, such a determination will not
affect the remaining provisions. If this LIMITED WARRANTY or any provision herein is determined to be unenforceable as to a HOMEOWNERS ASSOCIATION or a specific HOMEOWNER, such a determination will not affect the enforceability of this LIMITED WARRANTY or such provision as to any other HOMEOWNERS ASSOCIATION or any other HOMEOWNER. Any dispute as to the enforceability of any provision of this LIMITED WARRANTY, including any dispute as to the scope or enforceability of the arbitration provision contained herein, shall be determined by binding arbitration as provided for in this LIMITED WARRANTY.

I. Warranty Coverage

Coverage under this LIMITED WARRANTY is expressly limited to CONSTRUCTION DEFECTS which occur during the WARRANTY PERIOD indicated on the Limited Warranty Validation Form and which are reported by YOU in accordance with the notification requirements of Section VI. Procedure to Request US To Perform Under This LIMITED WARRANTY. OUR obligations under this LIMITED WARRANTY apply to workmanship actually performed and materials actually installed in the HOME or the COMMON ELEMENTS. Any failure by US to complete construction of the HOME or COMMON ELEMENTS, where such failure is apparent and obvious, is not covered by this LIMITED WARRANTY and is not a CONSTRUCTION DEFECT.

During the WARRANTY PERIOD indicated on the Limited Warranty Validation Form, WE warrant that the HOME and the COMMON ELEMENTS will be free of CONSTRUCTION DEFECTS. OUR obligation to perform under this LIMITED WARRANTY requires that WE must receive written notice from YOU of the alleged CONSTRUCTION DEFECT as soon as reasonably possible after YOU become aware of a CONSTRUCTION DEFECT but not later than thirty (30) days after the expiration of the coverage. Telephonic or face-to-face discussion is not a substitute for required written notice and will not protect YOUR rights under this LIMITED WARRANTY (see Section VI. Procedure to Request US To Perform Under This LIMITED WARRANTY).

II. OUR Warranty Obligations

Upon OUR timely receipt of written notice from YOU alleging a CONSTRUCTION DEFECT during the WARRANTY PERIOD, WE, or parties acting on OUR behalf, will, where WE deem it necessary, inspect, investigate and/or test (including destructive testing) the condition alleged to be a CONSTRUCTION DEFECT. If WE determine that a CONSTRUCTION DEFECT exists, WE, or parties acting on OUR behalf, will (1) repair or replace the CONSTRUCTION DEFECT, (2) pay to YOU the actual amount it would cost US to repair or replace the CONSTRUCTION DEFECT, or (3) pay to YOU an amount equal to the diminution in fair market value caused by the uncorrected CONSTRUCTION DEFECT. Subject to the limitations described in Section IV. Coverage Limitations, if the HOME is rendered temporarily uninhabitable by a CONSTRUCTION DEFECT or by work necessary to repair a CONSTRUCTION DEFECT, WE shall pay the reasonable cost for YOUR alternate shelter until the HOME is restored to a habitable condition. Additionally, in connection with OUR remedy of a CONSTRUCTION DEFECT, and subject to the limitations described in Section IV. Coverage Limitations, WE shall repair, replace or pay the reasonable cost for:

- Those surfaces, finishes and coverings that are part of the HOME and that are damaged directly by a CONSTRUCTION DEFECT or that are damaged in the course of OUR repair of a CONSTRUCTION DEFECT.
- Home furnishings, carpet or personal property damaged directly by the CONSTRUCTION DEFECT.

The decision to repair, replace, or to make payment in lieu of repair or replacement is at OUR or OUR authorized representative’s sole discretion. These remedies are OUR only obligations under this LIMITED WARRANTY.
A. Standards By Which the Existence of a CONSTRUCTION DEFECT Will Be Determined:

The following factors will be considered in determining whether a condition constitutes a CONSTRUCTION DEFECT. If WE dispute the existence of a CONSTRUCTION DEFECT and that dispute is submitted to binding arbitration, the parties agree these same factors will be considered by the arbitrator:

1. Any performance standards, tolerances or guidelines contained in documents provided to YOU by US at or prior to closing on the HOME or, in the case of a HOMEOWNERS ASSOCIATION, prior to transferring title or control to all the COMMON ELEMENTS. In the absence of a specific standard, tolerance or guideline in the documents for a condition occurring during the first year of the WARRANTY PERIOD, the Residential Construction Performance Guidelines published by the National Association of Home Builders, in effect at the time of construction of the HOME or, in the case of the HOMEOWNERS ASSOCIATION, at the time of construction of the COMMON ELEMENTS, shall apply. If no specific standard, tolerance or guideline is contained in any of the documents identified above, generally accepted local building practices and standards shall apply;

2. Consideration as to whether the condition:
   • materially affects the structural integrity of the HOME or COMMON ELEMENTS; or
   • has an obvious and material negative impact on the appearance of the HOME or COMMON ELEMENTS; or
   • jeopardizes the life or safety of the occupants of the HOME or the users of the COMMON ELEMENTS; or
   • results in the inability of the HOME or a COMMON ELEMENT to provide the functions that can reasonably be expected in such a HOME or COMMON ELEMENT.

3. Consideration as to whether a condition is the result of normal wear and tear. Conditions that are normal wear and tear, or that are caused by normal wear and tear are not CONSTRUCTION DEFECTS;

4. Consideration as to whether the condition was caused by, or in any way resulted from, the failure of the HOMEOWNER or HOMEOWNERS ASSOCIATION to perform normal or routine maintenance. Any condition that is determined to be a HOMEOWNER or HOMEOWNERS ASSOCIATION maintenance issue, or any condition that results from improper or inadequate HOMEOWNER or HOMEOWNERS ASSOCIATION maintenance, is not a CONSTRUCTION DEFECT;

5. Consideration as to whether the condition was caused by persons or entities other than US or someone acting on OUR behalf. Damage caused by persons or entities other than US or someone acting on OUR behalf is not a CONSTRUCTION DEFECT. For example, a large, visible scratch on marble tile in the entry foyer that was not noted in the pre-closing walk through inspection, but was reported after furniture was moved into the HOME, will not be considered a CONSTRUCTION DEFECT;

6. Recognition that any condition resulting directly or indirectly from or worsened by changes, additions, alterations or other actions or omissions by persons or entities other than US or someone acting on OUR behalf, will not be considered a CONSTRUCTION DEFECT (this includes, for example, changes to the topography, drainage or grade of the property);

7. Any Exclusions contained in this LIMITED WARRANTY.
III. Homeowner Maintenance Obligations

Maintenance of the HOME and the COMMON ELEMENTS is YOUR responsibility. All homes and common elements require periodic maintenance to prevent premature deterioration, water intrusion, and to ensure adequate performance of the SYSTEMS. WE will make a “Homeowner Maintenance Manual” or similar publication available to YOU upon request. Whether from this document or others that are readily available to YOU, YOU must understand and perform the maintenance that the HOME and COMMON ELEMENTS require. WE are not responsible for HOME or COMMON ELEMENTS maintenance issues or for damage that results from YOUR failure to maintain the HOME or the COMMON ELEMENTS.

IV. Coverage Limitations

Surfaces, finishes and coverings in the HOME which require repair due to damage caused by a CONSTRUCTION DEFECT, or such damage caused in the course of OUR repair of a CONSTRUCTION DEFECT, shall be repaired and restored to approximately the same condition as existed prior to the CONSTRUCTION DEFECT, but not necessarily to a like new condition. When repairing or replacing surfaces, finishes and coverings, the repair or replacement will attempt to achieve as close a match with the original surrounding areas as is reasonably possible, but an exact match cannot be guaranteed due to such factors as fading, aging and unavailability of the same materials.

Home furnishings, carpet or personal property damaged by a CONSTRUCTION DEFECT shall be repaired or replaced at market value of the item at the time of damage. “Market value” shall mean the amount it would cost to repair or replace the damaged item with material of like kind and quality, less allowance for physical deterioration and depreciation, including obsolescence.

Alternate shelter during such time as the HOME is uninhabitable due to a CONSTRUCTION DEFECT or uninhabitable during work to repair a CONSTRUCTION DEFECT, shall be limited to those shelter costs expressly pre-approved by US or OUR designated representative.

V. Exclusions

A. This LIMITED WARRANTY does not cover:

1. Any loss or damage resulting, either directly or indirectly, from the following causes, or occurring in the following situations:

   a. Fire (unless caused by a CONSTRUCTION DEFECT);
   b. Lightning;
   c. Explosion (unless caused by a CONSTRUCTION DEFECT);
   d. Riot and Civil Commotion;
   e. Smoke (unless resulting from a CONSTRUCTION DEFECT);
   f. Hail;
   g. Aircraft;
   h. Falling Objects;
   i. Vehicles;
   j. Floods;
   k. Earthquake;
   l. Landslide or mudslide originating on property other than the site of the HOME or the COMMON ELEMENTS or other property developed by the BUILDER;
m. Mine subsidence or sinkholes;

n. Changes in the underground water table not reasonably foreseeable by the BUILDER;

o. Volcanic eruption; explosion or effusion;

p. Wind including:
   (i). Gale force winds;
   (ii). Hurricanes;
   (iii). Tropical storms;
   (iv). Tornadoes;
   (v). Rain or water intrusion or moisture within the HOME resulting from any wind forces described in p. (i) – (iv) above.

q. Insects, animals or vermin;

r. Changes to the grading of the ground, or the installation or alteration of improvements such as drain or gutter outlets by anyone other than US or OUR agents, or subcontractors which results in surface drainage towards the HOME, or other improper drainage that permits water to pond or become trapped in localized areas or against the foundation;

s. Changes, additions, or alterations made to the HOME or the COMMON ELEMENTS by anyone after the WARRANTY PERIOD begins, except those made or authorized by US;

t. Any defect in material or workmanship supplied by anyone other than US or OUR agents, or subcontractors, including any loss or damage to the HOME or the COMMON ELEMENTS resulting from material or workmanship supplied by anyone other than US or OUR agents, or subcontractors;

u. Improper maintenance, negligence or improper use of the HOME or the COMMON ELEMENTS by YOU or anyone other than US that results in rot, dry rot, moisture, rust, mildew or any other damage;

v. Dampness or condensation due to YOUR failure to maintain adequate ventilation;

w. Damage resulting from the weight and/or performance of any type of waterbed or other furnishings which exceeds the load-bearing design of the HOME or the COMMON ELEMENTS;

x. Normal wear and tear or normal deterioration of materials;

y. Economic damages due to the HOME’S or the COMMON ELEMENTS’ failure to meet expectations of the HOMEOWNER or HOMEOWNERS ASSOCIATION.

2. Any loss or damage resulting from the actual, alleged or threatened discharge, dispersal, release or escape of POLLUTANTS. WE will not cover costs or expenses arising from the uninhabitability of the HOME or the COMMON ELEMENTS or health risk due to the proximity of POLLUTANTS. WE will not cover costs, or expenses resulting from the direction of any governmental entity to test, clean-up, remove, treat, contain or monitor POLLUTANTS;

3. Any loss or damage resulting from the effects of electromagnetic fields (EMF’s) or radiation;

4. Any damage to personal property that does not result from a CONSTRUCTION DEFECT;

5. Any CONSEQUENTIAL OR INCIDENTAL DAMAGES;

6. Any CONSUMER PRODUCTS;

7. Any CONSTRUCTION DEFECT as to which YOU have not taken timely and reasonable steps to protect and minimize damage after WE or OUR authorized representative have provided YOU with authorization to prevent further damage;

8. Any damage to the extent it is incurred after or as a result of YOUR failure to notify US in the manner and time required under this LIMITED WARRANTY;

9. Any costs or obligations paid or incurred by YOU in violation of Section VI. C. below;
10. Any non-conformity with local building codes, regulations or requirements where the condition does not meet the definition of a CONSTRUCTION DEFECT. While WE acknowledge OUR responsibility to build in accordance with applicable building codes, this LIMITED WARRANTY does not cover building code violations in the absence of a CONSTRUCTION DEFECT;

11. Any deviation from plans and specifications where the condition does not meet the definition of a CONSTRUCTION DEFECT.

B. OUR LIMITED WARRANTY does not cover any CONSTRUCTION DEFECT which would not have occurred in the absence of one or more of the excluded events or conditions listed in the Exclusions above, regardless of:

1. The cause of the excluded event or condition;
2. Other causes of the loss or damage; or
3. Whether other causes acted concurrently or in any sequence with the excluded event or condition to produce the loss or damage.

VI. Procedure to Request US To Perform Under This LIMITED WARRANTY

If YOU become aware of a condition that YOU believe is a CONSTRUCTION DEFECT under this LIMITED WARRANTY, YOU have the following responsibilities:

A. Notification

YOU must notify US in writing as soon as reasonably possible after YOU become aware of a condition that YOU believe may constitute a CONSTRUCTION DEFECT, but in no event may YOUR written notice of a CONSTRUCTION DEFECT or YOUR written request for warranty performance be received by US later than thirty (30) days after this LIMITED WARRANTY has expired. This extended period for providing notice of a CONSTRUCTION DEFECT shall not operate to extend the WARRANTY PERIOD.

If the written notice is received by US more than thirty (30) days after the expiration of this LIMITED WARRANTY, WE shall have no obligation to remedy the CONSTRUCTION DEFECT. Because of the importance of this written notice requirement, WE recommend that notice always be sent by Certified Mail, return receipt requested, in order to establish a record.

B. Cooperate With US

YOU must give US and any third parties acting on OUR behalf reasonable help in inspecting, investigating, testing (including destructive testing), monitoring, repairing, replacing or otherwise correcting an alleged CONSTRUCTION DEFECT. Help includes, but is not limited to, granting reasonable access to the HOME or COMMON ELEMENTS for the forgoing purposes. If YOU fail to cooperate or provide US reasonable access to the HOME or COMMON ELEMENTS, WE will have no further obligation under this LIMITED WARRANTY.

C. Do Not Make Voluntary Payments

YOU agree not to make any voluntary payments or assume any obligations or incur any expenses for the remedy of a condition YOU believe is a CONSTRUCTION DEFECT without prior written approval from US, or other parties authorized to act on OUR behalf. WE will not reimburse YOU for costs incurred where YOU did not obtain prior written approval.
However, YOU may incur reasonable expenses in making repairs in an **EMERGENCY CONDITION** without prior written approval, provided the repairs are solely for the protection of the **HOME** or **COMMON ELEMENTS** from further damage or to prevent an unsafe living condition and provided YOU notify US as soon as is reasonably possible. To obtain reimbursement for repairs made during an **EMERGENCY CONDITION**, YOU must provide US with an accurate written record of the repair costs.

**D. Sign A Release**

When **WE** or a third party acting on **OUR** behalf have completed repairing, replacing or paying YOU as to any **CONSTRUCTION DEFECTS** and related damage covered by this **LIMITED WARRANTY**, YOU may be requested to sign a full release of **OUR** obligation for the **CONSTRUCTION DEFECTS**. The release shall be applicable to the **CONSTRUCTION DEFECTS** and shall not prevent YOU from notifying **US** should YOU become aware of a subsequent **CONSTRUCTION DEFECT**.

**E. If YOU Disagree With US**

If YOU believe **WE** have not satisfactorily responded to YOUR request for warranty performance or satisfactorily worked with YOU to resolve any other claim or dispute between YOU and **US**, YOU should provide written notice to **PWC** requesting Mediation. Upon **PWC**'s receipt of written notice from **YOU**, **PWC** may review and mediate YOUR request. **PWC** may communicate with **YOU**, **US**, and any other individuals or entities that **PWC** believes may possess relevant information. If after forty-five (45) days, **PWC** is unable to successfully mediate YOUR claim or dispute, or at any earlier time when **PWC** determines that **YOU** and **WE** are at an impasse, **PWC** will notify **YOU** that **YOUR** request remains unresolved and that **YOU** may elect to initiate binding arbitration. Binding arbitration as described in the following section is the sole remedy for the resolution of disputes between **YOU** and **US**.

**VII. Binding Arbitration Procedure**

Following commencement of the **WARRANTY PERIOD**, any claim, controversy or dispute (hereafter collectively referred to as “dispute”) between **YOU** and **US**, or parties acting on **YOUR** or **OUR** behalf, including **PWC**, and any successor, or assign of either **YOU** or **US**, which relates to or arises from this **LIMITED WARRANTY**, or the design or construction of the **HOME** or the **COMMON ELEMENTS**, or the sale of the **HOME** or transfer of title to the **COMMON ELEMENTS**, will be resolved solely by binding arbitration and not through litigation in court before a judge or jury. This agreement to arbitrate is intended to inure to the benefit of, and be enforceable by, **OUR** contractor, subcontractors, agents, vendors, suppliers, design professionals, materialmen, and any of **OUR** direct or indirect subsidiaries or related entities alleged to be responsible for any **CONSTRUCTION DEFECT**. Disputes subject to binding arbitration include, but are not limited to:

A. Any disagreement that a condition in the **HOME** or the **COMMON ELEMENTS** is a **CONSTRUCTION DEFECT**;

B. Any disagreement as to the method or scope of repair required to correct a **CONSTRUCTION DEFECT** or whether a **CONSTRUCTION DEFECT** has been corrected in compliance with this **LIMITED WARRANTY**;

C. Any alleged breach of this **LIMITED WARRANTY**;

D. Any alleged violation of consumer protection, unfair trade practice, or any other statute;

E. Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and any other claims arising in equity or from common law;
F. Any dispute concerning the interpretation of this arbitration provision or the arbitrability of any issue;

G. Any dispute concerning the timeliness of OUR performance and/or YOUR notifications under this LIMITED WARRANTY;

H. Any dispute as to the payment or reimbursement of the arbitration filing fee;

I. Any dispute as to whether this LIMITED WARRANTY, or any provision hereof, including, but not limited to, this arbitration clause and any waiver hereunder, is enforceable;

J. Any other claim arising out of or relating to the sale, design or construction of YOUR HOME or the COMMON ELEMENTS, including, but not limited to any claim arising out of, relating to or based on any implied warranty or claim for negligence or strict liability not effectively waived by this LIMITED WARRANTY.

The arbitration shall be conducted by DeMars and Associates, Ltd. (www.demarsassociates.com) pursuant to its Construction Arbitration Program (“CAP”), or by such other neutral, independent arbitration service that PWC shall appoint. If YOU object to the arbitration service appointed by PWC, YOU must so inform PWC, in writing, within ten (10) days of YOUR receipt of PWC’s written notice informing YOU of the appointed arbitration service. PWC will then appoint an alternative neutral arbitration service provider. If YOU object to this alternative provider and if YOU and WE are unable to agree on another alternative, then either party may, pursuant to the applicable provisions of the Federal Arbitration Act (9 U.S.C.§ 1, et seq.), apply to a court of competent jurisdiction to designate an arbitration service provider, which designation shall be binding upon the parties. Selection of the arbitrator shall be the responsibility of the appointed arbitration service. The rules and procedures of the arbitration service, including its rules and procedures pertaining to its selection of the arbitrator who will conduct the arbitration, that are in effect at the time the request for arbitration is submitted will be followed unless the parties expressly agree otherwise. PWC will obtain and provide to YOU and US, upon request, the rules and procedures of the arbitration organization appointed to administer the arbitration. The arbitration service finally appointed or designated as aforesaid shall administer the arbitration of any and all disputes required to be joined under the law.

This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by and interpreted under the Federal Arbitration Act now in effect and as it may be hereafter amended (the “FAA”) to the exclusion of any inconsistent state law, regulation or judicial decision. The award of the arbitrator shall be final and binding and may be entered as a judgment in any court of competent jurisdiction.

Each party shall bear its own attorney’s fees and costs (including expert’s costs) for the arbitration. If YOU initiate the arbitration request, the arbitration filing fee and other fees charged by the arbitration service shall be divided and paid equally by YOU and US, unless YOU and WE have otherwise agreed in writing to a different allocation. If WE initiate the request for arbitration, WE shall pay the entire arbitration filing fee as well as all other fees charged by the arbitration service.

As part of any arbitration award, the arbitrator may, at his/her discretion, direct that WE reimburse YOU some or all of the arbitration filing fee and other arbitration fees YOU paid to the arbitration service, but under no circumstances shall YOU be required to reimburse US any portion of the arbitration filing fee and other arbitration fees WE paid.

Arbitration filing fees and other arbitration fees vary among arbitration service providers. Before submitting a Binding Arbitration Request Form, YOU may contact PWC to obtain information on the fees charged by the appointed arbitration service provider. The arbitration service’s filing fee and other arbitration fees in effect at the time arbitration is requested shall apply.

The process for initiating arbitration is described below.
Step 1 The Initiating Party Completes A Binding Arbitration Request Form And Mails It To PWC Along With Their Share Of The Arbitration Filing Fee. A Binding Arbitration Request Form is attached to this LIMITED WARRANTY. YOUR Binding Arbitration Request Form must be received by PWC no later than ninety (90) days after the WARRANTY PERIOD expires. Please Note that while YOU have ninety (90) days after the WARRANTY PERIOD expires to file for arbitration, this time period does not extend the WARRANTY PERIOD for CONSTRUCTION DEFECTS. Additionally, no investigation, inspection, testing, repair, replacement, or payment, nor any promise of same by US under this LIMITED WARRANTY, nor any dispute resolution efforts, shall extend the term of this LIMITED WARRANTY or extend or toll any statutes of limitations or any of YOUR rights or remedies.

Step 2 The Arbitration Service Will Arrange For The Arbitration. The arbitrator or arbitration organization will notify YOU and US of the time, date and location of the arbitration hearing. If the dispute involves the allegation of a CONSTRUCTION DEFECT or OUR performance under this LIMITED WARRANTY, most often the hearing will be conducted at the HOME or, if applicable, the location of the COMMON ELEMENTS. Other disputes between YOU and US that are subject to arbitration, but which do not include a CONSTRUCTION DEFECT claim, may be scheduled for hearing at the HOME or another location within the county where the HOME is located. In scheduling the hearing the arbitrator will set a time and date that is reasonably convenient to all the parties.

Step 3 The Arbitration Hearing. The parties at the arbitration hearing will include the arbitrator, YOU, US and/or a third party designated by YOU or US or acting on YOUR or OUR behalf. Any party to the proceeding may be represented at the hearing. All persons who are parties to the arbitration, as well as representatives and witnesses, are entitled to attend hearings.

After evidence is presented by YOU, US or OUR representatives, a decision will be rendered by the arbitrator. The decision is final and binding on YOU and US. The arbitrator may grant any remedy, including statutory remedies, and other relief that the arbitrator deems just and equitable and within the scope of this LIMITED WARRANTY or other applicable agreements.

The arbitrator will decide any dispute between the parties, as described above. Where a CONSTRUCTION DEFECT is alleged, the arbitrator will determine whether the alleged CONSTRUCTION DEFECT exists and whether it is OUR responsibility. If the arbitrator finds US responsible for a CONSTRUCTION DEFECT, WE shall be obligated to perform in accordance with OUR Warranty Obligations as described in Section II above.

In connection with a CONSTRUCTION DEFECT dispute, the arbitrator retains jurisdiction and authority to decide any dispute as to the required scope of repair and the cost to repair the CONSTRUCTION DEFECT. In deciding such disputes, the arbitrator considers the terms of this LIMITED WARRANTY, any third-party evaluations, binding bids for repair work supplied by either of the parties, any estimates of diminished fair market value, and such other information submitted by the parties and deemed relevant by the arbitrator. Except where otherwise directed by the arbitrator’s award, the decision to repair, replace, or to make payment to YOU in lieu of repair or replacement is at OUR or OUR authorized representative’s sole option. The arbitrator will also render a decision as to any other claims, disputed matters or issues stated in the Binding Arbitration Request Form.

Step 4 OUR Arbitration Performance Obligations. If an arbitrator concludes that WE are responsible for a CONSTRUCTION DEFECT, WE will perform in accordance with the arbitrator’s decision within sixty (60) days from the date of the award or such greater time as may be allowed by the arbitrator’s decision. Delays caused by circumstances beyond OUR or OUR representative’s control shall be excused.

Step 5 Disputes As To Compliance With The Award. If there is any dispute as to OUR compliance with an arbitrator’s award, either party shall so inform PWC in writing at its mailing address specified in this LIMITED WARRANTY. PWC will mediate this dispute and if it cannot be resolved, either party may
request a compliance inspection arbitration to decide the question of compliance with the arbitration award. If it is determined that WE have not properly performed, WE will be obligated to immediately comply. As with the original arbitration award, any such subsequent arbitration rulings shall be enforceable by any court of competent jurisdiction.

VIII. General Conditions

A. Separation of This LIMITED WARRANTY From The Contract Of Sale

This LIMITED WARRANTY is separate and independent of the contract between YOU and US for the construction and/or sale of the HOME or transfer of the COMMON ELEMENTS. Except as otherwise expressly provided herein, the provisions of this LIMITED WARRANTY shall in no way be restricted or expanded by anything contained in the construction and/or sales contract or other documents between YOU and US.

B. Transfer to Subsequent HOMEOWNERS

This LIMITED WARRANTY, subject to all of its terms and conditions, including, but not limited to, its mandatory binding arbitration provision, will transfer to new owners of the HOME for the remainder of the WARRANTY PERIOD. YOU agree to provide this LIMITED WARRANTY to any subsequent purchaser of the HOME as a part of the contract of sale of the HOME. Please see the form “SUBSEQUENT HOME BUYER ACKNOWLEDGEMENT AND TRANSFER” contained at the end of this document.

C. Transfer of Manufacturer’s Warranties

WE assign to YOU all the manufacturer’s warranties on all appliances, fixtures and items of equipment that WE installed in the HOME. Should an appliance or item of equipment malfunction YOU must follow the procedures set forth in that manufacturer’s warranty to correct the problem. OUR obligation under this LIMITED WARRANTY is limited to the workmanlike installation of such appliances and equipment. WE have no obligation for appliances and equipment defined as CONSUMER PRODUCTS.

D. Recovery Rights

If WE or a third party designated by US or acting on OUR behalf repairs, replaces or pays the cost to repair or replace CONSTRUCTION DEFECT, or other related damage to the HOME or the COMMON ELEMENTS covered by this LIMITED WARRANTY, or if WE elect to pay the diminished market value of the HOME in lieu of repair or replacement of a CONSTRUCTION DEFECT, WE are then entitled, to the extent of OUR cost or payment, to take over YOUR related rights of recovery from other people and entities, including but not limited to, other warranties and insurance. YOU have an obligation not to make it harder for US to enforce these rights. YOU agree to sign any papers, deliver them to US, and do anything else that is necessary to help US exercise OUR rights.

E. General Provisions

1. If any provision of this LIMITED WARRANTY is determined to be unenforceable, such a determination will not affect the remaining provisions. If this LIMITED WARRANTY or any provision herein is determined to be unenforceable as to a HOMEOWNERS ASSOCIATION or a specific HOMEOWNER, such a determination will not affect the enforceability of this LIMITED WARRANTY or such provision as to any other HOMEOWNERS ASSOCIATION or any other HOMEOWNER. The issue of enforceability, as well as all other issues, will be determined by Binding Arbitration as provided for in this LIMITED WARRANTY.

2. This LIMITED WARRANTY and the binding arbitration process are binding on YOU and US. It is also binding on YOUR and OUR heirs, executors, administrators, successors, and assigns.
3. As may be appropriate, the use of the plural in this LIMITED WARRANTY includes the singular, and the use of one gender includes all genders.

IX. Definitions

BUILDER means the individual, partnership, corporation or other entity which participates in the Warranty Program administered by the Professional Warranty Service Corporation and provides YOU with this LIMITED WARRANTY. Throughout this document the BUILDER is also referred to as "WE", "US" and "OUR".

COMMON ELEMENTS means the property as specified in the recorded Covenants, Conditions and Restrictions as common area and any other property as to which the HOMEOWNERS ASSOCIATION has standing under the law to make a claim. This may include, but is not limited to, streets, slopes, the structure or components of enclosure or other parts of the HOME, corridors, lobbies, vertical transportation elements, rooms, balconies, clubhouses or other spaces that are for the common use of the residents of the development in which the HOME is located. SYSTEMS serving two or more HOMES, and the outbuildings that contain parts of such SYSTEMS are also included in this definition.

CONSEQUENTIAL OR INCIDENTAL DAMAGES means any loss or injury other than:

A. OUR cost to correct a CONSTRUCTION DEFECT including the correction of those surfaces, finishes and coverings damaged by the CONSTRUCTION DEFECT;
B. OUR cost to repair or replace, at market value, furniture, carpet or personal property damaged by the CONSTRUCTION DEFECT;
C. OUR cost to repair damage to the HOME which occurs in the course of OUR repair or replacement of a CONSTRUCTION DEFECT;
D. The reasonable cost of the HOMEOWNER'S alternative shelter when the HOME is temporarily unhabitable due to a CONSTRUCTION DEFECT and while the HOME is rendered uninhabitable by the work necessary to repair a CONSTRUCTION DEFECT.

Time YOU take off from work and/or YOUR inability to work from the HOME as a result of a CONSTRUCTION DEFECT or the repair/replacement of a CONSTRUCTION DEFECT, are among those damages considered “CONSEQUENTIAL OR INCIDENTAL DAMAGE” and are excluded under this LIMITED WARRANTY. Diminished fair market value of the HOME is also among those damages considered “CONSEQUENTIAL OR INCIDENTAL DAMAGE” and is excluded under this LIMITED WARRANTY notwithstanding that WE reserve the right to elect to pay YOU diminished fair market value in lieu of OUR repair, replacement or payment for the cost to repair or replace a CONSTRUCTION DEFECT.

CONSTRUCTION DEFECT(S) means a condition in the materials or workmanship used in constructing the HOME and/or the COMMON ELEMENTS that:
- materially affects the structural integrity of the HOME or the COMMON ELEMENTS; or
- has an obvious and material negative impact on the appearance of the HOME or the COMMON ELEMENTS; or
- jeopardizes the life or safety of the occupants of the HOME or the users of the COMMON ELEMENTS; or
- results in the inability of the HOME or the applicable COMMON ELEMENTS to provide the functions that can reasonably be expected in such a HOME or COMMON ELEMENT.

CONSUMER PRODUCT means any piece of equipment, appliance or other item that is a CONSUMER PRODUCT for purposes of the Magnuson-Moss Warranty Act (15 U.S.C.§ 2301, et seq.) installed or included in the HOME. Examples of Consumer Products include, but are not limited to, dishwasher, garbage disposal, gas or electric cook-top, range, range hood, refrigerator or refrigerator/freezer combination, gas oven, electric oven, microwave oven, trash compactor, automatic garage door opener, clothes washer and dryer, hot water heater, solar water heater, solar water heating panels, furnace, boiler, heat pump, air conditioning unit, humidifier, thermostat, and security alarm system.

EMERGENCY CONDITION means an event or situation that creates the imminent threat of damage to the HOME or COMMON ELEMENTS, or results in an unsafe living condition due to a CONSTRUCTION DEFECT.
that YOU (or as applicable, the HOMEOWNERS ASSOCIATION) become aware of at a point in time other than OUR normal business hours and YOU were unable to obtain OUR or OUR authorized representative’s prior written approval to initiate repairs to stabilize the condition or prevent further damage.

HOME means a single family residence either attached or detached covered by this LIMITED WARRANTY and the land on which it sits, or a condominium or cooperative unit in a multi-unit residential structure/building covered by this LIMITED WARRANTY, and the land on which it sits, except to the extent such unit, structure/building or land is part of the COMMON ELEMENTS.

HOME BUILDER’S LIMITED WARRANTY means only this express warranty document provided to YOU by US.

HOMEOWNER means the first person(s) to whom a HOME (or a unit in a multi-unit residential structure/building) is sold, or for whom such HOME is constructed, for occupancy by such person or such person's family, and such person's(s') successors in title to the HOME, or mortgagees in possession and any representative of such person(s) who has standing to make a claim on that person(s) behalf, including any class representative or HOMEOWNERS ASSOCIATION making a claim in a representative capacity.

HOMEOWNERS ASSOCIATION means a profit or nonprofit corporation, unincorporated association, organization, partnership, assessment district, limited liability company, limited liability partnership or other entity of any kind that owns, manages, maintains, repairs, administers, or is otherwise responsible for and has standing to make a claim as to any part of the COMMON ELEMENTS.

POLLUTANTS means all solid, liquid, or gaseous irritants or contaminants. The term includes, but is not limited to, petroleum products, smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, radon gas, and waste materials, including materials to be recycled.

PWC means Professional Warranty Service Corporation which administers the warranty program in which WE participate. As such, PWC assumes no other liabilities in connection with this LIMITED WARRANTY. The PWC mailing address is: Professional Warranty Service Corporation P.O. Box 800 Annandale, VA 22003-0800

SYSTEMS means the following:

(a) Plumbing system - gas supply lines and fittings; water supply, waste and vent pipes and their fittings; septic tanks and their drain fields; and water, gas and sewer services piping and their extensions to the tie-in of a public utility connection or on-site well and sewage disposal system.

(b) Electrical system - all wiring, electrical boxes, switches, outlets, and connections up to the public utility connection.

(c) Heating, Cooling, and Ventilation system - all duct-work; steam, water and refrigerant lines; and registers, connectors, radiation elements and dampers.

WARRANTY PERIOD shall commence on the date the title to the HOME is transferred to the first HOMEOWNER. Notwithstanding anything to the contrary set forth in this LIMITED WARRANTY, the WARRANTY PERIOD for the COMMON ELEMENTS of an individual structure/building commences on the date the title for the first HOME in the structure/building is transferred to the first HOMEOWNER or, as concerns clubhouses or outbuildings or other COMMON ELEMENTS not part of the HOME, the earlier of the date of substantial completion or the date title to these structures is transferred to the HOMEOWNERS ASSOCIATION. The dates the WARRANTY PERIOD begins and ends are indicated on the Limited Warranty Validation Form which is attached to and made part of this LIMITED WARRANTY.

WE, US, OUR means the BUILDER.

YOU, YOUR means the HOMEOWNER and the HOMEOWNERS ASSOCIATION.
BINDING ARBITRATION REQUEST FORM

Prior to requesting binding arbitration under the terms of the HOME BUILDER’S LIMITED WARRANTY, the initiating party should have sent the other party a clear and specific written request outlining the claim(s) or dispute(s) that are being submitted for decision through binding arbitration. If you have taken this step and believe the other party has not satisfactorily responded in accordance with the HOME BUILDER’S LIMITED WARRANTY, fill out this form and send it to PWC along with the arbitration filing fee. Be sure to attach a copy of all pertinent correspondence between you and the other party relative to the issue.

The information you need to fill out this form can be found on the Limited Warranty Validation Form. However, if you do not know the answers to any questions, write “Don’t Know.” Please do not leave any item blank.

Homeowner name(s):__________________________________________________________________________

Address:     __________________________________________________________________________________

__________________________________________________________________________________
CITY                                                                                                              STATE                                                   ZIP

Home Phone :(__________)______________________      Business Phone:(__________)___________________

LIMITED WARRANTY #:_________________________     Date Warranty Period begins:____________________

Builder’s Name:             _________________________________________________________________________

Address: _____________________________________________________________________________________

Business Phone: (______)_______________________

Describe the dispute that you wish to submit to binding arbitration under the terms of the HOME BUILDER’S LIMITED WARRANTY. If the dispute is relative to a construction defect please include information on when the construction defect(s) first occurred or when you first noticed the construction defect. (Attach additional sheets, if necessary).

I/we are hereby requesting PWC to initiate a binding arbitration to resolve the dispute described herein above.

________________________________________________       _________________________________________________
Signature   Date   Signature    Date

INSTRUCTIONS:    Photo-copy this form and complete the fields.

Obtain the required arbitration filing fee by contacting PWC at 1-800/850-2799.

Send this Binding Arbitration Request Form and the arbitration filing fee to:

PROFESSIONAL WARRANTY SERVICE CORPORATION
P. O. BOX 800
ANNANDALE, VIRGINIA   22003-0800
SUBSEQUENT HOME BUYER ACKNOWLEDGMENT AND TRANSFER

Any coverage remaining under the HOME BUILDER'S LIMITED WARRANTY applicable to the home specified on the Limited Warranty Validation Form is transferred to the subsequent homeowner.

The undersigned home buyer(s) hereby acknowledge and agree:

I/we acknowledge that I/we have reviewed, understand and agree to all the terms of the HOME BUILDER'S LIMITED WARRANTY document (PWC Form No. 117).

I/we understand and acknowledge that Professional Warranty Service Corporation ("PWC") is not the warrantor of the HOME BUILDER'S LIMITED WARRANTY.

I/we understand that I/we am/are responsible for the maintenance of the home including maintenance of the grade of the land surrounding the home, and that the Builder shall not be responsible for any defect or damage to the home which is the result of my/our failure to maintain the home.

I/we acknowledge and agree to the Binding Arbitration Procedure contained in the HOME BUILDER'S LIMITED WARRANTY.

Signature(s) of Subsequent Home Buyer(s):

Date: ___________________________ Date: ___________________________

Print above name(s):

Re-issuance of the Limited Warranty Validation Form with the name(s) of the new Home Buyer(s) is not necessary for you to receive the coverage remaining under the HOME BUILDER'S LIMITED WARRANTY. Upon receipt of this signed form, PWC will update its records to reflect the name(s) of the new homeowner(s). If you want PWC to issue another Limited Warranty Validation Form with your name(s) on the form, please check the box below and send a check in the amount of $20.00 made payable to "PWC" with your submission of this form.

YES, re-issue the Limited Warranty Validation Form in the above name(s) ☐ (check box) Initial __________

Address of Home: ________________________________

Limited Warranty No.: __________________________

INSTRUCTIONS: Photo-copy this form. Provide information requested, sign, fill in Limited Warranty # in the space provided (this number is provided on the Limited Warranty Validation Form), and provide a telephone number where you can be reached (______) __________. If you want the Limited Warranty Validation Form reissued in your name, enclose your check to PWC in the amount of $20.00 (check box above and initial). To reach PWC by phone, call: 1-800/850-2799.

Mail this form and a photocopy of applicable settlement/closing documents indicating transfer of title, to:

PROFESSIONAL WARRANTY SERVICE CORPORATION  P.O. BOX 800  ANNANDALE, VA  22003-0800