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LIMITED WARRANTY AGREEMENT

THIS LIMITED WARRANTY AGREEMENT EXCLUDES CONSEQUENTIAL DAMAGES

1. What is covered by the Limited Warranty? The Builder (also referred to in various related documents as the "Contractor" or "Seller") warrants that all construction related to the subject home substantially conforms with the plans and specifications and change orders for this job, that the materials that were used with respect to this job were new (unless expressly agreed upon by the parties), and that the construction was completed in accordance with the requirements of Ohio Revised Code Section 4722 and the rules defining "workmanlike" construction promulgated under Ohio Law.

Within one year from the date of closing or occupancy by the Buyer (also referred to in various related documents as the "Home Owner" or "Owner"), whichever is first to occur, the Builder will repair or replace, or pay for the cost of repairs or replacement, at Builder's option, any defects in material or workmanship as determined by the application of the above-referenced Ohio law and rules and as otherwise limited by the terms and conditions of this Limited Warranty. Buyer agrees to accept a reasonable match in any repair or replacement in the event the original item is no longer available.

Builder's Right-to-Cure. This Limited Warranty Agreement is a separate contract entered into between the Buyer and Builder, 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 delivery and/or occupancy of the home. The purpose of this Agreement is to govern such issues without resorting to disputes or the expense and uncertainty of arbitration or litigation. Thus, 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 Warranty Agreement, the Buyer hereby grants the Builder the right and ability to investigate, resolve and cure, when determined necessary, any alleged construction defect before the Buyer may commence arbitration or legal action based on an allegation that the Builder failed in its duty to construct the home in a "workmanlike" manner. (The Builder'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 Buyer to follow proper operating instructions or to otherwise fail to properly maintain the home;
 - B. Damages from the failure of utility services;
 - C. Damages related to items not furnished by the Builder, including damage to personal property and defects in materials and workmanship or negligence attributable to persons other than the Builder, 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. Some states do not allow limitations of consequential damages so this limitation may not apply to you;
 - F. Damages to anyone other than the original Buyer;
 - G. Defects in appliances and equipment that are covered by manufacturers' warranties (the Builder herein having assigned these manufacturers' warranties to the Buyer pursuant to Section 3 to the extent they are assignable and it accordingly being agreed that if a defect appears in these items, the Buyer should follow the procedures set forth in the manufacturers' warranties relative to the same), however, the builder warrants that appliances shall be properly installed; and
 - H. Conditions or damages caused or aggravated by any failure to give notice to the Builder within a reasonable time that inhibits the Builders' opportunity to take remedial action or denial of or lack of cooperation with the Builder's right to cure.
 - I. The so called "non-warrantable" conditions as hereafter set forth in Section 5.
3. Manufacturers' Warranties. The Builder assigns and passes through to the Buyer (to the extent they are assignable) the manufacturers' warranties on all appliances, equipment, and other miscellaneous items ("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 BUILDER UNDER THIS LIMITED WARRANTY AGREEMENT.**
4. **NO OTHER EXPRESS WARRANTIES. UNLESS OTHERWISE PROVIDED IN WRITTEN FORM BY THE BUILDER'S**

AUTHORIZED REPRESENTATIVE, THIS LIMITED WARRANTY IS THE ONLY EXPRESS WARRANTY THE BUILDER GIVES.

5. **Non-warrantable Conditions.** The following statement of conditions relate to items or events that are not subject to the Builder's warranties as set forth herein. To this end, Buyer acknowledges and understands that like other products made by humans, a house is not perfect and certain inherent elements in the materials used to construct a house are such that the following conditions cannot reasonably be warranted by the Builder. The Buyer acknowledges that the Buyer has read these items carefully and understands that the Buyer has not contracted for the Builder to correct these types of problems should they occur.
- A. **Radon/Indoor Air Quality.** The Builder 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 Builder 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.** Builder 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 Builder have any knowledge of the special health conditions of any persons that comprise Buyer or of those who may reside in the home with Buyer. In the event any person that comprises Buyer or any person who may reside with Buyer in the home shall have special medical conditions which are known to Buyer or become known to Buyer which may adversely affect such person or persons who may reside in the home, Buyer should consult with appropriate medical experts, at Buyer's cost.
- (Please note: Any evaluation by a medical or human health expert shall meet the standards of Ohio law as adopted by the Ohio Supreme Court for evaluating mold, hazardous and toxic substances.)
- Any testing or remediation desired by Buyer shall be at Buyer's expense, unless Builder asserts Builder's Right to Cure as specified in this Agreement and/or the Real Estate Purchase Agreement 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 Buyer 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 Buyer with spackling during normal redecorating. However, if the Buyer wishes, the Builder will send a worker at the end of the one year term described in Section 1 above to make the necessary repairs. The Builder's repairs will include repainting the repaired area only. The Builder 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 Buyer's responsibility.
- F. **Frozen Pipes.** The Buyer 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 Buyer'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 Buyer's responsibility.
- H. **Alterations to Grade.** Any alterations to grading due to the installation or addition to landscaping, patio or service walks by the Buyer, which either obstructs the initial grading pattern as established by the Builder, 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.** Builder is not responsible for the following occurrences arising as a result of the Buyer installing a sprinkler system outside of the scope of Buyer's contract with Builder: (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. Wood, tile, 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 Buyer 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 Buyer at the final inspection are the responsibility of the Buyer.
- N. Stained Wood. All items that are stained will normally have a variation of colors because of the different textures 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 Buyer 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 Buyer should avoid allowing lawn sprinklers to hit painted areas, washing down painted areas, and so on. The Buyer 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 it's not cared for properly. Any defects in painting that are not noted at the final inspection are the Buyer'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 Buyer will be billed for the service call.
- Q. Lawn, Shrubs and Trees. The Builder accepts no responsibility for the growth of grass or shrubs. Once the Builder grades, seeds and/or sods the yard, the Buyer must water the plants and grass the proper amount and plant ground cover, where necessary to prevent erosion. The Builder 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 Buyer's roof 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 Builder's assistance. The Builder will not be responsible for any damages caused by walking on the roof or by installing a television antenna 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 Builder 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.
6. Claims Procedures. If a defect appears that Buyer believes is covered by this Limited Warranty, the Buyer must provide a written description of it to the Builder and send it to the Builder at the Builder's office address as set forth herein. The Buyer must tell the Builder in writing what times during the day the Buyer will be at home so the Builder can schedule service calls appropriately. If a delay will cause extra damage (for instance, a pipe has burst), the Buyer should telephone the Builder. Only emergency reports should be given or taken by phone. Failure to notify the Builder of defects covered under this Limited Warranty or any other warranties that are limited pursuant to this Limited Warranty shall relieve the Builder 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 Builder's Right to Cure, Buyer agrees to provide Builder 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 Builder's sole discretion.

8. Builder's Duty to Diligently Prosecute Repairs, Homeowners' Duty of Ongoing Cooperation with Builder's Reasonable Ongoing Efforts. The Builder's responsibilities under this limited warranty agreement are subject to the Builder's diligent prosecution of remedial work which requires the Builder 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 or warrantable 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 and warrantable conditions 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 Buyer recognizes that so long as Builder is diligently pursuing discovery and/or repairs and remedies in good faith and on an ongoing basis, the Buyer's ongoing duty to cooperate in full with the Builder under this agreement is ongoing and 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 Builder's Right to Cure Bars Claims. Buyer expressly agrees hereby that any legal claim, cause of action or submission to arbitration, made under any legal theory, and brought by Buyer against Builder for an alleged defective condition shall be subject to the Builder'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 Buyer provides the Builder with the reasonable opportunity to cure under the procedures specified herein, and/or elect remedies, fully cooperates, including sharing any reports or data compiled by Buyer's expert with Builder and provides ongoing access to the home for purposes of the Builder's diagnosing and diligently prosecuting repairs until complete.
10. Failure to Mitigate Damages Voids Warranty and Provides Affirmative Defenses to Builder. Buyer is expressly prohibited from claiming damages from an alleged defect or warrantable condition, where Buyer has denied or continues to deny Builder's reasonable requests and/or attempts to remedy, or pay to remedy, such defect. The Buyer acknowledges that such a denial by the Buyer of the Builder's right to cure amounts to a violation of this Agreement, and as such, the parties agree that Buyer's remaining warranty rights, if any, shall be terminated. In addition, the parties agree that such denial by Buyer of Builder's right and reasonable attempts to cure or Buyer's failure to cooperate will constitute Buyer's failure to mitigate damages, and thus shall provide Builder with this and all other affirmative defenses afforded to Builder under the law.
11. Limited Warranty Not Transferable. This Limited Warranty is extended to the Buyer only if the Buyer is the first purchaser of the home. When the first purchaser 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 first purchaser's tenants.
12. 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 and any necessary repair protocols under this Limited Warranty Agreement, or otherwise, the Buyer 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 Buyer, the Buyer hereby agrees that the Buyer will defer to the Builder and it will be the Builder's judgment and decision-making that will govern any interpretive matter 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 Ohio law, including the Residential Building Codes effective at the time of construction, as well as manufacturers installation instructions then effective. If Ohio Law or manufacturers instructions are silent on 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 BIA Professional Standards Committee for review and determination before submitting to arbitration or proceeding to legal action in a court of competent jurisdiction. Any conclusion reached by the BIA Professional Standards Committee upon review shall be deemed conclusive as to that standard, whether submitted to arbitration or otherwise.
13. No Obligations for Voluntary Actions. Any remedy voluntarily offered or provided by the Builder 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 Builder at any time extend the time periods or alter the scope or conditions of any warranty obligation of the Builder related to the Home.
14. Subrogation. If Builder repairs, replaces or pays the cost of repair or replacement under this Limited Warranty Agreement any defect or components for which Buyer is covered under a manufacturer's warranty or by any insurance policy, Builder will be automatically subrogated to Buyer's rights under same to the extent of costs paid or incurred by the Builder.
15. Exclusive Remedy and Limits of Costs. The repair, replacement or payment remedy selected by the Builder shall be the exclusive remedy for which the Builder will be liable with respect to the specific defective condition under this Warranty

Agreement. In no event will builder be liable for repair costs or other warranty obligations amounting in aggregate to more than the purchase price of the home under any circumstances

16. 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 _____

Street Address _____ City / State / Zip _____

Home Phone / Fax _____ Work Phone / Fax _____

Cell Phone(s) / Pager(s) _____

Names on Deed _____

BUILDER:

Name _____

Street Address _____ City / State / Zip _____

Home Phone / Fax _____ Work Phone / Fax _____

Cell Phone(s) / Pager(s) _____ Tax Payer ID Number _____

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

BUILDER SIGNATURE:

By: _____

Its: _____

Date: _____

OWNER SIGNATURE:

Date: _____

This Warranty Agreement is designed to be executed in conjunction with and as part of a Real Estate Purchase Agreement between the issuing Builder (Contractor or Seller) and the Home Buyer (Home Owner or Owner). It binds and is legally enforceable as to the executing parties only. The Building Industry Association of Central Ohio, Inc. is not a party to this Agreement. Thus, this Warranty Agreement does not represent any Agreement by the Building Industry Association of Central Ohio, Inc. and shall not be interpreted or represented as a services contract, warranty service agreement, or warranty coverage of any kind to be provided by the Building Industry Association of Central Ohio, Inc.