

# One-Year Limited Warranty Agreement

Miller and Smith, hereafter called the “Builder,” whose office is located at 8401 Greensboro Drive, Suite 300, McLean, VA, 22102, extends the following one-year limited warranty to \_\_\_\_\_, hereafter referred to as “Owner,” who has contracted with the Builder for purchase of the finished home located at \_\_\_\_\_, Lot \_\_\_\_\_, Block \_\_\_\_\_ in \_\_\_\_\_ County, state of \_\_\_\_\_, for the purchase price of \$ \_\_\_\_\_ ( \_\_\_\_\_).

The commencement date of the warranty coverage is \_\_\_\_\_, \_\_\_\_\_, and extends for a period of ONE YEAR.

## 1. COVERAGE ON HOME EXCEPT CONSUMER PRODUCTS

The Builder expressly warrants to the original Owner of the home that the home will be free from defects in materials and workmanship due to noncompliance with the standards set forth in the Limited Warranty Guidelines in effect on the date of this limited warranty, included in the Builder Homeowner Guide and which are part of this warranty.

## 2. COVERAGE ON CONSUMER PRODUCTS

For purposes of this Limited Warranty Agreement, the term “consumer products” means all appliances, equipment, and other items that are consumer products for the purposes of the Magnuson-Moss Warranty Act (15 U.S.C., sections 2301–2312) and which are located in the home on the commencement date of the warranty. The Builder expressly warrants that all consumer products will, for a period of one year after the commencement date of this warranty, be free from defects due to noncompliance with generally accepted standards in the state in which the home is located, which assure quality of materials and workmanship. ANY IMPLIED WARRANTIES FOR MERCHANTABILITY, WORKMANSHIP, OR FITNESS FOR INTENDED USE ON ANY SUCH CONSUMER PRODUCTS SHALL TERMINATE ON THE SAME DATE AS THE EXPRESS WARRANTY STATED ABOVE. The Builder hereby assigns to Owner all rights under manufacturers’ warranties covering consumer products. Defects in items covered by manufacturers’ warranties are excluded from coverage of this limited warranty, and Owner should follow the procedures in the manufacturers’ warranties if defects appear in these items. This warranty gives you specific legal rights, and you may have other rights which vary from state to state.

## 3. BUILDER’S OBLIGATIONS

If a covered defect occurs during the one-year warranty period, the Builder agrees to repair, replace, or pay the Owner the reasonable cost of repairing or replacing the defective item. The Builder’s total liability under this warranty is limited to the purchase price of the home stated above. The choice among repair, replacement, or payment is the Builder’s. Any steps taken by the Builder to correct defects shall not act to extend the term of this warranty. All repairs by the Builder shall be at no charge to the Owner and shall be performed within a reasonable length of time subject to delays outside the Builder’s control..

#### **4. OWNER'S OBLIGATION**

Owner must provide normal maintenance and proper care of the home according to this warranty, the warranties of manufacturers of consumer products, and generally accepted standards of the state in which the home is located. The Builder must be notified in writing, by the Owner, of the existence of any defect before the Builder is responsible for the correction of that defect. Written notice of a defect must be received by the Builder prior to the expiration of the warranty on that defect and no action at law or in equity may be brought by the Owner against the Builder for failure to remedy or repair any defect about which the Builder has not received timely notice in writing. Owner must provide access to the Builder during its normal business hours, Monday through Friday, 8 a.m. to 5 p.m., to inspect the defect reported and, if necessary, to take corrective action.

#### **5. INSURANCE**

In the event the Builder repairs or replaces or pays the cost of repairing or replacing any defect covered by this warranty for which the Owner is covered by insurance or a warranty provided by another party, Owner must, upon request of the Builder, assign the proceeds of such insurance or other warranty to the Builder to the extent of the cost to the Builder of such repair or replacement.

#### **6. CONSEQUENTIAL OR INCIDENTAL DAMAGES EXCLUDED**

CONSEQUENTIAL OR INCIDENTAL DAMAGES ARE NOT COVERED BY THIS WARRANTY AND ARE SPECIFICALLY EXCLUDED.

#### **7. OTHER EXCLUSIONS**

THE FOLLOWING ADDITIONAL ITEMS ARE EXCLUDED FROM LIMITED WARRANTY:

- a. Defects in any item that was not part of the original home as constructed by the Builder.
- b. Any defect caused by or worsened by negligence, improper maintenance, lack of maintenance, improper action or inaction, or willful or malicious acts by any party other than the Builder, its employees, agents, or trade contractors.
- c. Normal wear and tear of the home or consumer products in the home.
- d. Loss or damage caused by acts of God, including but not limited to fire, explosion, smoke, water escape, changes that are not reasonably foreseeable in the level of underground water table, glass breakage, windstorm, hail, lightning, falling trees, aircraft, vehicles, flood, and earthquakes.
- e. Any defect or damage caused by changes in the grading or drainage patterns or by excessive watering of the ground of the Owner's property or adjacent property by any party other than the Builder, its employees, agents, or trade contractors.
- f. Any loss or damage that arises while the home is being used primarily for nonresidential purposes.
- g. Any damage to the extent it is caused or made worse by the failure of anyone other than the Builder or its employees, agents, or trade contractors to comply with the requirements of this warranty or the requirements of warranties of manufacturers of appliances, equipment, or fixtures.
- h. Any defect or damage that is covered by a manufacturer's warranty that has been assigned to Owner under paragraph 2 of this Limited Warranty.
- i. Failure of Owner to take timely action to minimize loss or damage or failure of Owner to give the Builder timely notice of the defect.

- j. Insect or animal damage.
- k. Cosmetic items not listed on the Pre-Settlement Orientation Report.

#### **8. ARBITRATION OF DISPUTE**

The Owner shall promptly contact the Builder's warranty department regarding any disputes involving this Agreement. If discussions between the parties do not resolve such dispute, either party may, upon written notice to the other party, submit such dispute to arbitration with each party hereto selecting one arbitrator, who shall then select the third arbitrator. The arbitrators shall proceed under the construction industry rules of the American Arbitration Association. The award of the majority of the arbitrators shall be final, conclusive, and binding upon the parties. The expenses of the arbitrators shall be shared equally, but each party shall bear its own fees and costs.

#### **9. EXCLUSIVE WARRANTY**

THE BUILDER AND OWNER AGREE THAT THIS LIMITED WARRANTY ON THE HOME IS IN LIEU OF ALL WARRANTIES OF HABITABILITY OR WORKMANLIKE CONSTRUCTION OR ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, TO WHICH OWNER MIGHT BE ENTITLED, EXCEPT AS TO CONSUMER PRODUCTS. NO EMPLOYEE, TRADE CONTRACTOR, OR AGENT OF THE BUILDER HAS THE AUTHORITY TO CHANGE THE TERMS OF THIS ONE-YEAR LIMITED WARRANTY.