



Limited Warranty

This Limited Warranty is an addendum to and part of the New Construction Purchase and Sale Agreement (“Agreement”) dated this _____ day of _____, 20____ between _____ (“Buyer”) and _____ (“Seller”) for the purchase of the property (“Property”) described in the Agreement:

1. **LIMITED WARRANTY.** The Seller agrees that, for the term of this Limited Warranty, it will comply with the “builder” responsibilities as set forth in the Greater Atlanta Home Builders Association’s Homeowner Handbook, current edition (“Handbook”), subject to the terms and conditions of this Limited Warranty and the Handbook. The Handbook shall be deemed part of this Limited Warranty.

2. **TERM.** The term of this Limited Warranty (“Warranty Term”) shall be one (1) year commencing on the date of closing of the purchase of the Property by the Buyer or the date of occupancy, whichever occurs first, except for items in the Handbook that are only warranted to meet a standard on the date of closing. This Limited Warranty shall become effective from and after the closing.

3. **NOTICE TO SELLER.** In the event of the occurrence of a problem as to which the Seller has responsibility in the Handbook, the Buyer must provide written notice of such problem to the Seller. The notice must be given in the manner required by the Agreement for notices and shall be given to the following address:

Macallan Residential, LLC
201 South Village Square
Canton, GA 30115
Phone: (404) 603-8833
Fax: (404) 603-8333
Email: warranty@macallangroup.com

The notice must specify the problem in detail and must be given to the Seller within the Warranty Term. The Seller shall not be responsible for problems as to which a required, timely notice has not been given. The Buyer shall permit the Seller or its agents, employees or contractors reasonable access to the Property during normal business hours (Monday - Friday, 9:00 a.m. - 5:00 p.m.) to inspect or perform work required under this Limited Warranty.

4. **EXCLUSIONS.** Excluded from this Limited Warranty are the following:

- a. Any items for which the Seller is not responsible as builder under the Handbook;
- b. Bodily or personal injury of any kind;
- c. Mental and emotional pain and suffering;
- d. Loss or damage to personal property;
- e. Loss or damage resulting from the Buyer’s failure to comply with his obligations in the Handbook or otherwise resulting from the Buyer’s improper maintenance or improper operation;
- f. Loss or damage resulting from the Buyer’s failure to provide prompt notice to the Seller of a problem for which the Seller has responsibility in the Handbook;
- g. Any defect, damage, or loss resulting from actions or inactions of persons other than the Seller, such as independent contractors retained by the Buyer;
- h. Consequential or incidental damages of any kind or nature;
- i. Attorney’s fees, expert’s fees, and expenses of the Buyer;
- j. Loss or damage caused by external forces, such as acts of God, windstorm, fire, explosion, smoke, water, hail, lightning, falling trees, flood, earthquakes, radon or other gases, pollution, toxic substances, civil disturbance, changes in the level of the underground water table which are not reasonably foreseeable at the time of construction, or criminal acts of a third party;
- k. Any loss, damage, defect, cost or expense which is caused by an occurrence for which compensation is provided by state legislation, or which is covered by insurance of the Buyer;
- l. Any loss or damage by insects or vermin;
- m. Any loss or damage arising while the Property is being used primarily for nonresidential purposes or from the Property being used for nonresidential purposes;

- n. Costs of shelter, transportation, food, moving, storage, or other incidental expenses related to relocation during repair, or any other cost or damages relating to loss of use, inconvenience, or annoyance;
- o. Normal wear and tear, normal deterioration, or normal changes that are the result of characteristics common to the materials used;
- p. Loss or damage resulting from the Buyer's failure to comply with warranty requirements of manufacturers;
- q. Any appliances, piece of equipment, or other item that is a consumer product for the purpose of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et. seq.* installed or included in the Property, including but not limited to any heating and air conditioning equipment, heat pump, electric air cleaner, exhaust fan, thermostat, space heater, furnace, air conditioning system, humidifier, whirl pool bath, garbage disposal, water heater, water softener, sump pump, refrigerator, freezer, trash compactor, range, oven, kitchen center, dishwasher, oven hood, clothes washer, clothes dryer, ice maker, central vacuum system, smoke detector, fire alarm, fire extinguisher, garage door opener, chime, water pump, intercom, burglar alarm, electric meter, gas meter, or electric barbecue grill;
- r. Defects in swimming pools and other recreational facilities;
- s. Defects in landscaping, including sodding, seeding, shrubs, trees, plants, and fences;
- t. Loss or damage of any item from defect in workmanship or materials, including without limitation, any cracks, chips, dents, stains, or marks, except to the extent such items are expressly covered by the Handbook;
- u. Exterior hardware;
- v. Loss or damage resulting from abnormal loading on floors by the Buyer which exceed design loads as mandated by applicable building codes; and
- w. Damage, including but not limited to fading and ghosting of paint or other surfaces, resulting from the use of candles.

The obligations of the Seller under the Handbook shall not be expanded by the absence of an exclusion addressing a particular matter.

5. OTHER RIGHTS. This Limited Warranty is in addition to any rights that the Buyer may have under state, federal and local laws, including but not limited to rights under applicable governmental codes, regulations or ordinances.

6. STATUTORY ALTERNATIVE DISPUTE RESOLUTION:

A. "Act:" For purposes of this paragraph, the term "Act" shall refer to O.C.G.A. §§ 8-2-35 through 8-2-43.

B. Notice: GEORGIA LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO CONSTRUCTED, IMPROVED OR REPAIRED YOUR HOME. NINETY DAYS BEFORE YOU FILE YOUR LAWSUIT OR OTHER ACTION, YOU MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS OR BOTH. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT OR OTHER ACTION.

C. "Construction Defect:" For purpose of the Act, the term "construction defect" shall mean: any matter concerning the design, construction, or repair of a dwelling, as that term is defined in O.C.G.A. § 8-2-36 (6), or an alteration of or repair or addition to an existing dwelling, or of an appurtenance to a dwelling on which a person has a complaint against Seller or other "contractor," as that term is defined in O.C.G.A. § 8-2-36 (5); and any physical damage to the dwelling or real property on which it is located that is caused by a construction defect. This definition does not change or expand: the "builders" responsibilities set forth in paragraph 1 of this Limited Warranty; or limit the exclusions set forth in paragraph 4 of this Limited Warranty. The term "construction defect" is incorporated into this Agreement to make it clear that any "action," as that term is defined in O.C.G.A. § 8-2-36 (1), whether based on breach of contract, breach of warranty, negligence, fraud or other statutory or common-law grounds, that alleges a "construction defect" is subject to the Act.

D. Interaction of Act and Limited Warranty: The parties agree that, notwithstanding compliance with the Act, before Buyer files an action alleging a breach of this Limited Warranty, Buyer must have complied with the requirements of this Limited Warranty.

E. Except as permitted by O.C.G.A. § 8-2-38 (o), if Buyer files an "action," as that term is defined in O.C.G.A. § 8-2-36 (1), without first complying with the requirements of the Act, Buyer shall be liable for the reasonable attorney's fees and expenses incurred by Seller in obtaining a stay of that action.

7. OPTIONS AVAILABLE TO SELLER. In lieu of repairing any problem covered by the Limited Warranty, the Seller shall have the option of replacing such item or of paying reasonable sums to the Buyer with which to have such problem addressed by the

Buyer or third party. Unless a problem constitutes an emergency or additional material damage would result from delay in addressing such problem, the Seller has the option of waiting to address all or several problems at once or in groups.

- 8. MISCELLANEOUS. This Limited Warranty is part of the Agreement and incorporates its terms and provisions (including without limitation those requiring mandatory binding arbitration), except to the extent they conflict with the terms of this Limited Warranty, in which event the terms of this Limited Warranty shall prevail. To the extent there are any conflicts between the Limited Warranty and the Handbook whether in substance, procedures, terminology or otherwise, the terms of the Limited Warranty shall prevail.
- 9. DISCLAIMER. The Seller reserves the right, at his/her discretion, to exceed the warranty guidelines if common sense or individual circumstances make that appropriate, without being obligated to exceed all guidelines to a similar degree or for other homeowners whose circumstances are different.

Buyer's Signature

Date

Buyer's Signature

Date

Seller's Signature
(Use full legal name)

Date

Print or Type Name

This Limited Warranty is made available by the Greater Atlanta Home Builders Association, Inc. for use by its builder members who choose to use it. Neither its builder members nor any consumer is required to make use of this Limited Warranty or to agree to its terms. Both builders and consumers should review the Limited Warranty in its entirety and should consult legal counsel if they desire to do so before choosing to use it. The Greater Atlanta Home Builders Association, Inc. makes no warranty or representation, express or implied, relating to this Limited Warranty.