



## BUILDER'S LIMITED WARRANTY

MAG BUILDERS, INC. | 2750 S. BROADWAY ENGLEWOOD, CO 80113 | 720.446.9395

ORIGINAL PURCHASER(S) ("OWNER"):

PROPERTY ADDRESS ("HOME"):

For good and valuable consideration, MAG Builders Inc. ("Builder") hereby warrants, for twelve (12) months from the date of conveyance of title (hereafter "Warranty Period"), to Owner, and only Owner, that the Home shall be free from defects in workmanship and materials resulting from noncompliance with the guidelines found in the publication *Residential Construction Performance Guidelines for Professional Builders and Remodelers*, Fourth Edition © 2011 National Association of Home Builders of the United States (hereafter "Performance Standards"), except as otherwise set forth herein. If an item is not covered in that publication, standard industry practice in the area of the Home at the time of construction shall govern.

Appliances, fixtures or pieces of equipment that are covered by a manufacturer's warranty ARE NOT covered by this warranty. Defects in any of the electrical, plumbing and mechanical systems of the Home, including the wiring, piping and ductwork portions of the systems, (hereafter "Systems") resulting from failure in an applicable, fixture or piece of equipment covered by a manufacturer's warranty ARE NOT covered by this warranty. ADDITIONAL EXCLUSIONS APPLY.

### A. Assignment of Manufacturers' Warranties:

Builder hereby assigns to Owner the manufactures' warranties on all appliances, fixtures and pieces of equipment installed in the Home. A copy of these warranties will be left in the Home prior to occupancy or otherwise be made available to Owner at the time of closing. Owner shall be responsible for complying with the procedures set forth in the applicable warranty.

### B. Builder's Responsibility:

If a defect occurs on an item during the Warranty Period and the item is covered by the Warranty, the Builder will repair or replace the defective item.

Builder, at Builder's sole discretion, shall have the option to repair, replace or pay the Owner the reasonable cost of repair and/ or replacement of any covered defect. The design, method and manner of such repair shall be within the sole discretion of the Builder. The



repair shall bring the defective item in compliance with the applicable Performance Standards. In no event shall Builder be liable for discontinued items, changes in dye lots, colors or patterns, or items not included in the original construction. In no event shall Builder be liable for invoices, bills or receipts for labor performed or materials furnished by or at the direction of Owner.

Repair, replacement or any action by Builder to correct a defect shall not operate to extend the Warranty Period.

**C. Coverage Limitations:**

Repair will include the correction or replacement of only those surfaces, finishes and coverings damaged by the defect and originally installed by the Builder. Repair or replacement of any surfaces, finishes or coverings will be to approximately the same condition they were in prior to the defect.

This Warranty does not cover consequential damages or incidental damages.

This Warranty shall not extend to defects discovered after the Home is no longer used as Owner's primary residence.

The Builder's liability under this Warranty for the repair or replacement of defective items, including the costs of determining the existence and/ or extent of a covered defect, is limited to \$500,000.00 or the purchase price of the home, whichever is less, regardless of the number of claims made during the Warranty Period.

**D. Exclusions:**

The liability of Builder under this Warranty shall NOT apply or extend to, and Builder assumes no responsibility for loss or damage caused, whether solely or in part, by:

1. Normal wear and tear or normal deterioration;
2. Negligence and/ or improper maintenance;
3. Defects in design, installation or materials which Owner supplied, installed or had installed under Owner's direction;
4. Dampness and condensation caused by the failure to provide sufficient ventilation;
5. Any contamination caused or created by natural or man-made chemicals, compounds or substances or breakdown or adverse effects of chemicals, compounds or substances used in construction of the Home or site;
6. **Drainage deficiencies that do not affect the structural integrity of the Home;**
7. **Any and all landscaping;**
8. Landscaping irrigation systems including but not limited to sprinkler systems, sprinkler heads and/ or sprinkler control systems;



9. Any condition caused or made worse by inadequate, excessive or uneven watering of soils;
10. Failure of Builder to complete construction of the Home in conformity with construction plans or specifications;
11. Failure of Builder to complete construction of the Home in compliance with any applicable building code unless resulting in actual damages;
12. Changes, alternations or additions made to the Home by anyone other than the Builder;
- 13. Failure to maintain grades, swales and drainage patterns;**
- 14. Patio, sidewalks, driveways and any other exterior flatwork;**
15. Any damage caused by water intrusion, including but not limited to roof leaks, window sealants, plumbing or failure of vapor barriers, except as provided in the Performance Standards;
16. Soil conditions of the real property upon which the Home is constructed;
17. Soil movement where the resulting loss or damage is compensated for by legislation or covered by insurance;
18. Defects in appliances, fixtures or pieces of equipment that are covered by a manufacturer's warranty;
19. Defects in any of the electrical, plumbing and mechanical systems of the Home, including the wiring, piping and ductwork portions of the systems, resulting from failure in an applicable, fixture or piece of equipment covered by a manufacturer's warranty;
20. Outbuildings, sheds, detached garages, carports, storage buildings or any other detached structures;
21. Insects or animals;
22. Any loss or damage which may arise while the Home is not being used primarily for residential purposes;
23. Any condition which does not result in actual physical damage to the Home;
24. Failure of Owner to take timely action to minimize such loss or damage and/ or failure of Owner to give Builder proper and timely notice of the defect;
25. Deficiency or defects caused or made worse by Owner, occupants or guests;
26. Off-site improvements or any improvements installed after closing;
27. Deficiency or defects resulting from accidents, riot, terror attacks, war or acts of God, including but not limited to, fire, explosion, smoke, water escape, erosion, hail, lightning, hurricane, tornado, windstorm, mudslide, falling trees or other objects, aircraft, vehicles, flood, earthquakes, sink holes, saturated soils or change in the level of the underground water table;
28. Other exclusions or limitations as provided or specified in the Performance Standards.

**E. How to Make a Claim:**

If Owner discovers a defect which Owner believes is covered by this Warranty, Owner must give WRITTEN NOTICE to Builder at the address provided above or as may otherwise be designated by Builder from time to time. The notice shall include the name of the Owner,



the Owner's address, the Owner's telephone number, the nature of the defect, the date the defect first occurred and the loss or damage claimed. The notice shall be personally delivered or sent by certified mail, return receipt requested, as soon as possible upon discovery of the defect and before the expiration of the Warranty Period.

In addition to the required WRITTEN NOTICE, to the extent the defect constitutes or creates an emergency condition, Owner shall contact Builder immediately by telephone. For purposes of this paragraph, an emergency condition is a condition, beyond the Owner's control, that seriously affects Owner's ability to live in the Home or a condition that if not rectified will result in significant damage to the Home. Owner's failure to immediately notify Builder of an emergency condition shall relieve Builder of liability for any damages which could have been prevented or mitigated had Builder been immediately notified.

**F. Assignability:**

This Warranty is personal to Owner and may not be transferred or assigned by Owner to subsequent owners of the Home.

**G. Owner's Responsibilities:**

Owner must provide normal maintenance and proper care of the Home and surrounding property.

Owner must coordinate and cooperate with Builder to provide access to the Home for the Builder during normal business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m., to inspect the claimed defect and to take corrective action.

Owner is responsible for any damage to any improvement, fixture or property not constructed, installed or provided by the Builder that may need to be removed to repair the covered defect or which may be damaged in the course of repairs to the covered defect.

Before Builder repairs or pays for the repair of a claim, Owner must assign to Builder any rights Owner may have against any other person with respect to the claim.

In the event Builder repairs or replaces or pays Owner the cost of repairing or replacing any defect covered by insurance or a warranty provided by another party, Owner must, at the request of Builder, assign the proceeds of such insurance or other warranty to Builder.

**H. Dispute Resolution:**

In the event of any dispute or claim arising out of or related to this warranty, Builder, in Builder's sole discretion, may elect to have the dispute or claim submitted to binding arbitration.



In the event Builder elects to have a dispute or claim submitted to arbitration, Owner and Builder shall endeavor to select and appoint a neutral third party to serve as arbitrator, and, unless the parties otherwise agree, the arbitration shall be governed by the American Arbitration Association Construction Industry Arbitration Rules. If Builder and Owner cannot agree on an arbiter, and the right to submit the claim to arbitration is not otherwise waived by Builder, then the claim or dispute shall be settled by arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules. In the event of arbitration, judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

In the event of arbitration, the cost of such shall be shared equally between the Builder and the Owner.

**I. General Provisions:**

In the event any of the provisions of this Warranty are deemed to be invalid and unenforceable, those provisions shall be severed from the remainder of this Warranty.

This Warranty shall be construed under and interpreted in accordance with the laws of the State of Colorado, as they existed on the first date of the Warranty Period.

The headings contained in this Warranty set forth only for convenience and reference, and are not intended in any way to define, limit, or describe the scope of this Warranty and are not to be interpreted as part of this Warranty.

**DATED THIS** \_\_\_\_ **day of** \_\_\_\_\_, \_\_\_\_\_.

**BY:** \_\_\_\_\_  
MAG Builders, Inc.

A copy of *Residential Construction Performance Guidelines, Consumer Reference*, Fourth Edition © 2011 National Association of Home Builders of the United States is being provided to Owner together with this Warranty for Owner's reference.