

Quality homes. Quality of life.

# LOWDERNEW HOMES

A COLONIAL  COMPANY... Since 1956

## LOWDER NEW HOME LIMITED WARRANTY

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between Lowder New Homes, Inc., an Alabama Corporation, (COMPANY) and \_\_\_\_\_ (PURCHASER); (ADDRESS)\_\_\_\_\_

**TERM** - The Company warrants to the Purchaser the home or dwelling identified above for the period of One Year from the date of original conveyance of the Title or the date of occupancy, whichever occurs first.

**COVERAGE** - Purchaser acknowledges that they received, prior to or at closing, the Homeowner's Manual and the printed Lowder New Home Limited Warranty in its entirety. Coverage is provided for (1) Faulty workmanship and materials as defined in Home Owners Manual (2) Defects in wiring, piping, and ductwork in the electrical, plumbing, heating and cooling systems. (3) Major structural defects. A "major structural defect" is actual damage to the load bearing portion of the home (including damage due to settlement, expansion or lateral movement of soil from causes other than flood or earthquake) which affects its load bearing function and which vitally affect (or is imminently likely to produce a bottle effect on) the use of the Home for residential purposes. It is stressed, however, that normal characteristic behavior of building materials, wear and tear, general procedure, and like items, will not constitute a latent defect. Both "defects and faulty materials and workmanship" are explained in the Homeowner's Manual. The Approved Standards adopted by Lowder New Homes meet or exceed the published Codes and Standards used by local jurisdictions throughout the state in order to regulate building practices.

**ARBITRATION** - The Seller and the Buyer acknowledge that this Agreement necessarily involves interstate commerce by virtue of the materials and components contained in the Dwelling and each of the undersigned hereby agrees to arbitrate any and all disputes arising under this Agreement and to be bound by the decision of the arbitrator which shall be conducted pursuant to the Construction Industry Rules of the American Arbitration Association.

**HOMEOWNER'S MANUAL** - Purchaser will be given, prior to or at closing, a Homeowner's Manual and the list of major subcontractors and their phone numbers with a general description of their work. This information may be used in the case of emergencies that occur at night, during holiday and on weekends. Otherwise, Purchaser shall coordinate warranty work to be done by the subcontractor through the procedure hereinafter set forth.

**CLAIMS PROCEDURE** - If a defect appears which you think is covered by this Limited Warranty you must fill out the enclosed "Service Request Form" and mail it to our office at the address appearing on the back of the Limited Warranty. We request that you occupy the home for thirty (30) days before sending in a Service Request Form. This enables you to complete a list of the items, if any that need to be corrected. The Company already had your initial orientation list. You should expect these items to be corrected within twenty-one (21) days from the date of your Homeowner's Orientation. Please remember that cosmetic items not noted on your original walk through list are not covered under your warranty.

After the initial thirty (30) day Service Request, the Company requests that you wait until the eleventh month of your warranty period to submit your next Service Request Form. If you have an emergency (i.e. a pipe burst, a roof leak, etc.) telephone the Company immediately. Also, telephone the appropriate subcontractor listed in your Homeowner's Manual.

Note: Only emergency repairs will be taken by phone. Contact the subcontractors directly only if there is an emergency.

**REPAIRS** - Upon receipt of your Service Request Form the Company may make an inspection. If the defective item is covered by this Limited Warranty, the Company will (at Company's Sole option) either (1) repair such defect, or (2) replace or pay to Purchaser the reasonable cost of such repair or replacement due to such defect. The Company will perform Service Calls, with someone present, Monday through Friday between 8:00 am & 4:00 pm.

NOTWITHSTANDING ANYTHING TO THE CONTRARY STATED HEREIN, THIS WARRANTY DOES NOT COVER ANY APPLIANCE, PIECE OF EQUIPMENT, OR ITEM WHICH IS A CONSUMER PRODUCT FOR PURPOSE OF THE MAGNUSON-MOSS WARRANTY ACT (15 USC, & 2301 THROUGH 2312).

DATE PURCHASER'S INITIALS

THE BUYER AGREES THAT THE LIMITED WARRANTY AGREEMENT IS GIVEN IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY AND WORKMANSHIP, AND IS ALSO IN LIEU OF ANY CLAIMS FOR CONSEQUENTIAL DAMAGES, MENTAL ANGUISH OR DISTRESS, AND FOR DAMAGES BASED UPON NEGLIGENCE, FRAUD OR MISREPRESENTATION, AND THE BUYER HEREBY EXPRESSLY WAIVES AND DISCLAIMS ANY SUCH WARRANTIES AND CLAIMS WITH RESPECT TO BOTH THE DWELLING AND THE PROPERTY.

DATE PURCHASER'S INITIALS

**NOTICE:** The Company shall not be liable under the Agreement unless written notice of a latent defect has been given by Purchaser to Company within the one (1) year warranty period. Steps taken by the Company to correct any defect or defects shall not act to extend the warranty period described hereunder.

**MANUFACTURERS' WARRANTY:** Company hereby assigns to Purchaser all of Company's rights, if any, under manufacturers' warranties on appliances and items of equipment included in the Home. Company assumes no responsibility for manufacturers' warranties and Purchaser should follow the procedures in these warranties if defects appear in such appliances and items of equipment.

**LIMITATIONS AND EXCLUSIONS:** Company does not assume responsibility for any of the following, all of which are expressly excluded from coverage under this Limited Warranty:

- (a) Cosmetic items not noted during Home Owner Orientation.
- (b) Defects in appliances and pieces of equipment, which are covered by manufacturers' warranties.
- (c) Incidental, consequential, or secondary damages caused by a breach of this warranty.
- (d) Defects which are the result of characteristics common to the materials used, including, but not limited to, warping and deflection of wood; mildew and fading, caulking, and cracking of paint due to sun light; cracks due to drying and curing of

- concrete, stucco, plaster, bricks, and masonry; drying, shrinking and cracking of caulking and weather-stripping.
- (e) Conditions resulting from condensation, expansion or contraction of materials.
- (f) Defective designs or materials supplied by Purchaser or installed under his direction, or defects in, or caused by, anything not built into, or installed into the house pursuant to contract between Company and Purchaser.
- (g) Damages due to ordinary wear and tear, abusive use, or lack of proper maintenance of the Home.
- (h) Loss or injury due to elements such as by, but not limited to: fire, explosion, smoke, water escape, changes which are not reasonably foreseeable on the level of the underground water table, glass breakage, wind storm, hail, lightning, fallen trees, aircraft, vehicles, flood, and earthquake.
- (i) Landscaping is hereby expressly excluded from this warranty including sodding, seeding, shrubs, trees (whether existing or planted), and plantings.
- (j) Insect damage of any nature whatsoever.
- (k) Non-uniformity of appearance of used or simulated used brick.
- (l) Chips, scratches, breaks, or mar in tile, woodwork, walls, porcelain brick, plumbing fixtures, plastic laminate and glass not expressly identified to Company prior to closing.
- (m) Dripping faucets and toilet adjustments after the initial thirty (30) day warranty period described herein.
- (n) Utility service lines installed by developer, municipality or service company and back filling or slumping thereof.
- (o) Deterioration or defect in asphalt paving.
- (p) Movement, shifting, expansion or plasticity of the soil beneath the home and changes in the underground water table and sub-surfaces soil structures beyond Company's control.
- (q) Defect in outbuildings (except those outbuildings which contain the plumbing, electrical, heating, or cooling system serving the home), swimming pools and other recreational facilities, boundary walls; retaining walls which are not necessarily for the home structural stability; fences; off-site improvements, yard drainage or any other improvements not a part of the home itself.
- (r) Wood entry doors.
- (s) Concrete flatwork (i.e. driveway, sidewalk, patio)
- (t) Bodily injury. Damage to personal property or damage to real property which is not part of the home which was included in the purchase price.
- (u) Any damage to the extent it is caused by:
  1. Negligence, improper maintenance or improper operation by anyone other than the Company or its employees, agents or subcontractors; or
  2. Failure of anyone other than the company or its employees, agents or subcontractors to comply with the warranty requirements or manufacturer of appliances, equipment or fixtures; or
  3. Failure to give notice to Company of any defect within a reasonable time (thirty days), except for minor items during the first year as indicated in number 1 above; or
  4. Changes of the grading or landscaping of the ground by anyone other than the Company or its employees, agents or subcontractors.
- (v) Any defect in, or caused by, materials or work on a lot previously owned by the owner and prepared for construction by some one other than the Company.
- (w) Any loss or damage which arises while the home is being used primarily for non-residential purposes.

This warranty is extended only to the purchaser named herein. It is not transferable to subsequent purchasers of the home.

**CONSTITUTIONALITY:** Should any term of the Agreement be deemed by a Court of competent jurisdiction to be unenforceable, such determination shall not affect the enforceability of the remaining provisions. Use of one gender shall include all other genders; use of the singular shall include the plural; and use of the plural shall include the singular; all as may be appropriate.

Other provisions incorporated herein: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

This Agreement shall be governed and construed in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written.

COMPANY

PURCHASER

LOWDER NEW HOMES, INC.

\_\_\_\_\_

an Alabama Corporation

\_\_\_\_\_

BY: \_\_\_\_\_

AS ITS: \_\_\_\_\_

I, the undersigned authority, a Notary Public in and for said county and state hereby certify that \_\_\_\_\_ and \_\_\_\_\_ whose names as Purchasers and \_\_\_\_\_ of Lowder New Homes, Inc., a Corporation, are signed to the foregoing Agreement and who are known to me, acknowledge before me on this date that being informed of the contents of the agreement, they as such officers and with full authority execute the same voluntarily for and as the act of said Corporation.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
 NOTARY PUBLIC

LOWDER NEW HOMES, INC.  
 2000 Interstate Park Drive, Suite 300  
 Montgomery, AL 36109  
 (334) 270-6789