



## WINDOM HILL PLACE, A CONDOMINIUM

### AGREEMENT OF SALE CONTRACT SUMMARY

#### I NAMES AND ADDRESSES

- A. DECLARANT: WINDOM HILL PLACE LIMITED PARTNERSHIP
- B. ADDRESS: 80 Union Avenue  
Pittsburgh, PA 15202
- C. TELEPHONE: (412) 766-4630
- D. BUYER: \_\_\_\_\_ and  
\_\_\_\_\_
- E. HOME ADDRESS: \_\_\_\_\_
- F. TELEPHONE: \_\_\_\_\_

#### II UNIT BEING PURCHASED (the "Unit")

- A. Legal Address: \_\_\_\_\_ (Unit), Windom Hill Place, a Condominium  
Located in the 18<sup>th</sup> Ward, City of Pittsburgh,  
County of Allegheny, Commonwealth of Pennsylvania
- B. Percentage Interest in Common Elements: \_\_\_\_\_

#### III PRICE AND TERMS

- A. COST:
1. SALES PRICE: \$ \_\_\_\_\_
2. UPGRADES \$ (+) \_\_\_\_\_
- TOTAL PURCHASE PRICE:** \$ \_\_\_\_\_
- B. DEPOSIT: \$ \_\_\_\_\_
- C. PAYMENT OF UPGRADES: \$ \_\_\_\_\_
- D. BALANCE DUE AT CLOSING: \$ \_\_\_\_\_

#### IV PUBLIC OFFERING STATEMENT

- A. Buyer acknowledges that Buyer has received a copy of the Public Offering Statement, including all attachments and exhibits thereto, on \_\_\_\_\_, 200\_\_.



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## V BROKERS

- A. LISTING BROKER: Prudential Preferred Realty  
 AGENCY: \_\_\_\_\_  
 TELEPHONE: \_\_\_\_\_  
 FACSIMILE: \_\_\_\_\_
  
- B. SELLING BROKER: N/A  
 AGENCY: \_\_\_\_\_  
 TELEPHONE: \_\_\_\_\_  
 FACSIMILE: \_\_\_\_\_
  
- C. BUYER'S BROKER: \_\_\_\_\_  
 AGENCY: \_\_\_\_\_  
 TELEPHONE: \_\_\_\_\_  
 FACSIMILE: \_\_\_\_\_

Buyer and its broker may communicate directly with Listing Broker in connection with matters set forth in this Agreement.

THIS SUMMARY, THE CONTRACT TERMS, EXHIBITS A, B AND C, AND THE MORTGAGE RIDER WHICH ARE ATTACHED HERETO (AND ALL OF WHICH ARE FULLY INTEGRATED) TOGETHER CONSTITUTE A SINGLE CONTRACT BETWEEN DECLARANT AND BUYER.

Executed by Buyer this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Buyer \_\_\_\_\_ Buyer \_\_\_\_\_  
\_\_\_\_\_

Accepted by Declarant this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ ("Acceptance Date").

WINDOM HILL PLACE LIMITED PARTNERSHIP, A PENNSYLVANIA LIMITED PARTNERSHIP

By: Windom Hill Place, LLC, its general partner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_



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### AGREEMENT OF SALE CONTRACT TERMS

Declarant and Buyer, intending to be legally bound, agree as follows:

#### BACKGROUND:

A. Declarant is the owner of real property, which is subject to the terms and provisions of the Declaration (the "**Declaration**") of the condominium known as **Windom Hill Place**, a condominium (the "Condominium") created under and pursuant to the Pennsylvania Uniform Condominium Act, 68 Pa.C.S. § 3103, et seq. (the "**Act**"). Such real property includes the Unit to be sold by Declarant to Buyer pursuant to this Agreement.

B. Pursuant to the terms of the Declaration, by taking title to the Unit, Buyer shall automatically become a member of the **Windom Hill Place** Unit Owners Association (the "**Association**"), an association created for the operation, management and maintenance of the Condominium and the Common Elements (as defined in **Exhibit A** hereto) available for the use and enjoyment of Buyer, subject to the provisions of the Declaration, the By-Laws of the Association (the "By-Laws"), and any Rules and Regulations applicable to all units of the Condominium (the "Rules and Regulations").

C. Various documents affect the rights, privileges and duties of Buyer. Such documents (the "**Documents**") include the following:

1. the Public Offering Statement;
2. the Declaration;
3. the By-Laws; and
4. the Rules and Regulations.

D. By taking title to the Unit hereby to be conveyed, Buyer will become obligated to abide by all the terms, provisions and conditions of the Documents and, pursuant thereto, will become obligated to pay all assessments for common expenses charged by the Association as they become payable. Buyer's obligations shall survive Closing (as defined in **Section 5(A)** hereof) under this Agreement.

E. Buyer understands and agrees that until the first transfer of a unit in the Condominium from Declarant to a buyer, Declarant shall have the right, acting alone, to amend either or both of the Declaration (including the Plats and Plans attached thereto and to the Public Offering Statement, the "**Plans**") and the By-Laws; provided, however, that if any such amendment materially adversely affects the rights of Buyer, Declarant must obtain Buyer's written consent thereto. The actual configuration of the Unit may differ from that shown in the Plans but, in such event, at Closing, Buyer shall receive a revised set of Plans showing the actual configuration of the Unit. Prior to the recording of the Declaration, Declarant shall also have the right, acting alone, to:



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- (i) change the location, size and layout of all units in the Condominium other than the Unit;
- (ii) change the location of Common Elements to provide for access to other units in the Condominium the location, size or layout of which have been altered, provided that such changes do not impair access to the Unit; and
- (iii) change the Percentage Interests (as defined in **Section 1** hereof) of other units in the Condominium, provided that such changes do not affect the Percentage Interest of the Unit.
- (iv) Buyer acknowledges and agrees that the Plans and the Specifications (as defined in **Section 2(E)** hereof) and any other architectural plans or specifications delivered to Buyer in connection with the sale of the Unit are subject to a limited license to reproduce and may not be reproduced for any purpose other than the use and maintenance of the Condominium and the Unit. **Windom Hill Place** is anticipated to be a 2 phased development with 4 units in the first phase and 4 units in the second phase as financing and schedule allows. During the construction of the second phase access will be limited at times via the roadway due to construction. Every effort will be made to co-ordinate and minimize disruption to residents of the first phase.

### 1. THE UNIT:

Declarant agrees to sell and convey to Buyer and Buyer agrees to purchase the Unit from Declarant and an appurtenant undivided proportionate ownership interest (the "**Percentage Interest**") described in the Summary, all as provided in the Documents. All references to "Unit" herein include the Percentage Interest thereof and membership of Buyer in the Association in connection therewith, unless otherwise expressly stated.

### 2. PURCHASE PRICE AND PAYMENT:

A. The Purchase Price of the Unit is set forth on the Summary. Buyer agrees to pay and deliver the Purchase Price as follows:

- (1) By check in an amount equal to five percent (5%) of the Purchase Price of the Unit due upon execution of this Agreement by Buyer, the "**Deposit**", made payable to Prudential Preferred Realty.
- (2) By check in an amount equal to the full cost of the upgrades to the Unit due upon execution of this Agreement by Buyer, the "**Upgrade Payment**", made payable to Windom Hill Place, LLC.
- (3) The Remainder of the Purchase Price is due by cash or certified check at Closing.



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B. Declarant shall have no obligation to Buyer with respect to accruing and/or paying interest on the Deposit, but Declarant shall hold the Deposit in escrow pursuant to the provisions of § 3408 of the Act.

C. At Closing, Buyer shall pay all applicable closing costs, including, without limitation, conveyancing fees, title insurance premiums, fees for recording the deed and mortgage (if any) and other necessary documents, all expenses relating to obtaining a mortgage on the Unit, notary fees, one-half (½) of all realty transfer taxes imposed by any governmental authority upon this transaction, and all other miscellaneous expenses customarily borne by buyers of real estate in Allegheny County, Pennsylvania. Real estate taxes, current water and sewer rents applicable to the Unit, either prepaid or unpaid, and Association assessments, shall be apportioned as of the date of Closing. Real estate taxes shall be prorated on the basis of the last ascertainable tax bill and re-prorated when the actual bill is presented (even if such re-proration shall occur after Closing). Meters for utilities will be read within (5) five days prior to the date of Closing and the charge for utilities as of the date of such reading shall be paid by Declarant and thereafter, by Buyer.

D. At Closing, Buyer shall contribute and pay to the order of the Association the sum of \$\_\_\_\_\_ (equal to one (1) quarterly assessment charge) to be used by the Association as its initial capital fund, which sum shall be non-refundable. This is in addition to, and not in lieu of, monthly assessments to be charged by the Association pursuant to the Declaration and the By-Laws.

E. Buyer acknowledges and agrees that the fixtures, equipment, hardware and other items of personal property described in the specifications attached (or, if not presently complete, then to be attached upon completion) as **Exhibit B** hereto (the "Specifications") represent the only items of personal property included in the Purchase Price, even though a model residential unit or plans used for demonstration purposes may have shown other items.

### 3. TITLE CONVEYANCE:

At Closing, Declarant shall grant and convey to Buyer, by delivery of a special warranty deed, good and marketable title to the Unit or such as will be insurable at regular rates by any licensed title insurance company, free and clear of all liens, encumbrances and easements except: (a) existing covenants, rights of way, restrictions, conditions and easements; (b) the Declaration and the other Documents; (c) restrictions, conditions, agreements and easements created by Declarant at or prior to Closing necessary to the development of the Condominium; (d) such telephone, gas, water, electric, and cable television lines as are currently installed, and easements and agreements with telephone, gas, water, electric, cable television and other public or private utility companies; (e) easements with respect to public or private sewers, storm sewers or surface water courses; (f) liens or other matters insured against by the title insurance at Declarant's cost; (g) applicable zoning and building laws and ordinances; and (h) prior permits, reservations or leases of coal, oil, gas or other minerals.

### 4. COMPLETION OF UNIT BY DECLARANT:

A. At Closing the Unit will be delivered to Buyer together with those fixtures, appliances, and other items set forth in the Specifications (with the right reserved to Declarant



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to make substitutions of comparable materials). Any decorating, wall covering, and installation of fixtures, equipment, and hardware not provided for in this Agreement shall be Buyer's responsibility.

B. All additional costs or charges incurred due to changes in the Plans or the Specifications after the execution of this Agreement desired by Buyer shall be paid in cash in full by Buyer at the time of ordering such changes, and such payment is not and shall not be construed to be a deposit or any part of a deposit for the purchase of the Unit (and such order shall be set forth in the form attached as **Exhibit C** hereto), but is a separate consideration paid by Buyer to Declarant to induce Declarant to alter or amend its plans and procedures to accommodate the preferences of Buyer. In the event Buyer terminates this Agreement for any reason, Declarant may, at its option, retain all sums paid by Buyer for changes or additions ordered by Buyer and installed in or otherwise made to the Unit. Buyer acknowledges that changes and alterations from the Plans and Specifications cause delays and considerable cost increases, and acknowledges Declarant's right to limit or deny Buyer's requests for any such changes and/or alterations.

C. On all changes requested by Buyer, Buyer acknowledges that the preparation of changes involves professional time and can be disruptive to the orderly flow of the construction process. On all changes requested by Buyer that are not stipulated as upgrades in Specifications, there shall be a preparation fee per change order attached which shall be chargeable whether or not Buyer ultimately accepts the changes. The charge pricing will be based on necessary designer time to prepare documents related to such change. Declarant has included a total of four (4) hours of designer time for changes, and any time over this amount shall be charged at One Hundred Dollars (\$100) per hour.

### 5. INSPECTION AND CLOSING:

A. Settlement shall occur on such date, at such time and at such place in the Pittsburgh, PA Metropolitan area as shall be designated by Declarant by written notice to Buyer dated at least twenty (20) days prior the settlement date ("**Closing**"), which date shall be not less than seventy five (75) days following the Acceptance Date, subject to the right of Declarant to extend same for delays caused by, but not limited to, circumstances beyond Declarant's control, such as strikes, shortage of labor or materials, weather conditions, Acts of God, war, acts of terrorism, acts of the federal, state or municipal government or any of its agencies, including building or other code inspections and approvals, governmental regulations, fire, or other similar occurrences (each of which is herein call an "**Act of Unavoidable Delay**"), in which event the date of Closing will be extended for a period of time equivalent to the delay in the completion of the Unit occasioned by reason of any or all of said Acts of Unavoidable Delay. Declarant shall also have the right to extend the date of Closing for up to thirty (30) days for delays other than those beyond Declarant's control the ("**Extended Closing Date**"). Declarant shall give Buyer at least ten (10) days notice prior to the scheduled date that Declarant is exercising the right to extend the date of Closing, and shall identify the Extended Closing Date. All payments, documents and other items to be delivered by Buyer or Declarant at Closing, and all transactions required to be consummated concurrently with Closing, shall be deemed to have been delivered and to have been consummated simultaneously, and no delivery shall be deemed to have been made and no transactions shall be deemed to have been consummated until all deliveries required of Buyer and Declarant



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shall have been made and all concurrent and other transactions shall have been consummated.

B. Within fifteen (15) days prior to the date set for Closing, Buyer shall inspect the Unit with an authorized inspection representative of Declarant. Declarant and Buyer shall indicate those items in the Unit which may be in need of completion, repair and/or replacement. Such items as Declarant believes, in Declarant's sole judgment, will be completed, repaired or replaced prior to Closing shall be noted by Declarant's representative on an inspection statement. The inspection statement shall be executed by Buyer and on behalf of Declarant and, upon execution, will constitute an addendum to this Agreement and incorporated herein as if set forth in full. The failure of Buyer to make such an inspection shall not delay Closing and shall be deemed a waiver of Buyer's right to inspect.

C. At Closing, Buyer and Declarant shall execute all papers reasonably required and make all payments necessary to carry out the terms and conditions hereof. Subject to the provisions of **Section 5(A)** hereof, time shall be of the essence of this Agreement.

### 6. POSSESSION:

A. Possession of the Unit shall be given to Buyer at Closing by delivery of a special warranty deed (which shall be drawn by Declarant), conveying the title to the Unit as described in **Section 6(B)** below, and by delivery of the keys to the Unit (together with garage access and all special entry keys, codes or door opener transmitters).

B. Subject only to the Special Warranty contained in the deed to the Unit, the warranties described in **Sections 7** and **9(A)** hereof, and to the completion of any insubstantial work remaining to be performed in or on the Unit as permitted in **Section 5(B)** hereof, the acceptance by Buyer of the deed to the Unit shall constitute a complete release and discharge of all warranties, obligations and liabilities of Declarant to Buyer, expressed or implied, with respect to: (i) the construction of the Unit and the Common Elements; (ii) any injury, loss or damage of Buyer, to the Unit, or to the Common Elements resulting from any cause whatsoever; and (iii) all of the covenants and obligations of Declarant herein contained.

### 7. WARRANTIES:

A. Upon Closing, Buyer shall become entitled to the Homeowner's Limited Warranty attached as **Exhibit A** hereto, subject to all limitations and conditions set forth therein.

B. In addition to the warranty discussed in **Section 7(A)** hereof, Declarant hereby provides Buyer and the Association with the warranties against structural defects contained in § 3411(a), (b) and (e) of the Act, subject in every case to all limitations and conditions in or under the Act. THE FOREGOING WARRANTIES ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING (BY WAY OF ILLUSTRATION AND NOT LIMITATION) IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND HABITABILITY. DECLARANT NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR DECLARANT ANY OTHER LIABILITY IN CONNECTION WITH THE SALE OR USE OF THE UNIT SOLD HEREUNDER,



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AND THERE ARE NO AGREEMENTS OR WARRANTIES, EITHER ORAL OR WRITTEN, COLLATERAL TO OR AFFECTING THIS AGREEMENT.

C. DECLARANT SPECIFICALLY EXCLUDES ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND HABITABILITY, AND NEITHER MAKES NOR ADOPTS ANY WARRANTY, EXPRESSED OR IMPLIED, AS TO THE ITEMS OF PERSONAL PROPERTY BEING SOLD TO BUYER PURSUANT TO THIS AGREEMENT (OR AS TO ANY "CONSUMER PRODUCT," AS SUCH TERM IS DEFINED IN 15 U.S.C. § 2301(1), WHICH MAY BE CONTAINED IN THE UNIT), EXCEPT THAT NO DISCLAIMER IS INTENDED AS TO ANY WARRANTY REQUIRED TO BE MADE BY DECLARANT UNDER APPLICABLE FEDERAL, STATE OR MUNICIPAL STATUTES, REGULATIONS OR ORDINANCES. WHERE NEW CONSUMER PRODUCTS ARE COVERED BY A MANUFACTURER'S WARRANTY, DECLARANT SHALL TRANSFER SUCH WARRANTY TO BUYER.

D. The warranty set forth in **Sections 7 (A) (B) and (C)** hereof shall not apply if the defective part of the Unit or of the Common Elements has been subjected to misuse or damage by accident, improper maintenance or improper operation, or has not been afforded reasonable and adequate maintenance and care. The liability of Declarant under this warranty or for negligence or other breach of this Agreement is limited to replacing or repairing any defective parts or materials which do not comply with this warranty, and in no event shall such liability exceed the replacement cost of the Unit. Declarant shall have the sole right to determine whether the defect shall be corrected by repair or replacement, and Buyer shall make every reasonable effort to make the Unit (exclusive of the Percentage Interest), together with reasonable access thereto, available to Declarant and its agents and invitees during normal business hours in order to permit such repair or replacement to be made. E.

No claim arising out of any of the foregoing warranties may be brought unless, prior to the expiration of the warranty period set forth in § 3411(b) of the Act, Buyer shall have delivered written notice to Declarant of all alleged breaches of these warranties that would give rise to such a claim.

### **8. LIMITATION OF LIABILITY:**

A. IN NO EVENT SHALL DECLARANT BE LIABLE FOR INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES UNDER OR PURSUANT TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, FOR BREACH HEREOF OR FAILURE TO PERFORM UNDER ITS WARRANTIES HEREUNDER, EVEN IF DECLARANT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

B. BUYER SHALL MAINTAIN REASONABLE AND ADEQUATE HOMEOWNER'S INSURANCE COVERAGE WITH RESPECT TO THE UNIT AT ALL TIMES THAT THE UNIT IS OWNED BY BUYER. DECLARANT SHALL HAVE NO LIABILITY TO BUYER HEREUNDER, INCLUDING, WITHOUT LIMITATION, FOR ANY WARRANTY COVERAGE DISCUSSED IN **SECTION 7** HEREOF, FOR ANY DAMAGES TO PROPERTY OR INJURIES TO OR DEATH OF PERSONS THAT ARE, WOULD BE, OR SHOULD HAVE BEEN BE COVERED UNDER A REASONABLY ADEQUATE HOMEOWNER'S INSURANCE POLICY, WHETHER OR NOT BUYER ELECTS TO MAINTAIN SUCH COVERAGE.





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C. DECLARANT SHALL HAVE NO LIABILITY TO BUYER WITH RESPECT TO THE COMPLIANCE OR NON-COMPLIANCE OF THE ASSOCIATION OR OTHER UNIT-HOLDERS WITH THE DECLARATION, THE BY-LAWS OR THE RULES AND REGULATIONS.

### 9. CERTIFICATION STATEMENTS:

A. Declarant hereby represents and warrants that: (i) the zoning classification of the property constituting the Condominium is H (ii) the present use of the Condominium is in compliance with the current zoning laws and ordinances pertaining thereto; and (iii) as of the Acceptance Date, there are no outstanding notices of any uncorrected violations of the housing, building, plumbing, electrical, safety or fire ordinances applicable to the Unit.

B. Declarant shall furnish to Buyer, on or prior to Closing: (i) a copy of the Certificates of Completion recorded or to be recorded at Closing pursuant to § 3414(c) and (d) of the Act, and (ii) a certificate of occupancy for the Unit.

### 10. CONDEMNATION OR DESTRUCTION:

A. As between Declarant and Buyer, risk of loss or damage to the Unit between the date of this Agreement and the time of delivery of the deed to the Unit is assumed by Declarant.

B. In the event that the Unit or such portion of the Common Elements as is reasonably necessary for safe and comfortable access to the Unit are destroyed or materially damaged or taken by eminent domain proceedings prior to Closing, Declarant may, as its option, by notice to Buyer within thirty (30) days following such destruction or material damage, cancel this Agreement, in which event the Deposit shall be refunded to Buyer. Declarant's liability in such event shall be limited to the return of the Deposit, with interest earned thereon, if any. If Declarant does not elect to terminate this Agreement as aforesaid, Buyer shall not be relieved of its duties hereunder, unless the damaged or destroyed portions of the Unit are not restored to substantially the condition they were in prior to the date of damage or destruction, or the Unit, after such taking, is not restored to its full utility and use within one hundred eighty (180) days from the date of such damage or destruction, or taking, as the case may be, in which event Buyer shall have the right to terminate this Agreement by notice to Declarant within thirty (30) days after expiration of said one hundred eighty (180) days period. In the event of such taking or destruction, if Declarant and/or Buyer do not elect to cancel this Agreement pursuant to this **Section 10(B)**, Closing shall be delayed until the completion of repairs or restoration of the Unit. For the purposes of this **Section 10**, damage or destruction to a Unit shall be "material" if a reasonable estimate of the cost of repair thereof shall exceed an amount equal to one-half ( $\frac{1}{2}$ ) of the Purchase Price of the Unit, and damage or destruction to the Common Elements shall be "material" if a reasonable estimate of the cost of repair thereof shall exceed \$100,000. If "damage or destruction" occurs which is not "material" as defined in this **Section 10(B)**, Declarant shall repair the damage or destruction not later than Closing, and Declarant may delay Closing by a reasonable period of time to accomplish same.

### 11. DEFAULT BY BUYER:



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A. In the event that Buyer is declared to be in default by Declarant, Declarant may elect either of the following remedies:

- (1) Declarant may retain the Deposit and all other monies paid on account of the Purchase Price, or otherwise received, as liquidated damages, in which event this Agreement shall upon notice become null and void. It is hereby acknowledged and agreed that certain elements of Declarant's damages may be difficult of ascertainment, and that the Deposit and all other monies paid on account of the Purchase Price or otherwise hereunder constitute a reasonable liquidation of such elements and not a penalty.
- (2) If Declarant's ascertainable damages exceed the Deposit, Declarant may apply the Deposit and all other said monies toward Declarant's damages, including, but not limited to, loss of bargain, consequential damages and attorneys' fees. No such election of this clause (2) shall be final or exclusive until full satisfaction shall have been received.

B. Buyer hereby releases Declarant from any liability for repayment to Buyer, in the event of a default by Buyer under any of the terms, covenants or conditions of this Agreement, of monies paid by Buyer for any extras or upgrades selected by Buyer and installed in, ordered for, or otherwise performed to the Unit by or for Declarant. Buyer expressly acknowledges that the installation in, ordering for or performances to the Unit of any extras or upgrades does not benefit Declarant, but, to the contrary, causes Declarant to sustain damages by hindering Declarant from selling the Unit to the general public after Buyer's default.

### 12. DEFAULT BY DECLARANT:

If, for any reason, Declarant is unable to convey title at Closing in accordance with the requirements of this Agreement, or if, for any reason, Declarant is unable to construct or complete the Unit as required hereunder, as Buyer's sole remedy, Declarant shall return to Buyer the Deposit and all sum(s) paid on account, including all sums paid for extras or upgrades and, thereupon, the parties shall be released and relieved from rights, duties and obligations hereunder and this Agreement shall become null and void.

### 13. APPROVAL OF SALE:

This Agreement shall not be effective or binding on Declarant until a duplicate hereof is executed by an officer of Declarant, dated and delivered to Buyer or Buyer's Agent. Buyer's offer to purchase the Unit shall remain open and irrevocable for \_\_\_\_\_ ( ) days after the date set forth in the Summary. If this Agreement does not become effective as aforesaid within the specified \_\_\_\_\_ ( ) day period, the Deposit and all other sum(s) paid on account (if any), including any sums paid by Buyer for any extras or upgrades, shall be returned to Buyer and this Agreement shall become null and void and neither party shall have further liability to the other hereunder.

### 14. RECORDING:



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Buyer shall not cause this Agreement or any memorandum hereof to be recorded in any place of public record, and should this Agreement or any memorandum hereof be recorded by Buyer or anyone acting by, for or under Buyer in violation hereof, or if Buyer shall file or cause to be filed against the Unit any notice of lis pendens, this Agreement shall, at Declarant's option, be and become void and of no further effect, and should Declarant so elect, Buyer shall be entitled to receive back the Deposit and all other sum(s) paid on account (if any), including all sums paid by Buyer for any extras or upgrades not yet installed in, ordered for or otherwise performed to the Unit by or for Declarant, upon delivery to Declarant of a release, in form acceptable to Declarant, of all rights of Buyer hereunder and in and to the Unit. Declarant shall have the right, and Buyer hereby irrevocably authorizes and empowers any attorney, the Recorder or Deeds of any county, or the prothonotary or clerk of any court in the Commonwealth of Pennsylvania, to strike from the record the recorded Agreement or memorandum hereof (as the case may be) or any notice of lis pendens filed by or caused to be filed by Buyer against the Unit.

### **15. ENTIRE AGREEMENT; ASSIGNABILITY:**

A. This Agreement contains the entire understanding and agreement between the parties with respect to the subject matter hereof, and there are no other terms, obligations, covenants, representations, statements or conditions, oral or otherwise, of any kind whatsoever, pertaining thereto. Any agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this Agreement in whole or in part unless such agreement is in writing and signed by the party against which enforcement of the change, modification, discharge or abandonment is sought.

B. Buyer acknowledges that Buyer is aware that any information received from Declarant or Declarant's agents or employees relating to carrying costs, tax benefits of ownership, or otherwise was offered as an estimate only, and Buyer declares that Buyer did not rely thereon in entering into this Agreement. No representation, claim, statement, advertising, promotional activity, brochure or plan of any kind made by Declarant or Declarant's agents or representatives shall be binding upon Declarant unless fully set forth or expressly incorporated in this Agreement.

C. Buyer shall not, prior to Closing, sell, assign or transfer, in any manner whatsoever, this Agreement or any right, title or interest herein or in the Unit without first obtaining the written consent of Declarant. Any purported assignment, sale or transfer of any kind whatsoever by Buyer of this Agreement, or any right or interest herein, or in the Unit prior to Closing, shall be null and void unless consented to in writing by Declarant. Such an attempted assignment without Declarant's consent may, at Declarant's sole option, be deemed a default of this Agreement. Subject to this provision prohibiting such sale, assignment or transfer by Buyer, this Agreement shall inure to the benefit of and be binding upon the parties hereto, their heirs, personal representatives, successors and assigns.

### **16. BROKERS:**

Buyer represents to Declarant that no broker or agent, other than the Listing Broker and the Selling Broker whose names are set forth on the first page of this Agreement, if any, brought about the sale hereunder, nor is anyone else entitled to a commission or brokerage



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fee by reason of the transaction hereunder. Buyer agrees to indemnify and save harmless Declarant against and from any and all claims, demands and causes of action for commissions or brokerage fees from anyone other than the Listing Broker and the Selling Broker listed in the Summary.

### 17. SEWAGE FACILITY:

The Pennsylvania Sewage Facilities Act of January 24, 1966, No. 537 P.L. 1535, as amended, requires that there be a statement regarding the availability of a community sewage system. The Property is serviced by a community sewage system.

### 18. COAL NOTICE:

NOTICE -- THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This notice is set forth in the manner provided in § 1 of the Act of July 17, 1957, P.L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.)

### 19. CAPTIONS:

The captions contained herein are not a part of this Agreement. They are included solely for the convenience of the parties and do not in any way modify, amplify or give full notice of any of the terms, covenants or conditions of this Agreement.

### 20. GOVERNING LAW; DEFINITIONS:

This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, including the choice of law rules thereof. A defined term shall be deemed to include all derivatives thereof, unless a contrary intent is expressed.

### 21. NOTICES:

All notices, demands, requests and approvals that may or are required to be given by either party hereto to the other shall be in writing and shall be deemed to have been sufficiently given if delivered by courier or deposited in the United States Mail, registered or certified, return receipt requested, with all postal charges prepaid, and addressed to the addresses stated in the Summary or to such other address as such party may have fixed by written notice given pursuant to this **Section 21**. Notices mailed as aforesaid shall be deemed received three (3) business days after the date of mailing thereof.

### 22. SEVERABILITY; MERGER:



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The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision set forth herein. The terms hereof shall be merged into and extinguished by delivery of the deed at Closing, except for **Sections 5(B), 6(B), 7, 8 and 9(A)** hereof, and such provisions hereof as may be necessary to the interpretation or enforcement thereof, which shall survive delivery of the deed and shall not be merged therein.



**WINDOM HILL PLACE, A CONDOMINIUM**

**WITNESS:**

\_\_\_\_\_

\_\_\_\_\_  
**BUYER**

\_\_\_\_\_  
**BUYER**

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**ATTEST:**

**WINDOM HILL PLACE  
LIMITED PARTNERSHIP  
By: Windom Hill Place, LLC,  
its general partner**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



## WINDOM HILL PLACE, A CONDOMINIUM

### MORTGAGE CONTINGENCY RIDER FORM I

*[For use only in Sales Agreements executed earlier than sixty (60) days prior to completion of construction.]*

#### Mortgage Contingency

A. In the event Buyer desires to obtain financing to pay a portion of the Purchase Price, Buyer shall complete and deliver an application (each an "**Application**") to at least two (2) prospective mortgagees within five (5) business days of the date on which Buyer receives written notice from Declarant that Buyer should apply for financing ("**Financing Notice Date**"), which notice shall be approximately seventy-five (75) days prior to substantial completion of the Unit. The Applications shall be seeking a mortgage loan of not more than \_\_\_\_\_ percent (\_\_\_\_%) of the Purchase Price, or such lesser sum as Buyer accepts, with interest, term of amortization, type of mortgage and service charge for such loan to be at currently prevailing rates and terms (to be determined by reference to rates and terms being offered by Pittsburgh lending institutions to similarly situated buyers of condominium units applying for mortgage loans in the same ratio to the price of such units that the amount of the mortgage being sought by Buyer bears to the Purchase Price at the time an Application is made), and Buyer shall: (i) use his or her best good faith efforts to obtain a commitment for such a mortgage loan; (ii) promptly execute all documents and disclose all necessary information required in order to obtain such mortgage loan or close such loan, or both; (iii) promptly and duly comply with all requests of the mortgagee to apply for and close the loan; (iv) pay the usual and customary charges imposed by the mortgagee for credit and appraisal fees; and (v) on or before five (5) business days after the Financing Notice Date, notify Declarant of the name, address and telephone number (and name of loan officer, if available) of the mortgagee(s) to which Buyer has submitted Applications. Failure of Buyer to act in accordance with the preceding sentence shall constitute a default under this Agreement unless Buyer notifies Declarant in writing within fifteen (15) days after the Financing Notice Date that Buyer has waived the provisions of this Rider and intends to purchase the Unit without financing. If, after complying with the preceding provisions, Buyer is unable to secure such a commitment, despite Buyer's best efforts, then Buyer shall so notify Declarant in writing within forty-five (45) days after the Financing Notice Date. If Declarant does not receive such notice within such forty-five (45) day period, it shall be conclusively presumed that Buyer has secured such commitment or will purchase the Unit without mortgage financing.

B. If within forty-five (45) days after Financing Notice Date, Declarant receives written notice from Buyer that Buyer has been unable to secure the commitment described in the preceding paragraph (A) of this Rider, then this Agreement shall be null and void, and the Deposit shall be returned to Buyer unless Declarant, at its option, exercised within forty-five (45) days following receipt of Buyer's written notice, has elected, by notice to Buyer given at any time within such forty-five (45) day period, to endeavor to secure such a commitment for Buyer upon the terms described in Paragraph (A) of this Rider or otherwise grant Buyer additional time to secure such financing. If Declarant elects to attempt to obtain such a mortgage commitment, Buyer agrees to furnish to Declarant and/or the proposed lender(s) all requested credit information and to sign the customary papers relating to the Application and securing of mortgage commitments. If Buyer notifies Declarant as above provided and Declarant is thereafter unable or unwilling to secure such commitment for Buyer within the



## WINDOM HILL PLACE, A CONDOMINIUM

aforesaid forty-five (45) day period, this Agreement shall be null and void and the Deposit shall be returned to Buyer.

**WITNESS:**

\_\_\_\_\_

\_\_\_\_\_  
**BUYER**

\_\_\_\_\_  
**BUYER**

**ATTEST:**

**WINDOM HILL PLACE  
LIMITED PARTNERSHIP**

**By: Windom Hill Place, LLC,  
its general partner**

\_\_\_\_\_

By: \_\_\_\_\_

Name:

\_\_\_\_\_

Title: \_\_\_\_\_





## WINDOM HILL PLACE, A CONDOMINIUM

### MORTGAGE CONTINGENCY RIDER FORM II

*[For use only in Sales Agreements executed no earlier than sixty (60) days prior to completion of construction.]*

#### Mortgage Contingency

A. In the event Buyer desires to obtain financing to pay a portion of the Purchase Price, Buyer shall complete and deliver an application (each an "**Application**") to at least two (2) prospective mortgagees within fifteen (15) days of the date hereof for a mortgage loan of not more than \_\_\_\_\_ percent (\_\_\_%) of the Purchase Price, or such lesser sum as Buyer accepts, with interest, term of amortization, type of mortgage and service charge for such loan to be at currently prevailing rates and terms (to be determined by reference to rates and terms being offered by Pittsburgh lending institutions to similarly situated buyers of condominium units applying for mortgage loans in the same ratio to the price of such units that the amount of the mortgage being sought by Buyer bears to the Purchase Price at the time the Application is made), and Buyer shall: (i) use his or her best good faith efforts to obtain a commitment for such a mortgage loan; (ii) promptly execute all documents and disclose all necessary information required in order to obtain such mortgage loan or close such loan, or both; (iii) promptly and duly comply with all requests of the mortgagee to apply for and close the loan; (iv) pay the usual and customary charges imposed by the mortgagee for credit and appraisal fees; and (v) on or before fifteen (15) days after the date hereof, notify Declarant of the name, address and telephone number (and name of loan officer, if available) of the mortgagee(s) to which Buyer has submitted Applications. Failure of Buyer to act in accordance with the preceding sentence shall constitute a default under this Agreement unless Buyer notifies Declarant in writing within twenty (20) days after the date hereof that Buyer has waived the provisions of this Rider and intends to purchase the Unit without financing. If, after complying with the preceding provisions, Buyer is unable to secure such a commitment, despite Buyer's best efforts, then Buyer shall so notify Declarant in writing within sixty (60) days after the date hereof. If Declarant does not receive such notice within such period, it shall be conclusively presumed that Buyer has secured such commitment or will purchase the Unit without mortgage financing.

B. If within sixty (60) days after the date hereof, Declarant receives written notice from Buyer that Buyer has been unable to secure the commitment described in the preceding paragraph (A) of this Rider, then this Agreement shall be null and void and the Deposit shall be returned to Buyer unless Declarant, at its option, exercised within forty-five (45) days following receipt of Buyer's written notice, has elected, by notice to Buyer given at any time within such forty-five (45) day period, to endeavor to secure such a commitment for Buyer upon the terms described in paragraph (A) of this Rider. If Declarant elects to attempt to obtain such a mortgage commitment, Buyer agrees to furnish to Declarant and/or the proposed lender(s) all requested credit information and to sign the customary papers relating to the Application and securing of mortgage commitments. If Buyer notifies Declarant as above provided and Declarant is thereafter unable or unwilling to secure such commitment for Buyer within the aforesaid forty-five (45) day period, this Agreement shall be null and void and the Deposit shall be returned to Buyer.



**WINDOM HILL PLACE, A CONDOMINIUM**

**WITNESS:**

\_\_\_\_\_

\_\_\_\_\_  
**BUYER**

\_\_\_\_\_  
**BUYER**

**ATTEST:**

**WINDOM HILL PLACE  
LIMITED PARTNERSHIP**

**By: Windom Hill Place, LLC,  
its general partner**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_



## WINDOM HILL PLACE, A CONDOMINIUM

### EXHIBIT A

#### *HOMEOWNER'S LIMITED WARRANTY*

##### **SECTION I – BUILDER'S LIMITED WARRANTY**

**To Whom Given.** This Limited Warranty is extended to you as the owner of the Home identified above and is automatically transferred to subsequent owners for the unexpired term of the Limited Warranty.

##### **COVERAGE AND TERMS**

Nothing contained herein shall be deemed or construed to limit in any way Builder's warranty obligations with respect to structural defects, as set forth in 68 Pa.C.S. § 3411 (hereinafter referred to as the "PA Condominium Act Structural Defect Warranty"), and if any provision of this Limited Warranty is determined to be in direct conflict with the requirements of the PA Condominium Act Structural Defect Warranty, Builder shall be bound by the requirements of that statute.

##### **LIMITED WARRANTY COVERAGE**

###### **COVERAGE DURING FIRST YEAR**

In addition to the PA Condominium Act Structural Defect Warranty, the Builder warrants that for one (1) year, beginning on the Limited Warranty Commencement Date stated on the Certificate, the Home will be free from defects due to noncompliance with the Performance Standards attached to and incorporated into this Limited Warranty. In addition please see attached warranties from manufacturers.

###### **COVERAGE DURING SECOND YEAR**

The Builder warrants that during the second year after the Limited Warranty Commencement Date stated on the Certificate, all obligations under the PA Condominium Act Structural Defect Warranty, shall be met.

###### **COVERAGE FOR COMMON ELEMENTS IN CONDOMINIUMS AND COOPERATIVE STRUCTURES**

Common Elements serving condominium or cooperative units are also covered by this Limited Warranty. In addition to the PA Condominium Act Structural Defect Warranty, Common Elements are covered for the same length of time as similar items which are part of a Home, but the commencement date of the Limited Warranty period for Common Elements is determined by the Common Elements Commencement Date stated on the Certificate.

###### **CONSEQUENTIAL DAMAGES**

Consequential damages are not covered by this Limited Warranty.

###### **DESIGN ERRORS, DEFECTS AND/OR DEFICIENCIES**

The Home has been built in accordance with plans and specification prepared by a design professional independent from the Builder. This Limited Warranty shall not extend to or include or be applicable to any design errors, omissions, defects or deficiencies; to any Structural Defects; to any other items of the Home damaged as a result of any design errors, omissions, defects or deficiencies; or to any defects or deficiencies resulting from the use by the Builder of materials, means or methods mandated by the plans and specifications.

###### **REMEDY**

If a defect occurs in an item which is covered by this Limited Warranty, the Builder will repair, replace or pay the Home Owner the reasonable cost of repairing or replacing the defective item(s).



## WINDOM HILL PLACE, A CONDOMINIUM

If a Major Structural Defect first occurs during the two (2) year term of this Limited Warranty, the Builder will repair, replace or pay the Home Owner the reasonable cost of repairing or replacing the Major Structural Defect. Repair of a Major Structural Defect under this Limited Warranty is limited (1) to the repair of damage to the load-bearing portions of the Home which is necessary to restore their load-bearing function; and (2) to the repair of those items of the Home damaged by the Major Structural Defect which made the Home unsafe, unsanitary or otherwise unlivable.

The Builder's **total liability** for deficiencies under this Limited Warranty is limited to the original purchase price of the Home as stated on Page 1, with the exception of liability for structural defects, as governed by 68 Pa.C.S. § 3411. The choice among repair, replacement or payment is solely that of the Builder.

### OTHER INSURANCE OR WARRANTIES

In the event the Builder repairs or replaces, or pays the Home Owner the reasonable cost of repairing or replacing any defect covered by this Limited Warranty which is covered by other insurance or warranties, the Home Owner must, upon request by the Builder, assign the proceeds of such insurances or warranties to the Builder to the extent of the cost to the Builder of such repair, replacement or payment.

### OTHER RIGHTS

This Limited Warranty gives specific legal rights to the Home Owner. Other legal rights, which vary from state to state, may also be available. This Limited Warranty does not affect any rights the Home Owner or the Builder may have to one another under any other express or implied warranty, except to the extent set forth herein.

### EXCLUSIONS

This Limited Warranty shall not extend to or include or be applicable to:

- A. Defects in outbuildings including, but not limited to, detached garages and detached carports (except outbuildings which contain the plumbing, electrical, heating, cooling or ventilation systems serving the Home); site located swimming pools and other recreational facilities, driveways, walkways, patios, boundary walls, retaining walls, bulkheads, fences, landscaping (including sodding, seeding, shrubs, trees and plantings), off-site improvements, or any other improvements or structures not a part of the Home itself;
- B. After the first year of coverage, concrete floors of basements and concrete floors of attached garages that are built separately from foundation walls or other structural elements of the Home;
- C. Loss or damage to real property which is not part of the Home covered by this Limited Warranty and which may or may not be included in the original purchase price of the Home as stated on the Certificate;
- D. Any damage to the extent it is caused or made worse by:
  1. Negligence, improper maintenance or improper operation by anyone other than the Builder, its employees, agents or subcontractors; or
  2. Failure by the Home Owner or by anyone other than the Builder, its employees, agents or subcontractors to comply with the warranty requirements of manufacturers of appliances, fixtures and items of equipment; or
  3. Changes of the grading of the ground by anyone other than the Builder; its employees, agents or subcontractors; or
  4. Changes, alterations or additions made to the Home by anyone after the Limited Warranty Commencement Date stated on the Certificate; or



## WINDOM HILL PLACE, A CONDOMINIUM

5. Dampness or condensation due to the failure of the Home Owner to maintain adequate ventilation;
- E. Loss or damage which the Home Owner has not taken timely action to minimize;
- F. Normal wear and tear or normal deterioration;
- G. Loss or damage, not otherwise excluded under this Limited Warranty, which does not constitute a defect in the construction of the Home by the Builder, its employees, agents or subcontractors;
- H. Loss or damage caused by or resulting from accidents, riot and civil commotion, fire, explosion, smoke, water escape, falling objects, aircraft, vehicles, Acts of God, lightning, windstorm, hail, flood, mudslide, earthquake, volcanic eruption, wind-driven water and changes in the underground water table;
- I. Loss or damage caused by or resulting from seepage of water;
- J. Loss or damage caused by or resulting from soil movement for which compensation is provided by legislation or which is covered by other insurance;
- K. Insect damage;
- L. Loss or damage which arises while the residential units are being used primarily for nonresidential purposes;
- M. Failure of the Builder to complete construction of the Home;
- N. Any condition which does not result in actual physical damage to the Home, including, but not limited to: uninhabitability or health risk due to the presence or consequence of unacceptable levels of radon gas, formaldehyde or other pollutants and contaminants; or the presence of hazardous or toxic on-site materials;
- O. Bodily injury or damage to personal property;
- P. Loss or damage caused by or resulting from abnormal loading on floors by the Home Owner which exceeds design loads as mandated by codes;
- Q. Cost of shelter, transportation, food, moving, storage, or other incidental expenses related to inconvenience or relocation during repairs;
- R. Consequential damages (except where required by state law);
- S. Design errors, defects and/or deficiencies; and
- T. Any Request for Warranty Performance or insurance claim not filed in a manner set forth below in "Warranty Service" or "Insurance Claim Process".

### WARRANTY SERVICE

#### Request for Warranty Service

The Home Owner with a warranty complaint should first send a clear and specific "Request for Performance under the Limited Warranty" in the form attached hereto.

#### Time of Notice of Claim.



## WINDOM HILL PLACE, A CONDOMINIUM

Written notice of a defect in any item under this Limited Warranty must be received by Builder no later than thirty (30) days after the Limited Warranty coverage on that item expires. Coverage on certain items varies within the two (2) year Limited Warranty period. Consult LIMITED WARRANTY COVERAGE above, and the PERFORMANCE STANDARDS that follow for specific coverage terms on specific items. If such notice is not received by Builder by that deadline, any Request for Warranty Performance or insurance claims for the defect may be rejected.

### Right of Access.

The Home Owner must provide the Builder reasonable workday access to the property in order to perform the warranty service required under this limited warranty. Failure of the Home Owner to provide such access to the Builder may relieve the Builder of its obligations under this Limited Warranty.

### Release.

When the Builder finishes repairing or replacing the defect, or pays the Home Owner the cost of repairing or replacing the defect, a full release of all legal obligations with respect to the defect must be signed and delivered to the Builder by the Home Owner.

### Other Claimants

Any other person to whom this Limited Warranty is extended shall submit and pursue, by the procedures above, any claims that they may have.

### DEFINITIONS

Except as otherwise provided, the terms used in this Limited Warranty shall have the meanings assigned below:

A. **"Appliances, fixtures and Items of Equipment"** – Includes but is not limited to: furnaces, boilers, oil tanks and fittings, air purifiers, air handling equipment, ventilating fans, air conditioning equipment, water heaters, pumps, stoves, refrigerators, garbage disposals, compactors, dishwashers, automatic door openers, washers and dryers, bathtubs, sinks, toilets, faucets and fittings, lighting fixtures, and circuit breakers.

B. **"Building"** – The structure containing four condominiums.

C. **"Common Elements"** – Any element within a condominium which is owned by the association or leased to the association. The term does not include a unit.

D. **"Home"** – A single family Unit in a for-sale multi-unit residential Building in which title to the individual units is transferred to owners under a condominium structure.

E. **"Home Owner"** – The first person to whom the Home is sold by the Builder and his or her successors in title. Home Owner does not include the Builder or any firm under common control of the Builder.

F. **"Major Structural Defect"** – Actual physical damage to any of the following designated load-bearing portions of the Home caused by failure of such load-bearing portions which affects their load-bearing functions to the extent that the Home becomes unsafe, unsanitary, or otherwise unlivable:

1. Foundation systems and footings;
2. Beams;
3. Girders;
4. Lintels;
5. Columns;
6. Walls and partitions;
7. Floor systems; and
8. Roof framing systems.



## WINDOM HILL PLACE, A CONDOMINIUM

Damage to the following non-load bearing portions of the Home may be covered by this Limited Warranty, but do not constitute a Major Structural Defect:

1. Roofing and sheathing;
2. Drywall and plaster;
3. Exterior siding;
4. Brick, stone, or stucco veneer;
5. Floor covering material;
6. Wall tile and other wall coverings;
7. Non-load bearing walls and partitions;
8. Concrete floors in attached garages and basements that are built separately from foundation walls or other structural elements of the Home;
9. Electrical, plumbing, heating, cooling and ventilation systems;
10. Appliances, fixtures and items of equipment;
11. Paint;
12. Doors and windows;
13. Trim;
14. Cabinets;
15. Hardware; and
16. Insulation.

J. **"Performance Standards"** – The locally applicable building codes, locally accepted building practices and performance standards which describe the Builder's obligation for specific defects under this Limited Warranty.

K. **"Systems"** – Exclusive of appliances, fixtures and items of equipment, include the following:

1. **"Plumbing System"** – Gas supply lines and fittings; water supply, waste and vent pipes and their fittings; septic tanks and their drain field; water, gas and sewer services piping and their extensions to the tie-in of a public utility connection, or on-site well and sewage disposal system.
2. **"Electrical System"** – All wiring, electrical boxes, switches, outlets and connections up to the public utility connections.
3. **"Heating, Cooling and Ventilation Systems"** – All ductwork, steam, water and refrigerant lines, registers, connectors, radiation elements and dampers.

### OTHER CONDITIONS

#### General Provisions

A. Should any provision of this Limited Warranty be deemed unenforceable by a court of competent jurisdiction, that determination will not affect the enforceability of the remaining provisions.

B. This Limited Warranty is to be binding on the Builder and the Home Owner, their heirs, executors, administrators, successors and assigns.

C. Use of one gender in this Limited Warranty includes all other genders; and use of the plural includes the singular, as may be appropriate.

D. This Limited Warranty is to be covered by and construed in accordance with the laws of the state in which the Home is located.



## WINDOM HILL PLACE, A CONDOMINIUM

E. The failure of Builder to insist, in any one or more instances, on the performance of any of the terms, covenants or conditions of this Limited Warranty, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such terms, covenants, conditions or rights.

F. It is understood and agreed between the Builder and the Home Owner that this Limited Warranty represents the entire agreement and warranty between them regarding the subject matter hereof, and that there are no written or oral agreements, modifications or understandings that are not incorporated herein. Any modification to this Limited Warranty must be made in a writing, fully executed by both the Builder and Home Owner.

G. All disputes between the Builder and the Home Owner arising out of or related to this Limited Warranty shall be decided by binding arbitration in the metropolitan area in which the Home is located.





## WINDOM HILL PLACE, A CONDOMINIUM

### REQUEST FOR PERFORMANCE UNDER THE LIMITED WARRANTY

DEAR HOME OWNER:

Should you encounter an item you feel should be addressed by your Warranty, please fill out the following form. Even if previously contacted, **BUILDER MUST RECEIVE WRITTEN NOTICE OF THE DEFECT IN ANY ITEM COVERED BY THIS LIMITED WARRANTY NO LATER THAN THIRTY (30) DAYS AFTER THE COVERAGE ON THAT ITEM EXPIRES.\*** This is necessary to protect your rights to warranty performance under this Limited Warranty.

If you do not know the answers to any questions, write "Don't know". Please do not leave any item blank.

Your Name: \_\_\_\_\_

Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Business Phone: \_\_\_\_\_

Limited Warranty Commencement Date: \_\_\_\_\_

Builder's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Describe the defect which you think are covered by the Limited Warranty. Include when the defect first occurred or when you first noticed the defect. (Use additional sheets, if necessary.)

\_\_\_\_\_  
Signature Date

Certain items are covered only during the first year; others are covered for two (2) years. Refer to the Approved Standards for the coverage periods.

FAX TO 412-316-0090

Arnheim & Neely  
425 N. Craig Street, Suite 100  
Pittsburgh PA 15213  
412-391-1900

CC Fax to 412-766-4634

Sota Construction Services, Inc.  
80 Union Avenue  
Pittsburgh, PA 15202  
412-766-4630  
Attn: Diana Lynn



# WINDOM HILL PLACE, A CONDOMINIUM

## SECTION II – PERFORMANCE STANDARDS

### Table of Contents

SECTION SUBJECT	PAGE
I Introduction .....	
II Home Owner Responsibilities .....	
III Performance Standards .....	

### I. INTRODUCTION

**Please Read This Carefully.** The following is intended to acquaint you with the responsibilities of the Builder under this Limited Warranty. If a defect that results in actual physical damage to the Home occurs, the Performance Standards will be used to determine the Builder's obligations under this Limited Warranty. If a specific defect is not addressed in the Performance Standards, one of the following standards will be used, at the Builder's sole discretion, to determine the Builder's obligation under this Limited Warranty:

- (a) Locally adopted codes; or
- (b) Model codes covering building, mechanical, plumbing and electrical systems (Appendix A); or
- (c) Codes of nearby jurisdictions; or
- (d) Locally accepted building practices.

Also note that coverage on certain items varies within the two (2) year limited warranty period and some items rely on proper maintenance by the Home Owner.

### II. HOME OWNER RESPONSIBILITIES

The Home requires an active maintenance effort on the Home Owner's part to reduce the likelihood of damage due to neglect, improper maintenance, or abnormal use. Various regional areas of the country have local maintenance problems. Some specific Home Owner responsibilities are included under specific topics in Section III, Performance Standards.

**NOTE:** Damage caused or made worse by Home Owner negligence, improper maintenance, or improper operation is expressly excluded under this Limited Warranty.

### III. PERFORMANCE STANDARDS – Topic Index

The Performance Standards list specific items (defects) within each separate area of coverage. The first section covers Workmanship and Materials; the second section covers Systems. The standards are expressed in terms of performance criteria. For easy comprehension, the format is designed as follows:

1. **Possible Deficiency** – a brief statement in simple terms, of problems that may be encountered.
2. **Performance Standard** – a performance standard relating to a specific deficiency.
3. **Responsibility** – a statement of the corrective action required of the Builder to repair the deficiency or a statement of the Home Owner's maintenance responsibilities.

#### Workmanship and Materials,

1. Site Work.....



## WINDOM HILL PLACE, A CONDOMINIUM

2. Concrete .....
3. Masonry .....
4. Wood and Plastic .....
5. Thermal and Moisture Protection .....
6. Doors and Windows .....
7. Finishes .....
8. Specialties .....
9. Equipment .....
10. Plumbing .....
11. Heating and Cooling .....
12. Ventilation .....
13. Electrical .....
14. Plumbing System .....
15. Ventilation System .....
16. Electrical System .....

### WORKMANSHIP AND MATERIALS:

#### 1. Site Work

##### A. Site Grading

(1) Possible Deficiency	Settling of ground around foundation, utility trenches or other areas.
Performance Standard	Settling of ground around foundation walls, utility trenches or other filled areas shall not interfere with water drainage away from the home.
Responsibility	If the Builder has provided final grading: upon request by the Home Owner, settled areas affecting proper drainage.

---

##### B. Site Drainage

(1) Possible Deficiency	Improper drainage of the site.
Performance Standard	The necessary grades and swales shall have been established by the Builder to insure proper drainage away from the Home. Standing or ponding water shall not remain for extended periods in the immediate area after a rain (generally no more than 24 hours), except that in swales which drain other areas, or in areas where sump pumps discharge, a longer period can be anticipated (generally no more than 48 hours). The possibility of standing water after an unusually heavy rainfall should be anticipated. No grading determination shall be made while there is frost or snow on the ground, or while the ground is saturated.
Responsibility	The Builder is responsible only for initially establishing the proper grades and swales. The Home Owner is responsible for maintaining such grades and swales once they have been properly established.

---

#### 2. Concrete



## WINDOM HILL PLACE, A CONDOMINIUM

### A. Expansion and Contraction Joints

(1) Possible Deficiency Separation or movement of concrete slabs within the structure at expansion and contraction joints.

Performance Standard Concrete slabs within the structure are designed to move at expansion and contraction joints.

Responsibility None.

---

### B. Cast-In-Place Concrete

(1) Possible Deficiency Cracking of basement floor.

Performance Standard Shrinkage cracks are not unusual in concrete foundation walls. Such cracks greater than 1/8 inch in width shall be repaired.

Responsibility Builder will repair cracks in excess of 1/8 inch width.

---

(2) Possible Deficiency Cracking of basement floor.

Performance Standard Minor cracks in concrete basement floors are normal. Cracks exceeding 3/16 inch in width or 1/8 inch in vertical displacement shall be repaired.

Responsibility Builder will repair cracks exceeding minimum tolerances by surface patching or other methods as required.

---

(3) Possible Deficiency Cracking of slab in attached garage.

Performance Standard Cracks in garage slabs in excess of 1/4 inch in width or 1/4 inch in vertical displacement shall be repaired.

Responsibility Builder will repair cracks exceeding minimum tolerances by surface patching or other methods as required.

---

(4) Possible Deficiency Uneven concrete floors/slabs.

Performance Standard Except for basement floors or where a floor or portion of floor has been designed for specific drainage purposes, concrete floors in rooms designed for habitability shall not have pits, depressions or areas of unevenness exceeding 1/4 inch in 32 inches.

Responsibility Builder will correct or repair to meet the Performance Standard.

---

(5) Possible Deficiency Cracks in concrete slab-on-grade floors with finish flooring.

Performance Standard Cracks which rupture the finish flooring material shall be repaired.

Responsibility Builder will repair cracks, as necessary, so as not to be readily apparent when the finish flooring material is in place. (See also Performance Standard 7, "Finishes".)



## WINDOM HILL PLACE, A CONDOMINIUM

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(6) Possible Deficiency	Pitting, scaling or spalling of concrete work covered by this Limited Warranty.
Performance Standard	Concrete surfaces shall not disintegrate to the extent that the aggregate is exposed and loosened under normal conditions of weathering and use. Note: Exterior concrete is an exposed aggregate finish and some spalling of the exposed aggregate is normal
Responsibility	Builder will take whatever corrective action necessary to repair or replace defective concrete surfaces. Builder is not responsible for deterioration caused by salt, chemicals, mechanical implements and other factors beyond its control.

---

(7) Possible Deficiency	Settling, heaving, or separating of stoops, steps or garage floors.
Performance Standard	Stoops, steps, or garage floors shall not settle, heave, or separate in excess of 1 inch from the house structures.
Responsibility	Builder will take whatever correction action is required to meet the Performance Standard.

---

(8) Possible Deficiency	Standing water on stoops.
Performance Standard	Water should drain from outdoor stoops and steps. The possibility of minor water standing on stoops for a short period after rain can be anticipated.
Responsibility	Builder shall take corrective action to assure drainage of steps and stoops.

---

### 3. Masonry

#### A. Unit Masonry

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(1) Possible Deficiency	Basement or foundation wall cracks.
Performance Standard	Small cracks not affecting structural stability are not unusual in mortar joints of masonry foundation walls. Cracks greater than 1/8 inch in width shall be repaired.
Responsibility	Builder will repair cracks in excess of 1/8 inch by pointing or patching. These deficiencies shall be reported and repairs made during the first of the Limited Warranty period.

---

(2) Possible Deficiency	Cracks in masonry walls or veneer.
Performance Standard	Small hairline cracks due to shrinkage are common in mortar joints in masonry construction. Cracks greater than 3/8 inch in width are considered excessive.



## WINDOM HILL PLACE, A CONDOMINIUM

Responsibility

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Builder will repair cracks in excess of Performance Standard by pointing or patching. These repairs shall be made during the first year of the Limited Warranty period.

### 4. Wood and Plastic

#### A. Rough Carpentry

(1) Possible Deficiency

Floors squeak or subfloor appears loose.

Performance Standard

Floor squeaks and loose subfloor are often temporary conditions common to new construction, and a squeak-proof floor cannot be guaranteed.

Responsibility

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Builder will correct the problem only if caused by an underlying construction defect.

(2) Possible Deficiency

Uneven wood floors.

Performance Standard

Floors shall not have more than ¼ inch ridge or depression within any 32-inch measurement when measured parallel to the joists. Allowable floor and ceiling joist deflections are governed by the applicable building code. Add dimensions

Responsibility

---

Builder will correct or repair to meet Performance Standard.

(3) Possible Deficiency

Bowed walls.

Performance Standard

All interior and exterior walls have slight variances on their finished surfaces. Bowing of walls should not detract from or blemish the wall's finished surface. Walls should not bow more than ¼ inch out-of-line within any 32-inch horizontal or vertical measurement.

Responsibility

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Builder will repair to meet Performance Standard.

(4) Possible Deficiency

Out-of-plumb walls.

Performance Standard

Walls should not be more than ¼ inch out-of-plumb for any 32-inch vertical measurement.

Responsibility

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Builder will repair to meet the Performance Standard.

#### B. Finish Carpentry (Interior)

(1) Possible Deficiency

Poor quality of interior trim workmanship.

Performance Standard

Joints in moldings or joint between moldings and adjacent surface shall not result in open joints exceeding 1/8 inch in width.



## WINDOM HILL PLACE, A CONDOMINIUM

Responsibility	Builder will repair defective joints, as defined. Caulking is acceptable.
-----	
C. Finish Carpentry (Exterior)	
(1) Possible Deficiency	Poor quality of exterior trim workmanship.
Performance Standard	Joints between exterior trim elements, including siding and masonry, shall not result in open joints in excess of 3/8 inch. In all cases, the exterior trim, masonry and siding shall be capable of performing its function to exclude the elements.
Responsibility	Builder will repair open joints, as defined. Caulking is acceptable.
-----	
<b>5. Thermal/Moisture Protection</b>	<b>See attached roofing warrantee from manufacturer.</b>
-----	
A. Waterproofing	
(1) Possible Deficiency	Leaks in basement.
Performance Standard	Leaks resulting in actual trickling of water shall be repaired. Leaks caused by improper landscaping or failure to maintain proper grades by others are not covered by this Limited Warranty. Dampness of the walls or floors may occur in new construction and is not considered a deficiency.
Responsibility	Builder will take such action as necessary to correct basement leaks except where the cause is determined to result from Home Owner action or negligence.
-----	
B. Insulation	
(1) Possible Deficiency	Insufficient insulation.
Performance Standard	Insulation shall be installed in accordance with applicable energy and building code requirements.
Responsibility	Builder will install insulation in sufficient amounts to meet Performance Standard.
-----	
C. Louvers and Vents	
(1) Possible Deficiency	Leaks due to snow or rain driven into the attic through louvers or vents.
Performance Standard	Attic vents and /or louvers must be provided for proper ventilation or exhaust.
Responsibility	Builder will reseal louvers where leakage is occurring.
-----	
D. Roofing and Siding	



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(1) Possible Deficiency	Ice build-up on roof.
Performance Standard	During prolonged cold spells, ice build-up is likely to occur at the eaves of a roof. This condition occurs when snow and ice accumulate and gutters and downspouts freeze up.
Responsibility	Prevention of ice build-up on the roof is a Home Owner maintenance item.
<hr/>	
(2) Possible Deficiency	Roof or flashing leaks.
Performance Standard	Roofs or flashing shall not leak under normally anticipated conditions, except where cause is determined to result from ice build-up or Home Owner action or negligence.
Responsibility	Builder will repair any verified roof or flashing leaks not caused by ice build-up or Home Owner action or negligence.
<hr/>	
(3) Possible Deficiency	Standing water on flat roof.
Performance Standard	Water shall drain from flat roof except for minor ponding immediately following rainfall or when the roof is specifically designed for water retention.
Responsibility	Builder will take corrective action to assure proper drainage of roof.
<hr/>	
(4) Possible Deficiency	Delamination of veneer siding or joint separation.
Performance Standard	All siding shall be installed according to the manufacturer's and industry's accepted standards. Separations and delaminations shall be repaired or replaced.
Responsibility	Builder will repair or replace siding as needed unless caused by Home Owner's neglect to maintain siding properly. Repaired area may not match in color and/or texture. For surfaces requiring paint, Builder will paint only the new materials. The Home Owner can expect that the newly painted surface may not match original surface in color.
<hr/>	
E. Sheet Metal	
(1) Possible Deficiency	Gutters and/or downspouts leak.
Performance Standard	Gutters and downspouts shall not leak but gutters may overflow during heavy rain.
Responsibility	Builder will repair leaks. It is a Home Owner responsibility to keep gutters and downspouts free of leaves and debris which could cause overflow.
<hr/>	
(2) Possible Deficiency	Water standing in gutters.





## WINDOM HILL PLACE, A CONDOMINIUM

Performance Standard

When gutter is unobstructed by debris, the water level shall not exceed one (1) inch in depth. Industry practice is to install gutters approximately level. Consequently, it is entirely possible that small amounts of water will stand in certain sections of gutter immediately after a rain.

Responsibility

---

Builder will correct to meet Performance Standard.

### F. Sealants

(1) Possible Deficiency

Leaks in exterior walls due to inadequate caulking.

Performance Standard

Joints and cracks in exterior wall surfaces and around openings shall be properly caulked to exclude the entry of water.

Responsibility

---

Builder will repair and/or caulk joints or cracks in exterior wall surfaces as required to correct deficiencies once during the first year of the Limited Warranty period. Even properly installed caulking will shrink and must be maintained during the life of the Home.

## 6. Doors & Windows

### A. Wood Doors (See also Marvin Window and Door Warranty Information)

(1) Possible Deficiency

Warping of interior passage and closet doors.

Performance Standard

Interior doors (full openings) shall not warp in excess of National Woodwork Manufacturers Association Standards (1/4 inch, measured diagonally from corner to corner).

Responsibility

---

Builder will correct or replace and refinish defective doors to match existing doors as nearly as possible during the first year of the Limited Warranty period.

(2) Possible Deficiency

Shrinkage of insert panels show raw wood edges.

Performance Standard

Panels will shrink and expand and may expose unpainted surface.

Responsibility

---

None.

(3) Possible Deficiency

Split in door panel.

Performance Standard

Split panels shall not allow light to be visible through the door.



## WINDOM HILL PLACE, A CONDOMINIUM

Responsibility	Builder will, if light is visible, fill and match paint or stain as closely as possible, one time in the first year of the Limited Warranty period.
<hr/>	
<b>B. Glass</b>	
(1) Possible Deficiency	Broken glass.
Performance Standard	None.
Responsibility	Broken glass not reported to the Builder prior to closing is the Home Owner's responsibility.
<hr/>	
<b>C. Garage Doors on Attached Garage</b>	
(1) Possible Deficiency	Garage doors fail to operate properly under normal use.
Performance Standard	Garage doors shall operate properly.
Responsibility	Builder will correct or adjust garage doors as required, except where the cause is determined to result from Home Owner action or negligence.
<hr/>	
(2) Possible Deficiency	Garage doors allow entrance of snow or water.
Performance Standard	Garage doors shall be installed as recommended by the manufacturer. Some entrance of the elements can be expected under abnormal conditions.
Responsibility	Builder will adjust or correct garage doors to meet manufacturer's recommendations.
<hr/>	
<b>D. Wood and Metal Windows (See also Marvin Window and Door Warranty Information)</b>	
(1) Possible Deficiency	Malfunction of windows.
Performance Standard	Windows shall operate within lifting force specifications as stated by the manufacturer .,
Responsibility	Builder will correct or repair as required.
<hr/>	
(2) Possible Deficiency	Condensation and/or front on windows.
Performance Standard	Windows will collect condensation on interior surfaces when extreme temperature differences and high humidity levels are present. Condensation is usually a result of climatic/humidity conditions created by the Home Owner.
Responsibility	Unless directly attributed to faulty installation, window condensation is a result of conditions beyond the Builder's control. No corrective action required.



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### E. Weather-stripping and Seals

(1) Possible Deficiency

Air infiltration around doors and windows.

Performance Standard

Some infiltration is normally noticeable around doors and windows, especially during high winds. Poorly fitted weather-stripping shall be adjusted or replaced. It may be necessary for the Home Owner to have storm doors and windows installed to provide satisfactory solutions in high wind areas.

Responsibility

Builder will adjust or correct poorly fitted doors, windows and poorly fitted weather-stripping.

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## 7. Finishes

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### A. Gypsum Wallboard

(1) Possible Deficiency

Defects which appear during the first year of the Limited Warranty such as nail pops, blisters in tape, or other blemishes.

Performance Standard

Slight "imperfections" such as nail pops, seam lines and cracks not exceeding 1/16 inch in width are common in gypsum wallboard installations and are considered acceptable.

Responsibility

Builder will repair cracks exceeding 1/16th inch in width and nail pops, one time only, during the first year of the Limited Warranty period. (See also Performance Standard 7.F., "Painting".)

---

### B. Ceramic Tile

(1) Possible Deficiency

Ceramic tile cracks or becomes loose.

Performance Standard

Ceramic tile shall not crack or come loose.

Responsibility

Builder will replace cracked tiles and re-secure loose tiles unless the defects were caused by the Home Owner action or negligence. Builder will not be responsible for discontinued patterns or color variations in ceramic tile.

---

### C. Finished Wood Flooring

(1) Possible Deficiency

Cracks developing between floor boards.

Performance Standard

Cracks in excess of 1/8 inch in width shall be corrected.

Responsibility

Builder will repair cracks in excess of 1/8 inch in width within the first year of the Limited Warranty period, by filling or replacing, at Builder's option.

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### D. Resilient Flooring

(1) Possible Deficiency

Nail pops appear on the surface of resilient flooring.

Performance Standard

Readily apparent nail pops shall be repaired.

Responsibility

Builder will correct nail pops which have broken the surface. Builder will repair or replace, at Builder's sole option, resilient floor covering in the affected area with similar material. Builder will not be responsible for discontinued patterns or color variations in the floor covering.

---

(2) Possible Deficiency

Depressions or ridges appear in the resilient flooring due to sub-floor irregularities.

Performance Standard

Readily apparent depressions or ridges exceeding 1/8 inch shall be repaired. The ridge or depression measurement is taken as the gap created at one end of a six-inch straight-edge placed over the depression or ridge with three inches of the straight-edge on one side of the defect, held tightly to the floor.

Responsibility

Builder will take corrective action as necessary to bring the defect within acceptable tolerance so that the affected area is not readily visible. Builder will not be responsible for discontinued patterns or color variations in floor covering.

---

(3) Possible Deficiency

Resilient flooring loses adhesion.

Performance Standard

Resilient flooring shall not lift, bubble or become unglued.

Responsibility

Builder will repair or replace, at Builder's sole option, the affected resilient flooring as required. Builder will not be responsible for discontinued patterns or color variation of floor covering, or for problems caused by Home Owner neglect or abuse.

---

(4) Possible Deficiency

Seams or shrinkage gaps show at resilient flooring joints.

Performance Standard

Gaps shall not exceed 1/16 inch in width in resilient floor covering joints. Where dissimilar materials abut, a gap not to exceed 1/8 inch is permissible.

Responsibility

Builder will repair or replace, at Builder's sole option, the affected resilient flooring as required. Builder will not be responsible for discontinued patterns or color variation of floor covering, or for problems caused by Home Owner neglect or abuse.

---

### E. Painting

(1) Possible Deficiency

Exterior paint or stain peels, deteriorates or fades.



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Performance Standard	Exterior paints or stains should not fail during the first year of the Limited Warranty period. However, fading is normal and the degree is dependent on climatic conditions.
Responsibility	If paint or stain is defective, Builder will properly prepare and refinish affected areas, matching color as close as possible. Where finish deterioration affects the majority of the wall area, the whole area will be refinished.
<hr/>	
(2) Possible Deficiency	Painting required as corollary repair because of other work.
Performance Standard	Repairs required under this Limited Warranty shall be finished to match surrounding areas as closely as practicable.
Responsibility	Builder will finish repair areas as indicated.
<hr/>	
(3) Possible Deficiency	Deterioration of varnish or lacquer finishes.
Performance Standard	Natural finishes on interior woodwork shall not deteriorate during the first year of the Limited Warranty period. However, varnish type finishes used on the exterior will deteriorate rapidly and are not covered by the Limited Warranty.
Responsibility	Builder will retouch affected areas of natural finish interior woodwork, matching the color as closely as possible.
<hr/>	
(4) Possible Deficiency	Mildew or fungus on painted surfaces.
Performance Standard	Mildew or fungus will form on a painted surface if the structure is subject to abnormal exposures (i.e., rainfall, ocean, lake or river front).
Responsibility	Mildew or fungus is a condition the Builder cannot control and is a Home Owner maintenance item unless it is a result of non-compliance with other sections of the Performance Standard.
<hr/>	
F. Wall Covering	
(1) Possible Deficiency	Peeling of wall covering.
Performance Standard	Peeling of wall covering shall not occur.
Responsibility	Builder will repair or replace defective wall covering applications.
<hr/>	
(2) Possible Deficiency	Edge mismatching in pattern of wall covering.
Performance Standard	None.
Responsibility	None.
<hr/>	
G. Carpeting	



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(1) Possible Deficiency	Open carpet seams.
Performance Standard	Carpet seams will show. However, no visible gap is acceptable.
Responsibility	Builder will correct.
<hr/>	
(2) Possible Deficiency	Carpeting becomes loose, seams separate or stretching occurs.
Performance Standard	Wall-to-wall carpeting installed as the primary floor covering, when stretched and secured properly shall not come up, become loose, or separate from its point of attachment.
Responsibility	Builder will re-stretch or re-secure carpeting as needed, if original installation was performed by Builder.
<hr/>	
(3) Possible Deficiency	Spots on carpet, minor fading.
Performance Standard	Exposure to light may cause spots on carpet and/or minor fading.
Responsibility	None.
<hr/>	
<b>H. Special Coatings</b>	
(1) Possible Deficiency	Cracks in exterior stucco wall surfaces.
Performance Standard	Cracks are not unusual in exterior stucco wall surfaces. Cracks greater than 1/8 inch in width shall be repaired.
Responsibility	Builder will repair cracks exceeding 1/8 inch in width, one time only, during the first year of the Limited Warranty period.
<hr/>	
<b><u>8. Specialties</u></b>	
<b>A. Louvers and Vents</b>	
(1) Possible Deficiency	Inadequate ventilation of attics and crawl spaces.
Performance Standard	Attic and crawl spaces shall be ventilated as required by the approved building code.
Responsibility	The Builder shall provide for adequate ventilation. Builder will not be responsible for alterations to the original system.
<hr/>	
<b>B. Fireplaces</b>	
(1) Possible Deficiency	Fireplace or chimney does not draw properly.
Performance Standard	A properly designed and constructed fireplace and chimney shall function properly. It is normal to expect that high winds can cause temporary negative draft situations. Similar negative draft situations can also be caused by obstructions such as large



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	branches of trees too close to the chimney. Some homes may need to have a window opened slightly to create an effective draft, if they have been insulated and weather-proofed to meet high energy conservation criteria.
Responsibility	Builder will determine the cause of malfunction and correct, if the problem is one of design or construction of the fireplace.
(2) Possible Deficiency	Chimney separation from structure to which it is attached.
Performance Standard	Newly built fireplaces will often incur slight amounts of separation. Separation shall not exceed ½ inch from the main structure in any 10 foot vertical measurement.
Responsibility	Builder will determine the cause of separation and correct if standard is not met. Caulking is acceptable.
(3) Possible Deficiency	Firebox paint changed by fire.
Performance Standard	None.
Responsibility	None. Heat from fires will alter finish.
(4) Possible Deficiency	Cracked firebox and mortar joints.
Performance Standard	None.
Responsibility	None. Heat and flames from "roaring" fires will cause cracking.
<b>9. Equipment</b>	
A. Residential Cabinetry	
(1) Possible Deficiency	Surface cracks, joint delaminations and chips in high pressure laminates on vanity and kitchen cabinet countertops.
Performance Standard	Countertops fabricated with high pressure laminate coverings shall not delaminate.
Responsibility	Builder will replace delaminated coverings to meet specified criteria. Builder will not be responsible for chips and cracks noted following first occupancy.
(2) Possible Deficiency	Kitchen cabinet malfunctions.
Performance Standard	Warpage not to exceed ¼ inch as measured from face frame to point of furthest warpage with door or drawer front in closed position.
Responsibility	Builder will correct or replace doors or drawer fronts.
(3) Possible Deficiency	Gaps between cabinets, ceiling or walls.



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Performance Standard

Acceptable tolerance of ¼ inch in width.

Responsibility

Builder will correct to meet Performance Standard.

---

### 10. Plumbing

#### A. Water Supply System

(1) Possible Deficiency

Plumbing pipes freeze and burst.

Performance Standard

Drain, waste, vent, and water pipes shall be adequately protected, as required by applicable code, during normally anticipated cold weather, and as defined in accordance with ASHRAE design temperatures, to prevent freezing.

Responsibility

Builder will correct situations not meeting the code. It is the Home Owner's responsibility to drain or otherwise protect lines and exterior faucets exposed to freezing temperatures.

---

#### B. Plumbing System

(1) Possible Deficiency

Faucet or valve leak.

Performance Standard

No valve or faucet shall leak to defects in workman- ship and materials.

Responsibility

Builder will repair/replace leaking faucet or valve.

---

(2) Possible Deficiency

Defective plumbing fixtures, appliances or trim fittings.

Performance Standard

Fixtures, appliances or fittings shall comply with their manufacturer's standards.

Responsibility

Builder will replace any defective fixture or fitting which does not meet acceptable standards, as defined by the manufacturer.

---

(3) Possible Deficiency

Noisy water pipes.

Performance Standard

There will be some noise emitting from the water pipe system due to the flow of water. However, water hammer shall be eliminated.

Responsibility

Builder cannot remove all noises due to water flow and pipe expansion. Builder will correct to eliminate "water hammer".

---

(4) Possible Deficiency

Cracking or chipping of porcelain or fiberglass surfaces.

Performance Standard

Chips and cracks on surfaces of bathtubs and kitchen sinks can occur when surface is hit with sharp or heavy objects.





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Responsibility

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Builder will not be responsible for repairs unless damage has been reported to Builder prior to first occupancy.

### 11. Heating & Cooling

#### A. Heating

(1) Possible Deficiency

Inadequate heating.

Performance Standard

Heating system shall be capable of producing an inside temperature of 70 degrees F, as measured in the center of each room at a height of 5 feet above the floor, under local outdoor winter design conditions as specified in ASHRAE handbook. Federal, state, or local energy codes shall supersede this standard where such codes have been locally adopted.

Responsibility

---

Builder will correct heating system to provide the required temperatures. However, the Home Owner shall be responsible for balancing dampers, registers and other minor adjustments.

#### B. Refrigeration

(1) Possible Deficiency

Inadequate cooling.

Performance Standard

Where air-conditioning is provided, the cooling system shall be capable of maintaining a temperature of 78 degrees F, as measured in the center of each room at a height of 5 feet above the floor, under local outdoor summer design conditions as specified in ASHRAE handbook. In the case of outside temperatures exceeding 95 degrees F, a differential of 15 degrees F from the outside temperature will be maintained. Federal, state or local energy codes shall supersede this standard where such codes have been locally adopted.

Responsibility

---

Builder will correct cooling system to meet temperature conditions, in accordance with specifications.

#### C. Condensation Lines

(1) Possible Deficiency

Condensation lines clog up.

Performance Standard

None.

Responsibility

---

Condensation lines will clog eventually under normal use. This is a Home Owner maintenance item. Builder shall provide unobstructed condensation lines at time of first occupancy.

#### D. Evaporative Cooling

(1) Possible Deficiency

Improper mechanical operation.



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Performance Standard

Equipment shall function properly at temperature standard set.

Responsibility

Builder will correct and adjust so that blower and water system operate as designed.

---

### 12. Ventilation

#### A. Air Distribution

(1) Possible Deficiency

Noisy ductwork.

Performance Standard

When metal is heated it expands and when cooled, it contracts. The result is "ticking" or "crackling" which is generally to be expected.

Responsibility

None.

---

(2) Possible Deficiency

Oilcanning.

Performance Standard

This stiffening of the ductwork and the gauge of the metal used shall be such that ducts do not "oilcan". The booming noise caused by "oilcanning" is not acceptable.

Responsibility

Builder will correct to eliminate this sound.

---

### 13. Electrical

#### A. Electrical Conductors, Fuses and Circuit Breakers

(1) Possible Deficiency

Fuses flow or circuit breakers (excluding ground fault interrupters) "kick out".

Performance Standard

Fuses and circuit breakers shall not activate under normal usage.

Responsibility

Builder will check wiring circuits for conformity with local, state, or approved national electrical code requirements. Builder will correct circuitry not conforming to code specifications.

---

#### B. Outlets, Switches and Fixtures

(1) Possible Deficiency

Drafts from electrical outlets.

Performance Standard

Electrical junction boxes on exterior wall may produce air flow whereby the cold air can be drawn through the outlet into a room. The problem is normal in new home construction.

Responsibility

None.

---

(2) Possible Deficiency

Malfunction of electrical outlets, switches or fixtures.



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Performance Standard

All switches, fixtures and outlets shall operate as intended.

Responsibility

Builder will repair or replace defective switches, fixtures and outlets.

---

### C. Service and Distribution

(1) Possible Deficiency

Ground fault interrupter trips frequently.

Performance Standard

Ground fault interrupters are sensitive safety devices installed into the electrical system to provide protection against electrical shock. These sensitive devices can be tripped very easily.

Responsibility

Builder will install ground fault interrupter in accordance with approved electrical code. Tripping is to be expected and is not covered unless due to a construction defect.

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## 14. Plumbing System

### A. Water Supply

(1) Possible Deficiency

Water supply system fails to deliver water.

Performance Standard

All on-site service connections to municipal water main and private water supply shall be the Builder's responsibility. Private systems shall be designed and installed in accordance with all approved building, plumbing and health codes.

Responsibility

Builder will repair if failure is the result of defective workmanship or materials. If conditions beyond Builder's control disrupt or eliminate the sources of the supply, the Builder has no responsibility.

---

### B. Piping

(1) Possible Deficiency

Leakage from any piping.

Performance Standard

No leaks of any kind shall exist in any soil, waste, vent or water pipe. Condensation on piping does not constitute leakage, and is not covered.

Responsibility

Builder will make repairs to eliminate leakage.

---

(2) Possible Deficiency

Stopped up sewers, fixtures and drains.

Performance Standard

Sewers, fixtures, and drains shall operate properly.

Responsibility

Builder will not be responsible for sewers, fixtures and drains which are clogged through Home Owner negligence. If a problem occurs, the Home Owner should consult Builder for a proper course of action. Where defective construction is shown to be the cause, Builder will assume the cost of the repair; where



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	Home Owner negligence is shown to be the cause, the Home Owner will assume all repair costs.
-----	
(3) Possible Deficiency	Refrigerant lines leak.
Performance Standard	Refrigerant lines shall not develop leaks during normal operation.
Responsibility	Builder will repair leaking refrigerant lines and re-charge unit, unless damage was caused by Home Owner.
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### 15. Ventilation System

#### A. Air Distribution

(1) Possible Deficiency	Ductwork separates or becomes unattached.
Performance Standard	Ductwork shall remain intact and securely fastened.
Responsibility	Builder will re-attach and re-secure all separated or unattached ductwork.

### 16. Electrical System

#### A. Wiring

(1) Possible Deficiency	Failure of wiring to carry its designed load.
Performance Standard	Wiring should be capable of carrying the designated load for normal residential use.
Responsibility	Builder will check wiring for conformity with local, state or approved national electrical code requirements. Builder will repair wiring not conforming to code specifications.

## APPENDIX A - MODEL CODES

### Building Codes

- Standard Mechanical Code, Southern Building Code Congress
- BOCA Basic Building Code, Building Officials & Code Administrators International, Inc.
- National Building Code, American Insurance Association
- Standard Building Code, Southern Building Code Congress
- Uniform Building Code, International Conference of Building Officials
- One and Two Family Dwelling Code, Under the Nationally Recognized Model Codes

### Mechanical Codes

- Uniform Building Code, Volume II, Mechanical, International Conference of Building Officials
- BOCA Basic Mechanical Code, Building Officials & Code Administrators International, Inc.

### Plumbing Codes

- Standard Plumbing Code, Southern Building Code Congress
- Uniform Plumbing Code, International Association of Plumbing & Mechanical Officials



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- BOCA Basic Plumbing Code, Building Officials & Code Administrators International, Inc.

### Electrical Codes

- Electrical Code for One and Two Family Dwelling, National Fire Protection Association
- National Electrical Code, National Fire Protection Association

## SECTION III - MAJOR STRUCTURAL DEFECT COVERAGE

### I. WHAT IS COVERED

#### A. MAJOR STRUCTURAL DEFECTS THAT FIRST OCCUR DURING THE TERM OF THE MAJOR STRUCTURAL DEFECT COVERAGE AS STATED ON PAGE 1.

Repair of a Major Structural Defect is limited (1) to the repair of damage to the load-bearing portions of the Home which are necessary to restore their load-bearing function; and (2) to the repair of those items of the Home damaged by the Major Structural Defect which made the Home unsafe, unsanitary or otherwise unlivable. In the event a Major Structural Defect occurs during the term of the Major Structural Defect Coverage, the Builder will repair or replace the defective item(s) as described above or will pay the Home Owner the reasonable cost of such repair or replacement.

### II. LIMITS OF LIABILITY

**MAJOR STRUCTURAL DEFECT COVERAGE.** If a Major Structural Defect first occurs during the term of the Major Structural Defect Coverage stated on the Cover Page ("Two Years"), the Builder's limit of liability shall not exceed the original purchase price of the Home as stated on the Cover Page, reduced by the sum of all the Builder's payments for previous losses on that Home, including payments made by the Builder under the Builder Default Coverage, if any.

For each occurrence of a Major Structural Defect, the Builder will repair losses in excess of the first \$250 of loss. If the Home is located in a condominium or cooperative structure, See Section VII, Special Provisions for Condominiums and Cooperatives.

Steps taken by the Builder to correct Major Structural Defects under the Major Structural Defect Coverage shall not act to extend the time of this Insurance Coverage.

### III. EXCLUSIONS

Major Structural Defect Coverage shall not extend to or include or be applicable to:

- Defects in outbuildings including, but not limited to, detached garages and detached carports, (except outbuildings containing the electrical, plumbing, heating, cooling and ventilation systems serving the Home); site located swimming pools and other recreational facilities, driveways, walkways, patios, boundary walls, retaining walls, bulkheads, fences, landscaping (including sodding, seeding, shrubs, trees and plantings); off-site improvements, or any other improvements not a part of the Home itself.
- After the first year of the coverage, concrete floors of basements and concrete floors of attached garages that are built separately from foundation walls or other structural elements of the Home.
- Loss or damage to real property which is not part of the Home and which is not included in the original purchase price of the Home stated on the Certificate.
- Any damage to the extent it is caused or made worse by:



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1. Negligence, improper maintenance or improper operation by anyone other than the Builder, its employees, agents or subcontractors; or
  2. Failure by the Home Owner or anyone other than the Builder, its employees, agents or subcontractors to comply with the warranty requirements of manufacturers of appliances, fixtures and items of equipment; or
  3. Failure by the Home Owner to give notice to the Builder of any defective item within a reasonable time; or
  4. Changes of the grading of the lot by anyone other than the Builder, its employees, agents or subcontractors; or
  5. Changes, alterations or additions made to the Home by anyone after the Limited Warranty Commencement date stated on the Certificate; or
  6. Dampness or condensation due to the failure of the Home Owner to maintain adequate ventilation.
- E. Loss or damage which the Home Owner has not taken timely action to minimize;
- F. Any defect in, caused by, or resulting from materials or work supplied by anyone other than the Builder, its employees, agents or subcontractors;
- G. Normal wear and tear, or normal deterioration;
- H. Loss or damage, not otherwise excluded under the Builder Default Coverage and Major Structural Defect Coverage, which does not constitute a defect in the construction of the Home by the Builder, its employees, agents or subcontractors;
- I. Loss or damage resulting from accidents, riot and civil commotion, fire, explosion, smoke, water escape, falling objects, aircraft, vehicles, Acts of God, lightning, windstorm, hail, flood, mudslide, earthquake, volcanic eruption, wind-driven water and changes in the underground water table which were not reasonably foreseeable;
- J. Loss or damage caused by or resulting from seepage of water;
- K. Loss or damage caused by or resulting soil movement for which compensation is provided by legislation or which is covered by other insurance;
- L. Insect damage;
- M. Loss or damage which arises while the Home is being used primarily for non-residential purposes;
- N. Any condition which does not result in physical damage to the Home, including but not limited to, uninhabitability or health risk due to the presence or consequence of unacceptable levels of radon gas, formaldehyde, or other pollutants and contaminants, or the presence of hazardous or toxic on-site materials;
- O. Bodily injury or damage to personal property;
- P. Loss of damage caused by or resulting from abnormal loading on floors by the Home Owner which exceeds design loads as mandated by codes;
- Q. Costs of shelter, transportation, food, moving, storage, or other incidental expenses related to inconvenience or relocation during repairs; and
- R. Consequential damages (except where required by state law).

#### IV. HOW TO MAKE A CLAIM

- A. All claims under Major Structural Defect Coverage must be pursued through the Builder. Notice to the Builder must be given in writing and sent postage prepaid to Builder at the address shown on the Cover Page.
- B. Upon satisfaction of a claim, the Home Owner shall give the Builder a full and unconditional release with respect to that claim. The Home Owner shall cooperate fully with the Builder in any attempt by the Builder to obtain reimbursement from others.

#### V. DEFINITIONS



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Except as otherwise provided, the terms used in the Insurance Coverage shall have the meanings assigned below:

- A. "Builder" – Windom Hill Place Limited Partnership
- B. "Building" – The structure containing two or more Homes and certain Common Elements, as defined below, but not including personal property located in corridors, lobbies, rooms, or other spaces within the structure.
- C. "Common Elements" – The structure, components of enclosure and any portion of the Building, as described in the condominium or cooperative documents, including, but not limited to, corridors, lobbies, vertical transportation elements, rooms or other spaces which are provided for use in common by the residents of the structure, with free or limited access, and limited access balconies. Common Elements also means electrical, plumbing, heating, cooling and ventilation systems serving two or more Homes, and outbuildings containing parts of such systems.
- D. "Home" – A single family house or a Unit in a for-sale multi-unit residential structure in which title to the individual units is transferred to owners under a condominium or cooperative regime.
- E. "Home Owner" – The person to whom the Home is sold by the Builder and his successors in title. Home Owner does not include the Builder or any firm under common control with the Builder.
- F. "Major Structural Defect" – Actual physical damage to the following designed load-bearing portions of the Home caused by failure of such load-bearing portions which affects their load-bearing functions to the extent that the Home becomes unsafe, unsanitary or otherwise unlivable:
  - 1. Foundation system footings;
  - 2. Beams;
  - 3. Girders;
  - 4. Lintels
  - 5. Columns;
  - 6. Walls and partitions;
  - 7. Floor systems; and
  - 8. Roof framing systems.
- G. Damage to the following non-load bearing portions of the Home does not constitute a Major Structural Defect:
  - 1. Roofing and sheathing;
  - 2. Drywall and plaster;
  - 3. Exterior siding;
  - 4. Brick, stone or stucco veneer;
  - 5. Floor covering material;
  - 6. Wall tile and other wall coverings;
  - 7. Non-load bearing walls and partitions;
  - 8. Concrete floors in attached garages and basements that are built separately from foundation walls or other structural elements of the Home;
  - 9. Electrical, plumbing, heating, cooling and ventilation systems;
  - 10. Appliance, fixtures and items of equipment;
  - 11. Paint;
  - 12. Doors and windows;
  - 13. Trim;
  - 14. Cabinets;
  - 15. Hardware; and
  - 16. Insulation.



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### VI. OTHER INSURANCE

The Builder Default Coverage and Major Structural Defect Coverage are excess insurance coverages. This means that if a loss or damage occurs which is not otherwise expressly included under the above Coverages and the loss or damage is attributable to a peril which is specifically covered by other insurance carried by the Builder or the Home Owner, and applicable to the Home or its construction, the Building will not be liable for the loss except for that portion of the loss which is in excess of the amount due from such other insurance (whether collected or not) and the amount of such loss which is uncollectable from such other insurance because of the application of a deductible.

### VII. RESALE

Each successor in title to the Home, including any mortgage in possession, is automatically entitled to the benefits of the Major Structural Defect Coverages for their unexpired terms. There is no limit to the number of such successions during the term of such Coverages.

### VIII. SPECIAL PROVISIONS FOR CONDOMINIUMS AND COOPERATIVES

#### A. INCEPTION AND TERMINATION OF COVERAGE RELATING TO COMMON ELEMENTS.

1. Coverage for Common Elements applicable to Builder Default shall commence in the date of first occupancy of a Home in the condominium building or the settlement date for the first Home Owner, whichever first occurs. See the "Common Elements Commencement Date" on the certificate. This Coverage shall terminate two (2) years from the Common Elements Commencement Date.
2. Coverage applicable to Structural Defects in Common Elements shall commence two (2) years from the Common Elements Commencement Date and shall terminate no later than four (4) years from and after the date of Substantial Completion of the Project

#### B. CLAIMS ON COMMON ELEMENTS

Where a Common Element defect affects more than one Home in the condominium or cooperative structure, any portion of a claim involving Common Elements may only be made by a representative designated by the condominium or cooperative association to file such claims, except that prior to the Home Owners assuming control of the condominium or cooperative association, such claims may be filed and pursued over the signature of a majority of the Home Owners. Where the effect of the Common Element defect is limited to a single Home, the Home Owner of the affected Home may file a Common Elements claim unless such action by an individual Home Owner is prohibited in the condominium or cooperative documents.

#### C. LIMITS OF LIABILITY

1. For claims involving Common Elements and arising from Builder Default under the Builder's Limited Warranty or from a Major Structural Defect which first occurs after expiration of the Builder's Limited Warranty, the Builder shall only be liable for that amount which exceeds a sum equal to \$250 per Home affected by the Common Element defect.
2. Homes – See Article II above.
3. If the Builder chooses to pay the Home Owner or the Association instead of performing the repair or replacement work, the Builder will pay the reasonable cost of repair or replacement





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above \$250 if the defect affects an individual Home, or above the sum determined in accordance with Paragraph C.1., above, if the defect affects Common Elements.

### D. PRO RATA LIABILITY

In any claim involving Common Elements, the Builder shall not be liable in excess of the Policy Limits available to the individual condominium or cooperative units, as described in Article II above. Builder also shall not be liable for a greater proportion of any such loss than the amount of interest in such Common Elements held by the individual Home Owners covered by Certificates at the time of the loss bears to the total interest in Common Elements of all condominium or cooperative units, whether or not all such Units are completed or sold at the time of loss.

### IX. GENERAL

- A. If the Builder's performance of any of its obligations is delayed by any event beyond the Builder's own control or conduct, the Builder will be excused from performing until the effects of that event are remedied. Examples of such are Acts of God or the common enemy, war, riot, civil commotion, sovereign conduct or acts of persons who are not parties to or beneficiaries of the Major Structural Defect Coverages.
- B. No change in the Major Structural Coverages will be valid unless in the form of an amendment attached to the Cover Page and approved by an executive officer of the Builder.
- C. Use of one gender will include all other genders; and use of the singular will include plural, as may be appropriate.
- D. Should any provision of the Major Structural Defect Coverages be deemed unenforceable by a court of competent jurisdiction, that determination will not affect enforceability of the remaining provisions.