

REFERENCE COPY OF THE FIT & FINISH WARRANTY THAT IS CONTAINED IN YOUR SIGNED PURCHASE AGREEMENT



**BUILDER'S LIMITED FIT AND FINISH WARRANTY**

Buyer(s): \_\_\_\_\_

Subdivision: \_\_\_\_\_ Lot: \_\_\_\_\_

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

This Limited Fit and Finish Warranty ("**Warranty**") is given by Seller John Mourier Construction, Inc., a California Corporation ("**Builder**"), to the above named Buyer(s) (hereinafter, "**Buyer**") with regard to the residential improvements (the "**Residence**") located at the Buyer's address set forth above. This Warranty is expressly given in consideration for and conditioned upon Buyer's purchase of the Residence. There are certain procedures that must be followed to file a claim under this warranty, and they are described in Section 2.

1. **Items Covered by Warranty.** The items covered by this Warranty are the cabinets, mirrors, flooring, outside surface of the interior and exterior walls, counter tops, paint finishes and interior trim (the "**Covered Items**"). All other items are excluded from this Warranty. The Covered Items include the Visible Surface Defects (defined below) identified by Buyer or Seller's Representative at the 1st and/or Final Walk-Through Inspection of the Residence. Examples of items and conditions not covered by this Warranty are contained in the Limitations and Exclusions attached as Exhibit 1 to this Warranty.

2. **Warranty.** Subject to the limitations and exclusions and other terms and conditions described in this Warranty, Builder warrants that the fit and finish of the Covered Items shall be free from substantive defects in original materials and workmanship for a period of one (1) year (the "**Warranty Period**") following close of escrow on Buyer's purchase of the Residence ("**Close of Escrow**"). No other items within the home are covered by this Warranty and the Warranty covers only defects in the fit or finish of surface materials. No corrective action taken by the Builder under this Warranty shall extend the term of this Warranty.

Builder's sole obligation under this Warranty is to repair or replace warranted items, and such repair or replacement will be undertaken as promptly as possible taking into account the then existing circumstances. Builder shall not be responsible or liable for any incidental, consequential or secondary damages and/or losses of any kind whatever which may arise from or out of any defects warranted hereby, including, but not limited to, personal injury or damage to personal property, loss of use, or inconvenience.

***This Warranty is a Limited Warranty, in form intended to comply with applicable state law (California Civil Code Section 895, et seq.). It is provided expressly in lieu of any implied warranty of merchantability, implied warranty of habitability, implied warranty of fitness for a particular purpose, or any other implied or express or statutory warranty of any kind, written or oral, which may be applied to a builder, seller or builder of homes.***

3. **Warranty Claims.** Upon discovery of any defects in the fit or finish of the Covered Items during the Warranty Period, Buyer must immediately notify Builder in writing of the defect. The claim should be forwarded to Seller by U.S. Mail or through Builder's website. All claims under this Warranty must be made by Buyer in writing addressed to Builder at the following address: **John Mourier Construction, Inc., Attention: Warranty Department, 1430 Blue Oaks Blvd, Suite 190, Roseville, CA 95747-5157 or <http://www.jmchomes.com>.**

All claims must be made within thirty (30) calendar days after discovery of defect by Buyer, and must be received by Builder within the Warranty Period. Any failure to notify Builder in writing within thirty (30) calendar days after discovery of the defect or to allow Builder's agents to inspect and, if applicable, correct the defect voids this Warranty with respect to that defect. Upon receipt of a claim, Builder will investigate same and, if covered by this Warranty, Builder may repair or replace, at Builder's sole option, the defective item at no cost to Buyer. Buyer shall allow Builder and/or its subcontractors or representative(s) reasonable access to the Residence during normal business hours to inspect and repair/replace the defective item. If Builder determines that there is no defect or that the defect is not covered by this Warranty, Builder shall notify Buyer describing the reasons why there is no defect or why the defect is not covered by this Warranty; and Builder shall have no obligation to take any corrective measures. If you dispute this determination, the dispute can be resolved as described in Section 7 of this Warranty.

4. **Inspections by Buyer.** By accepting this Warranty, Buyer acknowledges that Buyer has inspected the Residence and is familiar with its condition. Buyer further acknowledges that Buyer has completed two Walk-Through Inspections, including the Final Walk-Through Inspection, of the completed Residence with a representative of Builder and has completed a Punch List of all Visible Surface Defects (defined below) which were present at the time of such Walk-Through Inspections and such other defects as were apparent at the Walk-Through Inspections. This Warranty covers only those Visible Surface Defects which are noted in the Punch List. Builder shall take appropriate corrective action with respect to the items listed on the Punch List. **Any Visible Surface Defect that is or should have been observed during the Walk-Through Inspections but which is not contained in the Punch List will be deemed to have occurred after the date Buyer took possession of the Residence, and is not covered by this Warranty.**

The term "Visible Surface Defect(s)" as used in this Warranty shall refer to material defects in finished surfaces, evident upon superficial examination. Examples of Visible Surface Defects are chipped, scratched, cracked or broken windows, mirrors or shower doors; chipped or scratched appliances, bathtubs, or washbowls; scratched, gouged or scuffed flooring; stained or dirty carpeting; stained, scratched, gouged or dented walls, ceilings, doors or trim; flaking or peeling paint; scratched cabinet surfaces; and chipped or loose tiles.

5. **Transfer of Warranty.** If you transfer title to the Residence at any time during the Warranty Period, the transferee will assume your rights during the balance of the Warranty Period. ***Under no circumstances will a transfer extend the Warranty Period.***

6. **Appliances and other Manufactured Products:** Top quality, major brand products have been installed in your new home. With proper care and use, they should provide many years of convenient, worry-free service. The respective manufacturers of all appliances, manufactured components and other "consumer goods", which include, without limitation, the appliances; oven, range, microwave, dishwasher, water heater, heater, air conditioner, and plumbing fixtures and faucets, provide express warranties to Buyers, the terms and durations of which are set forth in written warranties which will be provided to Buyers prior to the Close of Escrow ("**Manufacturer's Warranty**"). ***These products are not covered by this Warranty.*** Under this Warranty, the Builder will only be responsible for defects resulting from the improper installation of such items, and the Buyer will be responsible for contacting the manufacturer directly in the event of a malfunction or other problem.

Claims regarding any defects in these products must be made to the manufacturer in accordance with the procedures described in the Manufacturer's Warranty. Each Buyer should read through each Manufacturer's Warranty, use and care booklets and/or pamphlets on the various products carefully and find out how to properly use and care for each product. In order to ensure that each manufacturer keeps track of the Buyer's warranty, Buyer must promptly complete and mail in any Manufacturer's Warranty forms.

7. **Resolution of Disputes.** Any disputes regarding Builder's obligations under this Warranty that are not resolved in accordance with Builder's normal customer service operations shall be resolved in accordance with the Post-Closing Right to Repair Act and Dispute Resolution Addendum ("**Post-Closing Dispute Addendum**"), as further described in the Individual Dispute Resolution Agreement which will be recorded at the Closing against the Property and the Title 7 and Other Dispute Resolution Declaration, all of which have been provided to Buyer by Seller prior to the Close of Escrow and are hereby incorporated in this Warranty Agreement by reference.

THE POST-CLOSING DISPUTE ADDENDUM CONTAINS A MANDATORY BINDING ARBITRATION PROVISION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT. BY EXECUTING THIS AGREEMENT YOU AGREE THAT ANY DISPUTE BETWEEN US WILL BE RESOLVED BY BINDING ARBITRATION **IN ACCORDANCE WITH THE PROVISIONS OF THE POST-CLOSING DISPUTE ADDENDUM** AND YOU THEREFORE WAIVE YOUR RIGHT TO A JURY TRIAL. IF YOU HAVE ANY QUESTIONS ABOUT YOUR RIGHTS OR OBLIGATIONS UNDER THIS WARRANTY AGREEMENT, INCLUDING THIS PARAGRAPH 7, YOU MAY WISH TO CONSULT AN ATTORNEY.

[SIGNATURE PAGE TO FOLLOW]

This Warranty Agreement is made and entered into effective as of the Close of Escrow. The undersigned Buyer accepts the Warranty as of the date stated upon the terms provided, and agrees to be bound by the terms of the Warranty, including without limitation, the "Resolution of Disputes" provision contained in paragraph 7. In addition, Buyer acknowledges that Buyer has not, and will not, rely on any warranty or representation of any agent of Seller regarding the condition or use of the home or regarding the rights and duties of the parties under this Warranty, unless such representation or warranty is in a writing signed by an officer of Builder.

**BUYER:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

**SELLER:**

John Mourier Construction Inc., a California corporation

Date: \_\_\_\_\_

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

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

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

**EXHIBIT 1:**  
**Examples of Warranty Limitations and Exclusions**

The following limitations and exclusions shall apply to the Warranty:

- A. Visible or Patent Defects.** This Warranty shall not include the repair or replacement of Visible Surface Defects or other defects or claims which are or should be apparent from a Walk-Through Inspection of the Residence, **unless such defects or claims are listed on the Punch List.** Buyer should pay particular attention to the following components of the Residence which may contain Visible Surface Defects:
- a. Flooring, painted surfaces, doors, trim, walls and/or cabinets, etc. (inspect for mars, marks and other damage);
  - b. Stucco, concrete or asphalt surfaces (inspect for uneven surfaces, gouges and other damage);
  - c. Appliances, smoke detectors, plumbing fixtures, counter tops and vanity tops (inspect for scratches, chips and breakage);
  - d. Light fixtures, window screens, sliding glass doors, windows, all glass and mirrors (inspect for missing items, breakage, nicks and other damage);
  - e. Discoloration, non-uniformity of, or marred appearance of, wood siding, brick, stone, tile and other exterior Residence surfaces;
  - f. Variation in finish, stain and the wood grain on cabinets and stair rail components;
  - g. Variation, beyond acceptable standards, in color, size or appearance of marble or granite.
  - h. Spots or stains on carpeting not listed on the Punch List, or minor shade or color variation due to exposure to light or slight dye lot variation. Carpet seams may be visible and are not covered by this Warranty if they are within industry standards.
  - i. Mirror defects; and
  - j. Expendable items installed in the Residence, such as, but not limited to, light bulbs, fluorescent lights, weatherstripping, or glass and glazing.
- B. Alterations and Additions.** This Warranty only covers items originally installed by Builder, without alteration, modification or addition. Accordingly, any addition, alteration, remodeling, and/or repair to the Residence (other than repairs and/or replacements made by Builder) which has an adverse effect on any warrantable condition shall invalidate the Warranty as to such warrantable condition. Similarly, any labor and/or material furnished by, or at the request, express or implied, of Buyer, are excluded from this Warranty.
- C. Landscaping.** Landscaping, including shrubbery, trees, plants, grass, etc., whether or not installed by Builder, are not covered by this Warranty.
- D. Routine Maintenance.** This Warranty assumes that Buyer will perform routine and customary maintenance to the Residence. This Warranty excludes damage to the extent resulting from Buyer's failure to maintain the Residence. In order to assist Buyer in performing routine maintenance of the Residence, Builder has provided Buyer with the JMC Homes Home Care Guide which sets forth commonly recommended maintenance items. Performance of routine maintenance will optimize the life of each Residence component and enhance the Buyer's enjoyment of the Residence.
- E. Natural Settlement, Shrinkage or Expansion - Minor Settling and Cracking.** The expansive nature of Northern California soil and the natural earth movement is quite often responsible for cracks in stucco exterior walls, interior walls (whether plaster or plasterboard), and in concrete foundations, slabs, garage floors, sidewalks and driveways. Walls, moldings, floors, siding, painted surfaces, trim, drywall, ceramic tile, joints, door casings, and cabinetry, will experience some minor cracking, warping, or shrinkage because of natural settlement and changes in temperature and moisture content. In addition, natural shrinkage and any cracks within any flooring that are within normal industry tolerances such as hairline cracks in concrete and not covered by this Warranty. Such cracks are commonplace and are cosmetic, and not an indication of structural

inadequacy or deficiency. Unconditioned areas of the residence such as garages, whether attached, in tandem, or detached from a home, are more prone to experience expansion, contraction, shrinkage, and / or minor settling as seasonal temperature extremes will affect the building materials utilized. Additional insulation selected by the Buyers as an option or installed as required by the Builder does not constitute or make a garage a conditioned living space. Whether finished or unfinished, garages and any and all other unconditioned areas of the residence are not included or covered under this warranty for these common occurrences. This Warranty does not include loss or damage occurring after occupancy caused in any way by the elements, by condensation on or contraction of building materials used in the construction of the Residence, minor settling cracks, or secondary damage related to any of the foregoing.

**F. Structural Framing, Sub-Floor, Roof Truss Component Squeaks, Creaks, and Noises:**

Many individual components are used to complete the production of your home during its construction. The framing of your home includes individual cut lengths of wood, plywood, OSB sheathing, metal cleats and fasteners such as nails and screws to name just a few. The entire framed structure of your home is connected together in its entirety to provide a complete structural system for your residence. The frame of your home is also secured to the concrete foundation to ensure a sound and stable footprint to carry the necessary material load to complete your residence. The structure of your home is designed, engineered, and approved prior to ever being constructed and again inspected and approved by your local jurisdiction during and after the construction process. Thermal changes and seasonal temperatures will cause expansion and contraction of individual framing members, building materials, and the fasteners used to secure them. When ambient temperatures inside a home and external temperatures outside of a home interact, this will cause materials and components to expand and contract. This may be heard as popping, creaking, squeaking, or similar sounds. Sounds experienced may be intermittent or may happen at certain intervals at certain times of day in a reoccurring manner. This can be a common characteristic of a new home, especially with recently milled wood being utilized that naturally wants to bend, twist, curl, or bow. Common material shrinkage and any minor settling of a new home may also create sounds within the structural system of your home that were once not present. These scenarios are also common and generally experienced in, on, and within sub-floor systems. This is not an indication of any structural deficiency. These common occurrences of sound; squeaks, creaks, popping, or any other related sound of the framing, roof truss, sub-floor, or staircase systems are not covered by this warranty.

**G. ACTS OF NATURE, EXTREME WEATHER EVENTS AND CYCLES:**

Your residence is constructed, per the local jurisdiction or prevailing authority, with the approved materials and processes to ensure a proper and efficient weather-proofing system for the exterior of your home. This includes exterior stucco, siding, or cladding systems, roofing systems, windows and sliding glass doors, and exterior rated entry doors. In some cases, extreme weather events or prolonged weather cycles, including but not limited to, ongoing heavy rain, accelerated winds, weather driven rain, sudden and intense rainfall, or weather patterns uncommon to the locale can overwhelm these aforementioned systems. This may be experienced by visually seeing such occurrences as window / sliding glass door tracks filling up with water and overflowing, wind or weather driven rain being forced under or around exterior rated doors, or having certain exposures of a residence experiencing wind or weather driven rain forced between building material joints, and or forced up under roof eaves, through roof jacks, or other structural ventilation screens or vents. Such occurrences are not necessarily indicative of any improper installation or material defect and any related damages may not be warranted or covered under the Builders warranty program. Any damages incurred to a residence from a natural disaster, including but not limited to, earthquake, hurricane, wildfires, lightning storms, hail storms, tornadoes, etc are not covered under the Builders warranty.

**H. RESIDENCE TENANTS, RENTERS, OR THIRD PARTIES:**

All warranty requests or requests for service must be made, claimed, or submitted by the Owner or Purchasing Party of the residence. JMC Homes does not perform maintenance or upkeep repair. JMC Homes does not perform homeowner or landlord responsibilities. JMC Homes does not repair, replace, or provide services for any damages caused by Tenants or Third Parties. All communications and correspondence, including receiving service requests, scheduling, and necessary follow up will be conducted with the Owner or Purchasing Party directly. Owner or Purchasing Party is to be aware of all submissions for service regarding the residence so JMC Homes can properly and effectively communicate any necessary responses to warranted and non-warranted concerns. Concerns related to or determined to be caused by misuse, abuse,

neglect, or failure to report to the Owner or Purchasing Party by a Tenant or Third Party are not covered by the Builder. It is the Owners or Purchasing Party's responsibility to ensure all requests for service are communicated in a timely manner to the Builder. JMC Homes will not accept Tenants or Third Parties to act as agents for the Owner or Purchasing Party.

- I. **Normal Color Changes and Touch-Up Painting.** Normal color changes to painted or stained interior and exterior surfaces and finishes, including, but not limited to, siding, decking, wood trim, cabinets, concrete walks, patios, or to carpets or drapes, resulting from exposure to light, heat, and other elements are not covered by this Warranty. Carpet, tile, vinyl, plastic laminated, manufactured hardwood flooring, and cultured marble, granite and onyx are subject to dye lot variations in manufacturing, and such variations are not covered by this Warranty. If touch-up painting is necessary, Builder cannot warrant a complete match between the new paint and the old paint.
- J. **Inadequate Ventilation.** Any damage or defect caused by a failure to maintain adequate ventilation is not covered by this Warranty.