METROPOLITAN
BUILDERS
ASSOCIATION

ADDENDUM "W"

BUILDER'S RESIDENTIAL ONE YEAR LIMITED WARRANTY

Builder: Newbrook Homes, Inc.

Buyer:

Property:

Note to Buyer: All new residential construction goes through a period of stabilization and as the seasons change, periods of expansion and/or contraction will occur. As a result, the home will experience minor material changes, which are unavoidable and considered normal. The Buyer should also be aware that he/she is responsible for proper home maintenance. Damage caused by Buyer's negligence, improper maintenance or changes, alterations, or additions performed by anyone other than this Builder, its employees, or subcontractors is excluded from the warranty. Buyer is not permitted to hire Builder's subcontractors directly for any work on the property during the period of this warranty without the Builder's prior written permission. Work performed by the Builder's subcontractor that is not overseen by the Builder is excluded from this warranty.

Builder hereby grants a one-year limited warranty to the above Buyer for the residential construction project at the above property address, under the following terms and conditions:

1. **Term -** The term of this warranty is limited to one year from the "Date Of Completion" of the building. The "Date Of Completion" is defined as the earlier of: (a) the date the Buyer takes occupancy of said home; or (b) the date on which Buyer and Builder conduct Builder's closing for said home; or (c) the date that written notice of substantial completion is provided to Buyer from the Builder; or (d) the date an occupancy permit is issued for the property.

2. **Coverage -** Subject to the exclusions set forth below, the Builder warrants that the building will be free from defects in workmanship and materials, consistent with applicable building codes and the generally accepted industry standards existing at the time of construction. Said generally accepted industry standards include but are not limited to the minimum performance standards as defined in the Construction Industry Quality Standards established by the Metropolitan Builders Association of Greater Milwaukee; hereinafter referred to as the "Construction Industry Quality Standards". Said warranty is limited to corrections of structural errors and material failures and is not to be construed as a maintenance warranty.
There shall be no money withheld by Buyer for items covered by the Builder's warranty. This warranty, including the assignment of manufacturer's warranty in Paragraph 9 below, is void and unenforceable unless payment in full is made on or before the "Date of Completion".

3. **Exclusions -** The following items are not covered by this warranty:

(a) Homeowner Maintenance & Use Responsibilities:

(1) Damage due to the abuse or neglect of the Buyer or the Buyer's failure to provide for proper maintenance.

(2) Loss or damage caused by the Buyer's failure to take appropriate action to minimize any damage as soon as practical.

(3) Dampness or condensation due to the failure of the Buyer to maintain adequate ventilation and humidity levels.

(4) Loss or damage resulting from abnormal loading on floors by the Buyer which exceeds the design criteria as mandated by State building codes.

(5) Insect or rodent damage or costs to exterminate insects or rodents.

(6) Any loss or damage, which arises while the building, is being used primarily for non-residential purposes.

(7) Failure of outside hose bibs when cause of the failure is the Buyers neglect to disconnect a hose in freezing temperatures.

(8) Damage or defects in concrete floors of attached garages, stoops, steps and exterior concrete flatwork caused by improper use of chemicals by the Buyers or Buyers agent, including the use of salt to remove ice.

Initials:_____

(b) Construction Related Exclusions:

(1) Normal wear and tear, normal deterioration, or normal changes, which are a result of characteristics common to materials.

(2) Warpage or shrinkage of materials within permitted tolerances indicated within the "Construction Industry Quality Standards".

(3) Surface damage to the building; including but not limited to damage to walls, ceilings, trim, cabinets, counters, plumbing fixtures, light fixtures, tile, flooring, glass, windows, doors, overhead doors, mirrors, and screens. Builder and Buyer shall perform a walk-through inspection of the home prior to or at the time of closing to inspect the above items. All items are assumed to be in good condition unless documented in writing to the contrary at said inspection. Buyers therefore release the Builder from responsibility for any surface damage, which is not specifically documented at said inspection as not conforming to the guidelines of the "Construction Industry Quality Standards".

(4) Damage or defects in concrete floors of attached garages, stoops, steps and exterior concrete flatwork caused by weather changes, chemicals or moisture after installation.

(5) All landscaping (including sod, seeding, shrubs, trees, plantings), all boundary walls, all retaining walls and bulkheads that are not necessary for the structural stability of the residence, all fencing, and all sprinkler systems.

(6) Defects caused by movements of outbuildings, swimming pools, detached garages or carports when these structures are not secured by footings.

(7) Settling of the ground around the foundation and all underground utility laterals.

(8) Any damage caused by soil movement.

(9) Exterior hardware and lighting fixture finishes.

(10) Cosmetic discrepancies such as matching of touchup painting on walls, ceilings, interior trim, exterior trim, siding, roofing, flooring, etc. as a result of a covered defect, or as a result of the repair thereof.

(c) Work Performed by Someone Other Than Builder or Builders Agents:

(1) Defects in materials supplied by anyone other than the Builder or agents acting on the Builder's behalf.
(2) Any work performed by Buyer or by Buyer's subcontractor(s) or agents.
(3) Any adjustments or changes to the grading performed by anyone other than the Builder or its agents acting on the Builder's behalf.

(d) Other Warranties That Are Transferred to the Buyer:

(1) Any appliance, equipment, or other item within the residence, which is considered a "consumer product" as defined in the Magnuson - Moss Warranty Act (ISU.S.C. SS2301 -2311) where the "consumer product" manufacturer's warranty would apply. Buyer's only warranty on these items is limited to the warranty, if any, granted by the manufacturer thereof. "Consumer Products" covered by the Magnuson-Moss Warranty Act including but not limited to:

a. Heating and Ventilation - Furnace, air conditioning, coils and compressor, humidifier, electronic air cleaner, heat pump, exhaust fans, or thermostat.

b. Mechanical/Electrical - Intercom, central vacuum system, security system, fire and smoke alarm, fire extinguisher, garage door opener, door chimes, electric meter, gas meter, barbecue grill, or light bulbs.

c. Plumbing - Water heater, water pump, water meter, sump pumps, water softener, or whirlpool.

d. Appliances - Oven, surface unit, range, trash compactor, freezer, refrigerator, dishwasher, oven hood, disposal, icemaker, food center, clothes washer, clothes dryer, or hot water dispenser.

(2) Any other product covered by a manufacturer's warranty.

Initials: _____

(e) Acts Outside of Builders Control, Actual Physical Damage, and Consequential Damages from Defects:

(1) Loss or damage caused by external conditions outside of the Builder's control including but not limited to riots, civil commotion, acts of God, accidents, explosions, smoke, water, unforeseeable changes in the level of the underground water table, windstorm, hail, lightning, falling trees, aircraft, vehicles, mud slides, earthquakes, natural or introduced gases.
(2) Any defect or condition, which does not result in actual physical, damage to t he property.
(3) Personal or Bodily injury of any kind (including physical or mental pain and suffering and/or emotional distress), medical, hospital, rehabilitation or other incidental or consequential expenses, damage to personal property or damage to real property which is not part of the building covered by this warranty.
(4) Cost of shelter, transportation, food, moving, storage or any other incidental or consequential damages or expenses associated with or related to any defect or the repair or replacement of any defects in workmanship, materials or design.
(5) Loss of use, loss of opportunity, loss of fair market value, loss of rental value or any other similar consequential loss.

(6) Any defect where the buyer has received compensation from Builder or its agents.

4. Warning: Microorganisms, including, but not limited to, mold, mildew, spores, or any other form of fungi or bacteria ("Microorganisms"), occur naturally in the environment and may be present, during or after construction, in the indoor air and/or on the interior surfaces of the Building including, without limitation to, wall cavities, attics, windows basements, and/or on the exterior surfaces of the building, or any part thereof. Concentration of moisture in the Building may result from cooking, showering, or similar activities inside the Building, the outside atmosphere, and/or the design, construction means and methods, and/or the building materials used in the construction of the Building. This moisture may cause growth, release, discharge, dispersal, or presence of Microorganisms which, at certain levels, can cause deterioration of building materials, damage to property, health hazards, personal injuries and/or other irritant effects such as, without limitation to, skin irritation, respiratory problems and/or allergic reactions. Likewise, concentrations of radon released from soil or chemicals released from household furnishings, appliances, mechanical equipment, personal possessions, or building materials may, at certain levels, create health hazards and/or other irritant effects such as, without limitation to, skin irritation, respiratory problems and allergic reactions. Because Microorganisms and radon occur naturally in the environment, Builder cannot eliminate the possibility that radon may be present or that Microorganisms may grow in, on, or about the Building. Buyer may minimize these effects by proper utilization and maintenance of heating, cooling, dehumidification, or ventilation equipment, interior maintenance and cleaning, and exterior maintenance such as, but not limited to, proper grading, landscaping, painting, and caulking. BUYER ACKNOWLEDGERS THAT BUYER HAS BEEN INFORMED OF SUCH EFFECTS AND BUYER ASSUMES ALL RISKS OF DAMAGE, PERSONAL INJURY, OR DESTRUCTION OF OR INJURY TO PROPERTY THAT MAY ARISE AS A RESULT OF OR IN ANY WAY CONNECTED WITH THE INDOOR AIR QUALITY OR THE PRESENCE OF MICROORGANISMS, RADON, OR CHEMICALS IN, ON OR ABOUT THE BUILDING.

5. **Remedy -** If a defect is covered by this warranty and notice is given to Builder prior to the expiration of this warranty in accordance with Paragraph 6 below, then Buyer's sole remedy under this warranty is for Builder to repair or replace, at Builder's sole option, the covered defect. Builder makes no express or implied warranty of any building materials, services and/or construction methods, except as otherwise expressly provided herein. THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED (INLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, USE, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE) AND ANY AND ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED. Buyer waives any and all claims for consequential and incidental damages and any other expenses associated with or related to any defect, or the repair or replacement of any defects, in workmanship, materials or design, arising from or relating to this warranty, including a breach thereof.

6. **Time of Notice of Claim -** In order for a defect to be covered by this warranty, Buyer must give prompt written notice of such defect to Builder and be able to provide proof of delivery, prior to the date of expiration of this warranty. Any defect, latent or otherwise, for which written notice of same is not provided to the Builder prior to the expiration of this warranty, shall not be covered by this warranty.

Initials:_____

7. **Builder Access -** Buyer shall provide Builder with reasonable access to the home during normal working hours for the performance of any work under the warranty. Buyer shall ensure that all

furniture and other obstacles within or around the portion of the home to be repaired will be removed so that Builder has reasonable access and sufficient working space necessary to repair and/or replace the covered defect.

8. **Other Insurance or Warranties -** In the event Builder repairs, replaces or pays the cost of repairing or replacing any defect covered by this warranty which Buyer is covered by other insurance or warranties of Buyer, then Buyer shall assign the proceeds of such insurance or warranties to Builder to the extent of the cost to the Builder for such repair or replacement, or the extent of the payment.

9. **Warranty Assignments -** Builder hereby assigns to Buyer all manufacturers' warranties pertaining to any fixtures, appliances and equipment in the building. Builder's warranty is not assignable or transferable to any subsequent owner of the residence without the Builder's prior written consent.

10. **Enforceability -** Should any provision of this warranty be deemed by a Court of competent jurisdiction to be unenforceable, that determination will not affect the enforceability of the remaining provisions. Use of one gender in the warranty includes all other genders, and the use of the plural includes the singular where appropriate. This warranty is to be covered by and construed in accordance with the laws of the State of Wisconsin. Any dispute arising between the parties relating in any manner to this limited warranty, including, but not limited to: the meaning of this warranty, the enforceability of this warranty, the rights and obligations of any party to this warranty, the performance of any aspect of this warranty or work related to this warranty shall be resolved through binding arbitration before, and in accordance with the rules of Metropolitan Builders Association's Construction Arbitration Board.

11. **Drafter of Document -** This document has been drafted by the Metropolitan Builders Association of Greater Milwaukee.

This shall constitute the sole and entire warranty and no other written or implied warranties exist between the parties whose signatures are affixed below:

_____ _____

Buyer Date Builder Date

_____

Buyer Date

© *Metropolitan Builders Association 2006*