

EXHIBIT D LIMITED WARRANTY

This Limited Warranty is separate and independent of the Purchase and Sales Agreement, Brush Creek Village ("Contract") between Purchaser and Wynton Homes, LLC ("Seller") for the construction and/or sale of the Unit as described in the Contract. The provisions of this LIMITED WARRANTY shall in no way be restricted or expanded by anything contained in the Contract.

1. **What Is Covered By This Limited Warranty.** Builder, Wynton Development, LLC, warrants to Purchaser, that by the standards of construction relevant in Eagle County, Colorado, Builder will repair or replace any defect in materials or workmanship in any of the materials incorporated in and made a part of the Home or the Work, which appears during the period of one (1) year after the date of closing of the sale of a Unit by Purchaser.

2. **What Is Not Covered By This Limited Warranty.** This Limited Warranty does not cover the following items:

2.1 Any appliance, piece of equipment or other item of tangible personal property in the Home or on the Property (whether or not such appliance, piece of equipment or other item of tangible personal property is attached to or installed in the Home or on the Property) that is a consumer product for the purposes of the Magnuson-Moss Warranty Act, 15 United States Code §230 1 et seq., as amended and supplemented, *SUCH AS BUT NOT LIMITED TO, ANY RANGE, COOKTOP, OVEN, RANGE HOOD AND FAN, MICROWAVE OVEN, GARBAGE DISPOSAL, DISHWASHER, REFRIGERATOR/FREEZER, HOT WATER HEATER, VENTILATING FAN AND COMPONENTS OF THE HEATING AND VENTILATING SYSTEM.* Builder will assign to Purchaser at Final Settlement Builder's rights under any unexpired warranty Builder has received from any manufacturer of any such appliance, piece of equipment or other item of tangible personal property, to the extent such warranty is assignable. The only warranty which is given regarding any such appliance, piece of equipment or other item of tangible personal property is that provided in such manufacturer's warranty, to the extent such manufacturer's warranty is applicable. Builder shall not be responsible for the performance of any manufacturer under such manufacturer's warranty. If a defect appears in any such appliance, piece of equipment or other item of tangible personal property, Purchaser should follow the procedure in the manufacturer's warranty; to the extent such manufacturer's warranty is applicable.

2.2 Damage resulting from ordinary wear and tear.

2.3 Damage resulting from fire, other casualty, flood, storm, any other natural cause or element, accident or act of God.

2.4 Damage resulting from any alterations, including changes to drainage, made by Purchaser or anyone other than Builder or contractors requested by Builder.

2.5 Damage resulting from abusive use or misuse by any person other than Builder or contractors requested by Builder.

2.6 Damage resulting from failure by any person, other than Builder or contractors requested by Builder, to observe any operating instructions furnished by Builder to Purchaser, or from lack of proper maintenance by any person other than Builder or contractors requested by Builder.

2.7 Damage resulting from a malfunction of equipment or lines of any telephone, television, telecommunications, gas, electric, power, water, sewer or other utility service provider.

2.8 Defects that result from characteristics common to the materials used, such as but not limited to, warping or deflection of wood; fading, chalking or checking of paint from exposure to sunlight; cracks that occurred in the drying and curing of concrete, stucco, plaster, bricks or masonry; drying, shrinking or cracking of caulking or weather stripping.

2.9 Defects in any item furnished or installed by Purchaser or anyone other than Builder or contractors requested by Builder.

2.10 Work done by Purchaser or anyone other than Builder or contractors requested by Builder.

2.11 Conditions resulting from condensation on, expansion of or contraction of materials.

2.12 Geological or environmental matters, such as but not limited to, matters of indoor air quality or the presence or absence of radon.

3. No Other Warranties/No Implied Warranties.

3.1 This Limited Warranty is the only warranty which Builder gives regarding the Home or the Work. Purchaser understands and agrees that *NO IMPLIED WARRANTIES WHATSOEVER* apply to the Home or the Work, or to any appliance, piece of equipment or other item of tangible personal property in the Home or on the Property, and *BUILDER DISCLAIMS ANY IMPLIED WARRANTIES*, including, but not limited to, *ANY WARRANTIES OF WORKMANSHIP, WORKMANLIKE CONSTRUCTION, HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, MATERIALS, DESIGN, CONDITION OR QUALITY* regarding the Home or the Work, or regarding any appliance, piece of equipment or other item of tangible personal property in the Home or on the Property. However, any implied warranty that exists despite this disclaimer by Builder shall be limited to a period of one (1) year after the date of Closing, or, with respect to any item on the completion list described in Section 6.5 of the Contract, to a period of one (1) year after the date when such punch list item has been completed and/or corrected, and shall also be subject to the exclusions, limitations, requirements and conditions contained elsewhere in this Section 3 and in Sections 2, 4, 5, 6 and 7 of this Limited Warranty.

3.2 In addition to and without limiting the provisions of Section 2.12 and Section 3.1 of this Limited Warranty, Builder makes *NO REPRESENTATION OR WARRANTY* of any kind, express or implied, concerning any *GEOLOGICAL OR ENVIRONMENTAL MATTERS, SUCH AS BUT NOT LIMITED TO MATTERS OF INDOOR AIR QUALITY OR THE PRESENCE OR ABSENCE OF RADON*.

3.3 The disclaimers and limitations contained in this Section 3 shall be enforceable to the extent permitted by the law. *Some states do not allow limitations on how long an implied warranty lasts, so the limitation stated above may not apply to Purchaser.**

4. Builder's Limited Obligations, Purchaser's Limited Rights Under This Limited Warranty.

4.1 Purchaser understands and agrees that Purchaser's *SOLE RIGHT AND REMEDY* under this Limited Warranty (and under any implied warranty which may exist despite Builder's disclaimer of implied warranties), in lieu of all rights and remedies that may otherwise be available, is to require Builder to repair or replace a defect in materials or workmanship covered by this Limited Warranty (or covered by any implied warranty which exists despite Builder's disclaimer of implied warranties), as provided in Section 4.3 of this Limited Warranty. Purchaser also understands and agrees that all work to repair or replace any such defect shall be done only by Builder or contractors requested by Builder and

that Builder shall have sole discretion to choose between repair and replacement. Purchaser also agrees to accept a reasonable match in any repair or replacement, if the original item is no longer available.

4.2 In particular, but without limiting the provisions of Section 4.1 of this Limited Warranty, with respect to any defect in materials or workmanship in any *FIRE ALARM OR OTHER LIFE-SAFETY OR SECURITY SYSTEM INSTALLED IN OR SERVICING THE HOME OR THE PROPERTY*, which is covered by this Limited Warranty (or by any implied warranty which may exist despite Builder's disclaimer of implied warranties), **BUILDER'S LIABILITY UNDER THIS LIMITED WARRANTY (AND UNDER ANY IMPLIED WARRANTY WHICH MAY EXIST DESPITE BUILDER'S DISCLAIMER OF IMPLIED WARRANTIES) SHALL BE LIMITED TO REPAIRING OR REPLACING SUCH DEFECT, IN ACCORDANCE WITH SECTION 4.1 AND SECTION 4.3 OF THIS LIMITED WARRANTY.**

4.3 If Purchaser gives Builder timely and proper notice of a defect which is covered by this Limited Warranty, as required in Section 6 of this Limited Warranty, Builder shall repair or replace the defect within a reasonable amount of time after Builder's receipt of such notice, subject to delays which are beyond Builder's reasonable control, including but not limited to any delays caused by any of the reasons described in Section 23 of this Agreement. Purchaser agrees to provide Builder with access to the Home and the Property for purposes of carrying out any repair or replacement work performed by Builder under this Limited Warranty. Purchaser also agrees to provide the presence of a responsible adult during the course of such repair or replacement work with the authority to approve such work and sign an acceptance of such work upon its completion.

5. Special Exclusions and Limitations As To Builder's Obligations And Purchaser's Rights Under This Limited Warranty.

5.1 With respect to any claim whatsoever asserted by Purchaser against Builder in connection with this Limited Warranty (or any implied warranty that may exist despite Builder's disclaimer of implied warranties), Purchaser understands and agrees that Purchaser will have *NO RIGHT TO RECOVER OR REQUEST COMPENSATION FOR, AND BUILDER SHALL NOT BE LIABLE FOR:*

(a) *INCIDENTAL, CONSEQUENTIAL, SECONDARY OR PUNITIVE DAMAGES.*

(b) *DAMAGES FOR AGGRAVATION, MENTAL ANGUISH, EMOTIONAL DISTRESS OR PAIN AND SUFFERING.*

5.2 The exclusions and limitations stated in this Section 5 shall be enforceable to the extent permitted by law. *Some states do not allow the exclusion or limitation of incidental or consequential damages, so the exclusion or limitation stated above may not apply to Purchaser.**

6. Claims Procedure/Time When Notice Of Defect Must Be Given.

6.1 If a defect appears that Purchaser thinks is covered by this Limited Warranty (or any implied warranty that may exist despite Builder's disclaimer of implied warranties), *PURCHASER MUST GIVE WRITTEN NOTICE OF THE DEFECT TO BUILDER*, describing the defect, and mail the notice to Builder at the address set forth below (or hand-deliver), or at such other address as Builder furnishes to Purchaser. Purchaser must state in such notice what times during the day Purchaser or an occupant of the Home will be at home in the Home, so that Builder can schedule service calls appropriately.

6.2 If a delay in giving notice of a defect will cause extra damage, *PURCHASER MUST*

TELEPHONE BUILDER to inform Builder of such defect, in addition to giving Builder such written notice of the defect. However, only emergency reports of defects will be taken over the phone.

6.3 *IF PURCHASER FAILS TO GIVE BUILDER WRITTEN NOTICE OF A DEFECT* which is covered by this Limited Warranty (or which is covered by any implied warranty which may exist despite Builder's disclaimer of implied warranties), by the date which is *THIRTY(30) DAYS AFTER THE DATE OF THE DISCOVERY OF THE DEFECT*, then notwithstanding anything to the contrary contained in this Limited Warranty, such failure shall relieve Builder of all liability to repair or replace the defect, and all liability for damages, if any, on account of the defect, and Purchaser shall not be entitled to require Builder to repair or replace the defect or to obtain any damages on account of the defect. Nothing contained in this Section 6.3 shall be construed to mean that Purchaser has any right to recover or request any damages.

7. **Transferability.** If at any time Purchaser conveys or transfers any ownership interest in the Unit, this Limited Warranty shall expire and no longer be in effect, and Builder will have no warranty obligations to any subsequent owner.

8. **Specific Legal Rights.** *This Limited Warranty gives Purchaser specific legal rights, and Purchaser may also have other rights that vary from state to state.**

9. **Terms.** The definition of any capitalized words not defined in this Limited Warranty shall be the same as those defined in the Contract.

**NOTE: This Limited Warranty has been prepared to comply with the disclosure requirements of the Magnuson-Moss Warranty Act, 15 United States Code, ~2301 et seq., as amended and supplemented.*

Builder:

Wynton Development, LLC

By: _____
John Purchase, Manager

Builder's Address and Telephone Number:
P.O Box 3908
Eagle, CO 81631
Telephone: 970-390-9943