

Assignment of Limited Warranty

BUILDER / WARRANTOR: **DIVERSACORP, LLC**

SELLER / ASSIGNOR: **STROUDWATER DEVELOPMENT PARTNERS, LLC**

BUYER / ASSIGNEE :

PROPERTY ADDRESS: **Lot No. _____, _____ Stroudwater Preserve,
1700 Westbrook Street, Portland, Maine (the "Property").**

Pursuant to this Limited Warranty (this "Warranty"), and for good and valuable consideration, the undersigned (the "Builder") hereby warrants to the Assignor and Assignee designated in the caption above, that:

The dwelling located on the property identified in the caption above (the "Dwelling") is constructed in substantial conformity with the plans as filed with the Building Department of the city or town where Dwelling is located (including amendments or changes and variations thereof). This Warranty shall apply only to such instances of substantial non-conformity to which the Owners shall have given written notice, by certified mail, to the Builder at any time or times within one (1) year from the date of occupancy of the Dwelling, or date of conveyance, whichever first occurs (as indicated in the checked box on the signature page); *provided, however*, that this Warranty shall not apply to defects or damages which are the result contraction or expansion or the result of other normal or ordinary characteristics of building materials.

This Warranty shall not apply in the case of defects or damage resulting from or aggravated by any neglect or failure on the part of the Owners to properly maintain such property in such manner as a reasonable, prudent person would be expected to do. This Warranty and the Service Policy attached hereto (the "Service Policy") are given to the Assignor (who assigns the same to Assignee); provided that Contractor acknowledges and understands that Owner is selling the Dwelling pursuant to a development plan and this Warranty and Service Policy are transferable to succeeding transferee or purchaser of said Dwelling, and provided that Assignee hereby accepts the same by execution of this Assignment.

This Warranty is subject to the terms and conditions set forth in the Service Policy provisions attached hereto, which are incorporated herein by reference. Seller hereby assigns to Buyer this Warranty, as of the date written atop the signature page hereof. Buyer hereby accepts the same by execution below.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Builder has signed and sealed this Warranty this _____ day of _____, 20__ (the "Effective Date").

DIVERSACORP, LLC

By: _____

Name: Nate Libby

Title: Manager

Acknowledged receipt by:

STROUDWATER DEVELOPMENT PARTNERS, LLC

By: JHR Development, LLC, Its Manager

By: _____

Name: J. Hilary Rockett, Jr.

Title: Manager

BUYER

(Print) _____

(Print) _____

NOTE: Check Box and complete the section below if Buyer Occupied the Property prior to the Effective Date, including storage of boxes, goods, or other items at the Property:

Buyer first occupied the Property on _____ (prior to the Effective Date)

[SERVICE POLICY TO FOLLOW]

SERVICE POLICY

As indicated in this Warranty, your Dwelling is warranted for substantial non-conformity for a period of one (1) year. As is further indicated in this Warranty, there are exclusions for various items. This policy is designed to clearly differentiate the exclusions, defining the areas of responsibility of both the Builder and the Owner. This policy is designed to insure the correction of most usual maintenance items that may arise during the periods covered by this policy as indicated below. These periods commence with occupancy or conveyance of the new Dwelling, whichever is earlier. To be honored, requests for service must be in writing and postmarked within the time period set forth.

I. COVERAGE AND DURATION

A. Defects covered or not covered by this Warranty:

1. DRY BASEMENT - Builder will remedy condition of seepage occurring during periods of normal high water table, or caused by springs, and reported within one (1) year. Not covered by this policy is seepage due to unusual flooding, from rains greater than 2" in twenty-four hours, nor from normal settlement around foundation, nor from condensation due to excessive humidity, unless caused by substantial defects in material or workmanship. It is the Owners' responsibility to maintain positive drainage away from the Dwelling at all times. If the ground around the foundation appears to settle, this must be filled speedily.
2. A TIGHT ROOF - around the chimney and shingles is warranted for one (1) year. Damage, if any, caused by snow or ice backing up under shingles is excepted from the provisions of this Warranty. It is the responsibility of the Owners to insure free passage in downspouts at all times. Damage, if any, caused by windblown rain or snow through roof, gable or soffit vents or louvers into attic space is excepted from the provisions of this Warranty.
3. THE HEATING SYSTEM - is warranted to heat the Dwelling to a temperature of 70° F at the thermostat at 0° F outside for a period of one (1) year. Free heating adjustments will be made for 120 (one hundred twenty) days unless thermostat does not reach 70° F at 0° F outside, in which case the one-year Warranty is in effect. The Owners should clean or change furnace filters monthly during the heating season and humidifier filters annually if installed. Furnace pilots should be left on during summer to insure dry furnace and basement.
4. THE COOLING SYSTEM - is warranted to cool the home to a temperature 10° F cooler than the outside temperature for a period of one (1) year. Free cooling adjustments will be made during the Warranty period. The Owners should clean or change furnace filters monthly during the cooling season.
5. PLUMBING AND SEWAGE DISPOSAL SYSTEMS - The operation of plumbing and sewage disposal systems is warranted for a period of one hundred twenty (120) days, except that if in the course of correcting a stoppage, any foreign objects from the Dwelling Owners' household are found within the system, the Owner will pay the

entire cost of correction. Dripping faucets and/or fixtures occurring within one hundred twenty (120) days will be repaired by the Builder. The Owners must insure that exterior faucets are drained and shut off inside before advent of winter. Frozen exterior faucets are never the responsibility of the Builder.

6. MECHANICAL EQUIPMENT - is covered by manufacturer's warranties. In some cases parts are covered and labor is not. Be sure to check each individual manufacturer's warranty. Builder warrants against damage caused by improper installations. All equipment must be maintained by the Owners according to manufacturer's instructions.
7. ELECTRICAL ADJUSTMENTS - All wiring and other components of electrical system are warranted against defects in material and workmanship for a period of one hundred twenty (120) days.
8. GLASS OR SCREEN BREAKAGE - is not covered by this policy.
9. EXTERIOR DOORS - are warranted for a period of one (1) year against warping over three-eighths of an inch (3/8").
10. TRENCHES FOR WATER, SEWER, AND SEPTIC TANKS - are warranted against cave-in until April 30th following conveyance or occupancy of the Dwelling, or for a period of one (1) year, whichever occurs later. For gas trenches, consult gas company.
11. ASPHALT DRIVEWAYS AND WALKS - are warranted for a period of one hundred twenty (120) days against disintegration. In hot weather, heavy vehicles should not be permitted on driveways. High-heeled shoes and gasoline and oil spillage will make holes in asphalt. Minor frost heaves and depressions are natural occurrences and are not covered by this policy, nor tire markings and stones that flake out, since these are normal characteristics of asphalt.
12. CERAMIC AND RESILIENT TILES - occasionally contain imperfections which do not require service. The occurrence of scratches or cracked tile is not covered by this policy unless brought to the attention of the Builder prior to conveyance or occupancy. Loose tiles and flagstones are covered by this policy for sixty (60) days. It is the Owners' responsibility to replace loose or cracked tile, and grout to prevent penetration of moisture into floors and walls.
13. FIBERGLASS TUBS AND SHOWER ENCLOSURES - Any cracks, scratches, hairlines, or other defects will be repaired (not replaced) if the Builder is notified, in writing, prior to occupancy or conveyance, whichever comes first.
14. LAMINATED COUNTERTOPS - are covered for one hundred twenty (120) days against delamination. Bubbling or scorching caused by hot objects is not covered.

15. PAIN T FAILURES - on exterior are covered for six (6) months against blistering and peeling. Normal fading of paint is not covered. Paint on clapboards is warranted for a period of six (6) months only if clapboards are factory primed. No interior paint peeling or paper nicks, dents, scratches, or other imperfections are covered unless the Builder is notified of such defects, in writing, prior to either conveyance or occupancy, whichever is earlier.
16. CLAPBOARDS AND SHINGLES - are covered against splitting for one hundred twenty (120) days, however, it is not always possible to match paint, and any variance in colors subsequently applied is unavoidable. As this splitting condition is not evidence of structural failure, replacement is not always advised.
17. PROTRUDING DRYWALL AND PLASTER - nails or seams are covered for one hundred twenty (120) days. Hairline cracks and seams are not covered by this policy as they do not represent structural failure. Repairs of plaster or gypsum wallboard may not completely blend with surrounding materials as it is almost impossible to match exactly the color and texture of the original surface. Repairs without charge will be limited to the problem area.
18. REPAIR OF HARDWOOD FLOORING - which swells or buckles is covered for one hundred twenty (120) days. Shrinkage and separation of floor boards is normal and is not covered. This can be retarded by raising the relative humidity in the Dwelling.
19. DOORS, DRAWER, WINDOWS, AND INTERIOR FINISH - are covered by this policy for warping, sticking or looseness for sixty (60) days. These items have a tendency to swell and shrink at different times of the year. Some may warp in winter and straighten in summer. Within one hundred twenty (120) days, items that cannot be made to operate will be exchanged.

Windows are not 100% leak proof, and cold air outside can set up moving air inside. If this is the case, storm windows are recommended. Shrinkage of doors inside the jamb is normal, and if doors can be made to operate, they will not be replaced. Shrinkage and joint opening of door and window and baseboard casings is not covered by this policy unless caused by substantial defects in material or workmanship. During the summer months the space between doors and jambs and sills is approximately 1/8" to 1/4". During the winter this increases to approximately 1/4" to 3/8".

20. CONCRETE FOUNDATION AND FLOORS - it is not possible to prevent concrete from cracking because of the nature of the material. Cracking, pitting and flaking can occur and are not covered, except for those foundation cracks which emit water. These are covered for one (1) year. Cracks do not impair the structural strength of the Dwelling.
21. ITEMS OF CONSTRUCTION - not requiring service and not covered by this policy:

- a. Shrinkage and separation of floor boards;
- b. Checks and twisting of studs, joists, and beams;
- c. Crazing (hairline checking) in interior exposed beams and exterior plywood;
- d. Normal fading of paint;
- e. Shrinkage of joint opening of door and window casing and other wood materials;
- f. Normal occasional dents associated with installation of woodwork;
- g. Hairline cracks and seams in drywall;
- h. Fan/light moisture damage, and
- i. Condensation caused by recessed lights.

B. Consumer Products and Consumer Goods. The Builder gives no warranty on appliances or other equipment that may be sold with the Dwelling and not covered above. The Builder hereby assigns to the Owner each and every manufacturers' or suppliers' warranties covering such appliances and equipment in the Dwelling. The Builder is not responsible for performance under manufacturers' or suppliers' warranties in any way. The Builder hereby advises the Owners that each such manufacturers' warranty may include a specific procedure which must be followed to make that warranty effective. The procedure may require notification or registration by the Owners to or with the manufacturer, or the mailing of a warranty card by the Owners to the manufacturer or supplier. Such notification, registration and mailing is the Owners' sole responsibility but the Builder shall make available to the Owners, at Owners' request within one (1) month hereof, any warranty cards furnished by the manufacturer or supplier. The Owners' failure so to notify, register, or mail a warranty card according to any manufacturer's or supplier's requirement shall not create any liability of the Builder for any express or implied warranty on any such appliances or equipment. It is the sole responsibility of the Owners to follow the manufacturer's or supplier's warranty claim procedure in the event of any defect in any item covered by such a warranty.

II. THE BUILDER'S RESPONSIBILITY

Except as provided herein, no other warranties are being provided by the Builder with respect to the Dwelling. In the event of any defect in any item or component thereof covered by this Warranty, the Builder, upon written notice by the Owners pursuant to this Warranty, shall repair or replace the affected item or component at no cost to the Owners. Replacement items or components shall be substantially comparable to those replaced (although identical colors and other features may not necessarily be installed). The Builder shall correct the defect in such manner as to restore the component, insofar as possible, to the condition which would have existed had the defect not been present, and so the component will last through the warranty period or its equivalent.

III. EXCLUSIONS

A. Notwithstanding anything else contained anywhere in this agreement to the contrary, this Warranty shall not cover items such as the following:

- 1. Noise or odor penetration into the Dwelling generated from adjoining lots and/or vehicular or pedestrian traffic outside of the Dwelling;

2. Damage caused by normal wear and tear;
3. Loss or damage caused by defects or defective design or materials supplied by the Owners or installed under his/her/their direction;
4. Negligence, improper maintenance or operation, or alteration, by parties other than the Builder, or the Builder's supervisor, subcontractors or agents, with respect to the appliances, equipment and fixtures in the Dwelling and associated plumbing and wiring;
5. Accidental loss or damage resulting from, but not limited to, fire, explosion, smoke, water escape, changes, not reasonably foreseeable, in the level of the underground water table, glass breakage, windstorm, hail or lightning, falling trees, aircraft and other vehicles, flood, earthquake, soil movement, and insect damage;
6. Stoppage in the plumbing system caused by its misuse by the Owners, or their tenants, guests, or invitees;
7. Any loss or damage of any nature whatsoever caused by the negligence of the Owners, or their tenants, guests, or invitees;
8. Any loss or damage which arises while the Dwelling is being used for unauthorized non-residential purposes; or
9. Any other loss or damage which not a defect as specifically set forth in paragraph I.A. above, and any loss, damage, or state of facts as are excluded or disclaimed in Paragraph I.A. above.

B. THE BUILDER SPECIFICALLY DISCLAIMS ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL (SECONDARY) DAMAGE TO ANY PERSON, THE DWELLING OR ANY OTHER REAL OR PERSONAL PROPERTY, RESULTING FROM A DEFECT.

C. In the event the Builder repairs or replaces any defect covered by this Warranty for which there is coverage by other insurance, the Owners shall be obligated, upon request by the Builder, as a condition to the repair or replacement, to assign the proceeds of such insurance to the Builder to the extent of the cost to the Builder of such repair or replacement.

D. This Warranty is applicable only to the matters warranted herein, and only if the defects complained of are clearly and specifically reported to the Builder in writing, at the address set forth in the Construction Contract, prior to the end of the warranty period on that item. No person or entity, other than the Owners shall have any rights hereunder, including any right to any remedy against the Builder.

E. This Warranty shall not be construed to make the Builder responsible for any items of maintenance relating to the Dwelling.

F. In the event any provision of this Warranty is deemed by a court of competent jurisdiction to be invalid or unenforceable, that determination will not affect the validity or enforceability of the remaining provisions.

IV. LIMITATION AND DISCLAIMER OF IMPLIED WARRANTIES

A. ON CONSUMER PRODUCTS FINALLY DETERMINED BY A COURT TO BE WITHIN ANY STATUTORY WARRANTY, ALL IMPLIED WARRANTIES ARE LIMITED IN DURATION TO THE PERIOD OF THIS WRITTEN WARRANTY, EXCEPT AS PROVIDED BY LAW. To the greatest extent permitted by law, this includes all implied warranties, including the implied warranty of workmanship contemplated in *Paine V. Spottiswoode*, 612 A.2d (Me. 1992), provided, however, that nothing in this section shall absolve the Builder from initially completing the work under warranty in a “workmanlike” manner. *See Wimmer v. Downeast Properties*, 406 A.2d 88, 93 (Me. 1979).

B. On all other consumer products and on all non-consumer products, whether or not warranted by manufacturers, all implied warranties, are expressly disclaimed and do not apply, including, without limitation, the implied warranties of merchantability and fitness created under Maine law, including, without limitation, any rights to be construed by virtue of 10 M.R.S.A. Section 1487(7).

V. INTERPRETATION

No action taken to correct defects shall extend this warranty. The written warranties set forth herein and the implied warranties limited herein are in lieu of all other warranties which may otherwise be implied. This Warranty shall be governed by the laws of the State of Maine. This Warranty gives you specific legal rights and you may also have other rights under Maine law. By accepting this warranty, you consent to the sole and exclusive judgment of the courts of the State of Maine located in the jurisdiction where the insured property is located.