



**ONE AND TWO-YEAR LIMITED WARRANTY  
&  
TEN-YEAR MAJOR STRUCTURAL WARRANTY**

**ONE AND TWO-YEAR LIMITED & TEN-YEAR MAJOR STRUCTURAL WARRANTY  
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## INTRODUCTION

This WARRANTY document establishes the scope, conditions, limitations and exclusions of the First America Homes, Ltd. One and Two-Year Limited Warranty & Ten-Year Structural Warranty. It includes procedures for requesting performance of covered warranty work, and it includes procedures for submission of unresolved claims as well as the dispute resolution mechanisms set out in this limited warranty. This is not a service contract, maintenance agreement, nor is it an insurance policy.

## DEFINITIONS

Throughout this limited warranty the following terms are defined as listed below:

**Applicable Building Codes** or **Building codes** means all codes, regulations, and ordinances governing construction of a home in the area where the real property is located;

**Appurtenance** means any structure or recreational facility that is appurtenant to a residence but is not a part of the dwelling unit. Appurtenance does not include swimming pools, spas, or hot tubs;

**Builder** means First America, First America Homes, Ltd., First America Custom Homes, First America Homes, or First America Company;

**Buyer** refers to the purchaser(s) of the new home from First America as reflected in the sales agreement signed by you and the builder;

**Claim** shall mean any controversy or dispute between you and First America including any and all claims made by you to First America for alleged construction defects, any alleged condition of the home that is not in compliance with this limited warranty or the contract between the parties, any claim for payment of money, for payment of cost of repairs, analysis of the property covered by this warranty, for consequential damages, additional or punitive damages, for attorney's fees and costs or any other claim that the owner of the property which is the subject of this limited warranty may have or assert against First America;

**Closing** shall mean the date when you close the purchase of your First America home and receive legal title to same or if a home is built for you on property owned by you on the date when substantial completion of the improvements occurs;

**Date of Closing** means the date of execution of the deed from First America conveying the home to the original purchaser (usually, you); however, if the property is owned by the purchaser before builder commencing construction of the home on the property (including situations where First America conveys title to the property to purchaser before construction of the home commences, generally in connection with so-called "one-stop" mortgage loan transactions), then date of closing as used in this limited warranty means the date purchaser signs the final closing documents and the transaction is funded. In the case of a home or improvements on a lot owned by you, the date of closing is synonymous with the date on which substantial completion of the improvements occurs;

**Construction Agreement** shall mean any contract for construction of improvements by First America on property owned by you. This term includes any remodeling contract;

**Consequential Damages** (which are excluded by this limited warranty) include, but are not limited to, damage to the home that is caused by a construction defect, but is not itself a construction defect covered by this limited warranty. Consequential damages also includes, without limitation, costs of shelter, transportation, food, moving, storage or other incidental expenses related to relocation during repairs (except to the extent reasonable or allowable under the RCLA). Consequential Damage may include physical damage to the home, any appurtenance, or the real property on which the home and appurtenance are affixed, which is proximately caused by a construction defect;

**Construction Defect** means a matter concerning the design, construction, or repair of a residence, or appurtenance to a residence, or an alteration of or addition to an existing residence or an appurtenance to an existing residence, resulting from an item specified in the maintenance and warranty information section of this limited warranty which is not functioning or operating as described in the maintenance and warranty information section of this limited warranty booklet. A construction defect occurs only when an item warranted by this limited warranty fails to conform to or exceeds the allowable tolerance, or fails to meet the performance standards specified in this limited warranty. Failure to complete construction of the home or any portion of the home, in whole or in part, is not a construction defect;

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**Consumer Products** has the same meaning as the definition promulgated by the Federal Trade Commission and includes, without limitation, furnaces, air conditioning equipment and systems (including evaporator coils, condensers, compressors, and other component parts), water heaters, refrigerators, ranges, ovens, dishwashers, stoves, ice-makers, microwave ovens, cooktop units, vent hoods, garbage disposal units, other cooking and kitchen appliances, carpets, alarm systems, manufactured cabinets, garage door openers, garage doors, plumbing fixtures, light fixtures, and all other appliances in the home, and other similar products or equipment which were, at the time of original sale of the home from the builder to purchaser, covered by any kind of warranty issued by the manufacturer or distributor;

**Effective Date of Warranty** means the date of closing (as that term is defined herein), or the date of first occupancy of the home, or the date on which any applicable governmental authority issues a certificate of occupancy, whichever event occurs first;

**Electrical Systems** refer to all wiring, electrical boxes and connections up to the house side of the meter base;

**First America, First America Homes, or First America Custom Homes** refers to First America Homes, Ltd. First America is also referred to as "seller" in the sales agreement signed by you and as the builder in this limited warranty; all of those terms are interchangeable. All references to First America in the sales agreement, this limited warranty, or any other instrument between First America and you shall have the same meaning as First America Homes, Ltd. in this limited warranty;

**Home** means the real estate and improvements purchased by you under the terms of the sales agreement signed by you and First America. It includes all appurtenances, but excludes any swimming pools, spas, or hot tubs;

**Improvements** shall mean any house, garage or other structure or item constructed by First America on property it sells to you or on property owned by you;

**Limited Warranty** refers to the terms and conditions contained in this document including any applicable addenda, exhibits, or sample forms that are referred to herein or attached hereto. The limited warranty is, by reference, a part of the sales agreement (or other contract) signed by you and the builder. This limited warranty is the only warranty that exists between you and the builder;

**Major Structural Failure** is defined as a foundation failure or a major non-foundation failure consisting of actual damage to the load-bearing portion of a residence caused by the failure of the load-bearing portion;

**Original Purchaser** means the first person or persons who purchased the home from First America (as opposed to, for example, someone who purchased the home from that original purchaser, or a subsequent purchaser, rather than directly from First America);

**Purchaser** refers to the purchaser(s) of the new home from First America as reflected in the sales agreement signed by you and First America. The term purchaser is the same as the term used in the sales agreement;

**Purchase Agreement** means the document by that name signed by you and First America, for the purchase of the home, together with any written and signed change orders or amendments to same. Also referred to as the Earnest Money Contract;

**RCLA** means the Texas Residential Construction Liability Act found at Chapter 27 of the Texas Property Code;

**Standards** means the criteria specified within this limited warranty;

**Structural Failure** means actual physical damage to the load-bearing portion of a residence caused by a failure of the load-bearing portion or a load bearing element of the home to function in accordance with standards generally accepted by builders who constructed similar homes in the same or similar areas at the time the home was originally built;

**Toxic Substances** means any kind of microbe, including without limitation, fungus, mold, mildew, or bacteria, or any other kind of toxin, regardless of whether harmful, or thought to be harmful, to human beings or animals, or not;

**Unresolved Warranty Issues** means all requests for warranty performance, demands, disputes, controversies, and differences concerning warranty work or construction of the home and that are not resolved by the purchaser and the seller between themselves; and

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**You, Your, Buyer or Purchaser** refers to the purchaser(s) of the new home from First America as reflected in the sales agreement or owners of real property on which First America constructs improvements pursuant to a construction agreement or remodeling contract signed by you and First America.

## **THE LIMITED WARRANTY**

First America warrants the home against defects in workmanship and materials only in accordance with the terms of this limited warranty. This limited warranty provides varying levels of coverage during the first and second years following the effective date of warranty. The coverage during the first and second years and the Ten-Year Major Structural Warranty that covers years three through ten following the effective date are the only warranty coverage you will receive from First America. This limited warranty sets out the only relief you may recover from First America for any dispute concerning your home, or your dealings with First America.

First America will build the improvements in substantial compliance with its plans and specifications which may change from time to time (or as conditions or decisions "in the field" may require) without notice to you. IT IS UNDERSTOOD AND AGREED BY YOU THAT FIRST AMERICA HOMES' LIABILITY UNDER THE PURCHASE AGREEMENT OR CONSTRUCTION CONTRACT AND THIS LIMITED WARRANTY IS STRICTLY LIMITED, TO THE EXTENT ALLOWED BY LAW, TO ONLY THE REMEDIES PROVIDED IN THIS LIMITED WARRANTY. YOU UNDERSTAND AND AGREE, BY SIGNING THE ACKNOWLEDGMENT OF RECEIPT OF THIS LIMITED WARRANTY, AND THE SALES AGREEMENT, THAT THIS LIMITED WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, ORAL AGREEMENTS OR REPRESENTATIONS, WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHETHER ARISING UNDER STATUTORY OR COMMON LAW, STATE OR FEDERAL LAW, AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, CONSTRUCTION IN A GOOD AND WORKMANLIKE CONSTRUCTION, OR OTHERWISE EXCEPT AS IS EXPRESSLY SET FORTH IN THIS FIRST AMERICA TWO YEAR LIMITED WARRANTY AS ALL OTHER WARRANTIES, ORAL AGREEMENTS, OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, WAIVED, RELEASED AND NULLIFIED TO THE MAXIMUM EXTENT ALLOWED BY LAW.

Should the courts of the State of Texas or of the United States determine that any of the warranties disclaimed, waived, or released in the previous paragraph cannot lawfully be released in a transaction of the type entered into between purchaser and builder, the invalidity or unenforceability of that particular term will not affect nor diminish the disclaimer, waiver, or release of other warranties provided for in the foregoing paragraph, to the extent such other warranties may be lawfully disclaimed, waived, or released. Invalid, illegal, or unenforceable aspects of the preceding sentence or terms of this limited warranty will be severed from the remaining enforceable provisions and those remaining portions will be given full force and effect, to the maximum extent allowed by law.

## **FIRST AND SECOND YEAR WARRANTY**

First America agrees that, for a period of up to two (2) years (and some items for only one (1) year) following the effective date of this limited warranty, the fifteen (15) component parts of the home described in the maintenance and warranty information section of this booklet will function and operate as specified in the first and second year standards which are set out in the maintenance and warranty Information section of this limited warranty.

Two years and one day following the effective date of this limited warranty, First America shall have no further warranty under the Two-Year Limited Warranty performance standards referred to above. Starting two years and one day following the effective date of this limited warranty, First America shall only owe you the warranty obligations stated in the major structural portion of this limited warranty. Any claim involving this warranty, or the dealings between you and First America, shall be controlled by the Texas Residential Construction Liability Act (RCLA) and shall be resolved pursuant to the claim resolution procedures set out in this limited warranty. The parties agree and understand that the RCLA is the sole statute applicable to any claims made under this a Limited warranty and that all other causes of action or claims have been preempted and replaced by the RCLA. To the extent such claims are not preempted by RCLA, they are hereby waived. The relief that you can recover from First America is strictly limited to the damages and other relief allowed under the RCLA. In the event that the home which is the subject of this limited warranty is sold or transferred by you during the first two years following the effective date of warranty, you must have your purchaser or transferee or assignee execute the Subsequent Homebuyer Acknowledgement and Assignment Form and register it with the First America customer care department in order to preserve the remaining first and second year warranty coverage. Unless you have a subsequent purchaser or transferee sign the Subsequent Homebuyer Acknowledge and Assignment Form and register it with the First America customer care department, the subsequent purchaser shall only receive the coverage provided in years three through ten.

## **CONDITIONS OF WARRANTY PERFORMANCE**

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You must provide First America with reasonable weekday access during normal business hours to inspect the condition of your home and/or to perform its obligations.

First America reserves the right to repair, replace, or pay directly to you the reasonable cost of repair or replacement (in lieu of repair or replacement). Prior to payment or upon completion of repair or replacement, you must sign and deliver to First America a full and unconditional release, in recordable form, of all legal obligations with respect to the defect and any conditions arising from the situation.

If First America repairs, replaces or pays you the reasonable cost to repair or replace a warranted item, First America shall be subrogated to all your rights of recovery against any person or entity. You must execute and deliver any and all instruments and papers and take any and all other actions necessary to secure such rights, including, but not limited to, assignment of proceeds of any insurance or other warranties to First America. You shall do nothing to prejudice these rights of subrogation.

Any First America obligation is conditions upon your proper maintenance of the home, common elements and grounds to prevent damage due to neglect, abnormal use, or improper maintenance.

### **EXCLUSIONS**

The following exclusions apply and control, even if they are not mentioned specifically in the maintenance and warranty Information sections of this limited warranty booklet (where specific standards, items of coverage and exclusions are described). An item is excluded if it is set forth in the following provisions, regardless of whether it is omitted from or mentioned in any other provision of this limited warranty booklet.

- Any damage which occurs, or for which you make a claim, more than two years after the date of closing for items covered for that duration.
- Any damage which occurs, or for which you make a claim, more than two years after the date of closing, unless it is expressly covered in the ten year structural warranty;
- Any damage which occurs, or for which you make a claim, more than two years after the date of closing. It is not necessary that you have knowledge of awareness of the cause or full extent of the damage;
- Damages of any kind resulting from, caused by, or related to any of the following items or causes are not covered under this limited warranty, and cannot be recovered from First America:
  - 1) negligence of you or a person other than the builder or an agent, employee, or subcontractor of the builder;
  - 2) failure of you or a person other than the builder or an agent, employee, or subcontractor of the builder to:
    - a) take reasonable action to mitigate the damages; or
    - b) take reasonable action to maintain the home;
  - 3) normal wear, tear, or deterioration;
  - 4) normal shrinkage due to drying or settlement of construction components within the tolerance of building standards;
  - 5) damage resulting from, or worsened by, changes in the landscaping, placement of a spa, whirlpool tub or swimming pool, drainage, grading of or other alteration or improvement of the property surrounding the home by anyone except First America or its employees, agents or subcontractors;
  - 6) the builder's reliance on written information relating to the home, appurtenances, or real property on which the home and appurtenances are affixed that was obtained from official government records, if the written information was false or inaccurate and the builder did not know and could not reasonably have known of the falsity or inaccuracy of the information;
  - 7) any type of warranty pertaining to any Consumer Products, including appliances and other products, or elements of the home, which is the subject of a manufacturer's warranty; any manufacturer's warranty shall be assigned by builder to purchaser by execution of the Assignment of Manufacturer's Warranties;
  - 8) damage to the home, persons, or property caused, whether directly or indirectly, by insects, birds, vermin, rodents, or wild or domestic animals; Additionally, the infestation or presence of any type of insect, vermin, rodents, or any type of animal is expressly excluded.

- 9) damage from a private or public utility supply system, such as (without limitation) gas, electric, phone, water, sewage, communications, or cable TV;
- 10) damage relating to the quality or potability of water;
- 11) damage claimed by you resulting from advertising, sales materials, marketing materials, or builder's participation in any program sponsored by an entity other than builder;
- 12) any consequential damages, damages for loss of consortium, damages for mental anguish, or punitive or exemplary damages or additional damages of any kind;
- 13) damage of any kind (including, without limitation, toxic substances) resulting directly or indirectly from floods, sewage backup, street drain backup, surface water, waves, tidally affected water, overflow of a body of water, or spray from any of the foregoing, wind driven water from rain or any other source, changes in the water table, or below ground water which exerts pressure on, seeps into, or leaks into the home, sidewalk, driveway, foundation, swimming pool, or other structure, wetlands, springs or aquifers;
- 14) damage caused by erosion or accretion following the effective date of warranty;
- 15) damage which results while the home is used for non-residential purposes including the rental of the property by you to another person;
- 16) damage from the home not being maintained, or from the negligence or abuse of any person or entity other than the builder, or its agents, employees, or subcontractors;
- 17) claim for damages or repair of cosmetic finishes such as wood (whether stained or painted), flooring, stone, tile, birch, and similar items;
- 18) damage caused by excessive moisture build up in the home due to the residents not using proper ventilation, installed fans, or air conditioning or heating, dampness or condensation due to the failure of the owner to maintain adequate ventilation or the effects of such failure on the home or any other defect to the home caused by moisture, rot, mildew or rust including those damages caused by the purchaser/owner/tenant when air conditioning systems are run below 73 degrees Fahrenheit;
- 19) damage resulting from soil movement including heaving, subsidence, expansion or lateral movement of the soil, unless caused by the negligence of builder;
- 20) damage for which there is insurance coverage available or for which compensation is granted or obtainable from any governmental agency, or by legislation or governmental action;
- 21) violation of Applicable Building Codes or ordinances (only where such codes or ordinances are applicable) unless such violation both: (a) violates a law, rule, or regulation of a governmental entity having jurisdiction over the construction of the home; and (b) results in a construction defect which is otherwise covered by this limited warranty. Should such a violation cause a construction defect covered by this limited warranty, the obligation of the builder under this limited warranty shall only be to repair the defective warranted portion of the home; the builder shall not be required to make the home conform to any applicable building code or ordinance unless it is required to do so by a governmental authority having jurisdiction over that issue;
- 22) any construction defect where the request for repair is not submitted to the builder prior to expiration of the applicable warranty period or is not submitted in the form required by this limited warranty booklet;
- 23) any construction defect(s) covered by this limited warranty which you repair (or have already repaired) without prior written authorization of the builder. This includes any repair made by your homeowner's insurance carrier;
- 24) any damage to the home, resulting from a swimming pool, spa, hot tub, solar panels, satellite dishes, whole house generators or combination of same or to any of those items;
- 25) any toxic substance, as that term is defined above, or damage or injury caused by the presence of toxic substances in the home, however caused; by closing or by taking possession of the home (in the case of a "one-stop" closing or a "build on your lot" situation), or at all events, by signing the acceptance certificate, purchaser has accepted the property in its then-existing condition, AS IS, WHERE IS, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED,



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THAT THE HOUSE IS FREE OF TOXIC SUBSTANCES OR OF CONDITIONS OR DEFECTS WHICH COULD GIVE RISE TO THE GROWTH OF TOXIC SUBSTANCES;

- 26) any damage caused by "ghosting" or smoke from candles, pipes, cigarettes or as a result of installation of a gas log system in a fireplace;
- 27) damage to trees and shrubbery; First America disclaims any responsibility for, and makes no warranty concerning, the survival of any tree or shrubbery at the home. You understand and acknowledge that construction of the home poses serious risk to the health of existing trees, shrubbery and other plants on the property where the home is situated. You further understand that First America does not guarantee or warrant that any of the trees, shrubbery, and other plants will survive following purchase of the home. You release the builder from, and waive, any claims for damages to or loss of trees (new or existing), shrubbery and other plants resulting from the work done in constructing the home or performing work after closing pursuant to this limited warranty;
- 28) any claim for diminution in value of your property;
- 29) no damage of any kind related to any change in any land or improvements outside the boundary;
- 30) loss or damage caused by or resulting from or in connection with accidents, riots and civil commotion, fire, explosion, smoke, water escape, falling objects, aircraft, gale force winds, lightning, mudslide, earthquake, volcanic eruption, or other acts of God, wind-driven rain or other water, subsidence of sinkholes; and/or
- 31) cost or responsibility for moving pianos, pool tables, antiques, fine furniture or other items which would generally require special handling; costs of shelter, transportation, food, moving, storage or other relocation expenses;
- 32) loss or damage caused by material or work supplied by anyone other than your Builder or its employees, agents or subcontractors;
- 33) loss or damage, to, resulting from, or made worse by all components of structurally attached decks, balconies, patios, porches, stoops, porch roofs and porticos;
- 34) loss or damage, to, resulting from, or made worse by elements of the home which are constructed separate from foundation walls or other structural elements of the home such as, but not limited to, chimneys and concrete floors of basements and attached garages;
- 35) loss or damage to wiring to and between communication devices from the source of power, whether or not connected to the interior wiring system of the home. Such devices shall include, but not be limited to, telephone systems, television cable systems, intercom systems, computer systems and security systems. Sources of power shall include, but not be limited to, service entrance conductors, switches, outlets, receptacles and junction boxes;
- 36) loss or damage to or caused by recreational facilities; driveways; walkways; patios, porches and stoops not structurally attached; decks and balconies which are not bolted to or cantilevered from the main structure of the home; boundary and/or retaining walls; bulkheads; fences; landscaping, sodding, seeding, shrubs, trees and plantings; subsurface drainage systems (other than footer drains); lawn sprinkler systems; off-site improvements, including streets, sidewalks, adjacent property and the like; or any other improvements not part of the home itself.
- 37) Drives, walkways and patios are generally formed by concrete poured in place. They will move up or down with the soil. Expansion joints placed in the concrete to reduce cracking generally create controlled cracks. Flatwork will move up and down with time. A consistent moisture level around and under flatwork will reduce movement and cracking but will not eliminate it completely. Cracking, discoloration, and surface imperfections on any concrete that is not part of the monolithic foundation are not considered structural issues and are not covered by this limited warranty. More specifically, drives, walkways and patios (concrete flatwork) are not covered by this limited warranty.
- 38) Exterior wood fencing, in communities where installed, is done so in accordance with the ACC (Architectural Control Committee) restrictions and is typically a 6' tall 2-railed fence. The fence is typically in a "good neighbor" design of alternating pickets every approximately 8' run of fence, where the fence intersects another customer's property (shared property line). Treated lumber is used for the posts and cross rails, but there is not stain or other sealant used on the fencing, and as such the fence is prone to decay, deterioration, and discoloration in the elements. Additionally, as the fence posts settle in the ground the posts on either side of the gate may settle as well, making the gate difficult to open or close. It is up to the homeowner to make any adjustments to the gate. There is no warranty provided for



the exterior wooden fencing on any home. Changes or deterioration of any part of the fencing system after closing is not covered by this limited warranty.

**In addition to the above, the following items are covered only to the extent that they are covered under the manufacturer's limited warranty, and are not the responsibility of First America: appliances, cabinets, and garage doors. In the event a septic system and/or water well is installed in the home and/or on the lot, First America is not responsible for the septic system and/or water well; any and all warranties for a septic system and/or water well shall be the responsibility of the third-party installer and not First America.**

**NO ORAL AGREEMENTS OR UNDERSTANDINGS**

First America is not bound by any statement or representation by any employee, agent, representative, sales person, construction manager, subcontractor, or realtor concerning the terms of the sales agreement between First America and you or your predecessors in title, or concerning the terms of this limited warranty, the dealings of the parties, or the construction of the home. You acknowledge that by signing the purchase agreement or construction agreement and agreeing to be bound by its terms and the terms of this limited warranty, you relied solely on your own investigation and not on the representations of any First America sales person or employee. THIS LIMITED WARRANTY AND THE PURCHASE AGREEMENT OR CONSTRUCTION AGREEMENT REPRESENT THE FINAL (AND ONLY) AGREEMENT BETWEEN THE PARTIES WITH REGARD TO ALL MATTERS COVERED BY SUCH INSTRUMENTS AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN (ORAL) AGREEMENTS BETWEEN THE PARTIES. THIS LIMITED WARRANTY MAY ONLY BE AMENDED, SUPPLEMENTED OR CHANGED BY WRITTEN INSTRUMENT SIGNED BY BOTH YOU AND FIRST AMERICA CLAIMS PROCEDURES - HOW TO SUBMIT A CLAIM.

Any claim must be emailed to First America at <http://www.firstamericahomes.com/homeowners-corner> and specifically state the item in this publication to which it pertains and must specifically describe the alleged problem.

You must include any documentation you believe explains or describes the alleged construction defect, including any letters, memoranda, pictures, videos, bids, test results, or reports by any inspectors or experts or other persons or companies hired by you to evaluate or comment upon the alleged construction defect(s). You must advise First America of dates and times when the builder can inspect the home as it is the builder's right to inspect the home once you have made builder aware of a claim. If First America receives written notice of a construction defect that creates an imminent threat to the health or safety of the inhabitants of the home including, without limitation, gas leaks or electrical problems, First America will take reasonable steps to cure the defect as soon as practicable. In the case of a construction defect that poses an imminent threat to the health or safety of the inhabitants of the home, if First America fails to cure the defect in a reasonable time, you may have the defect cured and may recover from First America only the reasonable cost of the repairs. Notwithstanding any statute of limitation providing a longer time to commence proceedings, any claim for breach of warranty under the first and second year warranty provisions of the First America Homes Two Year Limited Warranty, must be commenced within two years and one day after the earlier of (a) the date of closing or (b) the date you take possession of your home.

**DISPUTE RESOLUTION**

Any dispute between First America and you shall be resolved only by the submission of a claim to First America or, if that does not fully resolve all matters related to the claim, pursuant to the dispute resolution mechanisms set forth in this limited warranty. You understand and agree that following those procedures is the mandatory and exclusive means to resolve any disputes between you and First America. Should you institute any legal proceedings (including a lawsuit or arbitration proceeding) before following all of the steps set out in this limited warranty then First America will be entitled to dismiss any such prematurely initiated proceedings and recover from you its costs and attorney's fees incurred in doing so. All disputes in any way arising under or related to the purchase agreement, construction of the property, warranty work, or any other dealings between purchaser and First America (including, without limitation, any representations or warranties allegedly made by First America), shall be resolved by the parties first submitting all claims through First America's normal warranty procedures using the online customer care request form and, if same does not resolve the dispute by then negotiating in good faith to resolve the dispute. If such efforts do not resolve the claim(s) then the parties acknowledge that it is the policy of the State of Texas to encourage the peaceable resolution of disputes through alternative dispute resolution procedures. In such event, and after exhausting the dispute resolution process of initially attempting to negotiate in good faith, then either party may use the dispute resolution procedures established by this limited warranty including non-binding mediation and arbitration:

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1. Mediation-binding arbitration/waiver of jury trial: The parties agree that any other dispute (whether arising in contract, warranty, tort, statutory or otherwise), including, but not limited to,
  - a) any and all controversies, disputes or claims arising under, or relating to, this purchase agreement, and any amendments thereto, the property, improvements, or any dealings between the purchaser and First America;
  - b) any controversy, dispute or claim arising by virtue of any representations, omissions, promises or warranties alleged to have been made by First America or a First America representative; and
  - c) any personal injury or property damage alleged to have been sustained by purchaser on the property or in the subdivision in which the property is located,

shall first be submitted to mediation and, if not settled during mediation, shall thereafter be submitted to binding arbitration to a single arbitrator, as provided by the Federal Arbitration Act (9 U.S.C. §§ 1 et seq.) or, if applicable, by similar state statute, and not by or in a court of law.

YOU IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT YOU MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS LIMITED WARRANTY, INCLUDING ANY EXHIBITS, SCHEDULES, AND APPENDICES ATTACHED HERETO, OR THE TRANSACTIONS CONTEMPLATED HEREBY. YOU CERTIFY AND ACKNOWLEDGE THAT (A) NO REPRESENTATIVE OF FIRST AMERICA HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT FIRST AMERICA WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) YOU HAVE CONSIDERED THE IMPLICATIONS OF THIS WAIVER, AND (C) YOU MAKE THIS WAIVER KNOWINGLY AND VOLUNTARILY.

All decisions respecting the arbitrability of any dispute shall be decided by the arbitrator. The arbitrator may award to the prevailing party, if any, as determined by the arbitrator, all or any portion of its costs and fees. Costs and fees may include reasonable expenses of mediation and/or arbitration, including arbitrator's fees, administrative fees, travel expenses and out-of-pocket expenses such as copying, court costs, witness fees, and reasonable attorney's fees. The mediation and, if necessary, the arbitration shall be conducted pursuant to any procedures set forth in the applicable warranty documents. If there is any conflict between the purchase agreement and such procedures, the provisions of the purchase agreement shall control. Furthermore, if the mediator and/or arbitrator designated in any applicable warranty documents cannot conduct the mediation or arbitration for any reason, or if no mediator and/or arbitrator is designated, the parties agree to work together in good faith to select a mediator and, if all disputes are not resolved by mediation, an arbitrator in the county where the property is located (to the extent practicable). If the parties are unable to agree on the appointment of a mediator and/or arbitrator, either party may petition a court of general jurisdiction in the subject county to appoint a mediator and/or arbitrator. It is stipulated and agreed that the filing of a petition requesting appointment of a mediator and/or arbitrator shall not constitute a waiver of the right to enforce binding arbitration. In any arbitration proceeding between the parties:

- i. All applicable Federal and State law (including Chapter 27 of the Texas Property Code) shall apply;
- ii. All applicable claims, causes of action, remedies and defenses that would be available in court shall apply;
- iii. The proceeding shall be conducted by a single arbitrator selected by a process designed to ensure the neutrality of the arbitrator;
- iv. The parties shall be entitled to conduct reasonable and necessary discovery;
- v. The arbitrator shall render a written award and, if requested by any party, a reasoned award;
- vi. The purchaser shall not be required to pay any unreasonable costs, expenses or arbitrator's fees and the arbitrator shall have the right to apportion the cost of any such items in an equitable manner in the arbitration award;
- vii. Any award rendered in the proceeding shall be final and binding and judgment upon any such award may be entered in any court having jurisdiction; and
- viii. If the proceeding pertains to a construction defect, as that term is defined in Chapter 401 of the Texas Property Code, then the arbitration shall be conducted in the same county as the property. Purchaser and First America agree that notwithstanding anything to the contrary, the rights and obligations set forth in this mediation-arbitration agreement shall survive (1) the termination of the purchase agreement by either party; (2) the default of the purchase agreement

by either party; or (3) substantial completion and payment in full of the purchase price. The waiver or invalidity of any portion of this mediation-arbitration agreement shall not affect the validity or enforceability of the remaining portions of this mediation-arbitration agreement and/or the purchase agreement. Purchaser and First America further agree (1) that any dispute involving First America's directors, officers, partners, employees and agents shall be resolved as set forth herein and not in a court of law; and (2) that First America shall have the option to include its subcontractors and suppliers as parties in the alternative dispute resolution procedures set forth in the purchase agreement. If any party to the purchase agreement files a proceeding in any court to resolve any such controversy, dispute or claim, such action shall not constitute a waiver of the right of such party or a bar to the right of any other party to seek arbitration of that or any other claim, dispute or controversy, and the court shall, upon motion of any party to the proceeding, direct that such controversy, dispute or claim be arbitrated in accordance herewith. Since the purchase agreement provides for mandatory arbitration of disputes, if any party commences litigation in violation of the purchase agreement, such party shall reimburse the other parties to the litigation for their costs and expenses including attorneys' fees incurred in seeking abatement of such litigation and enforcement of arbitration. The requirement that the parties submit any disputes between them to mediation and, if that does not resolve the dispute, binding arbitration is absolute, enforceable and shall survive substantial completion and payment in full of the Purchase Price despite there being no signature by either party on this page of this limited warranty. The parties, by their acknowledgement in the purchase agreement and this limited warranty, agree to arbitration as if their signatures appeared on the page where arbitration is made part of the purchase agreement.

**LIMITATION OF LIABILITY**

First America maximum liability: notwithstanding any contrary provision in this Two-Year Limited Warranty, to the extent allowed by law, First America maximum liability for all of its obligations under or relating to this limited warranty is limited to the original purchase price of the home and the lot on which it is located. This limited warranty shall be interpreted and enforced in accordance with the laws of the State of Texas. The RCLA shall apply to all claims by you against First America and shall limit the damages you can recover from First America. Under no circumstances shall you be entitled to recover damages beyond the damages allowed by the RCLA.

First America's liability and obligations are limited to repair, replacement or payment of the reasonable cost of repair or replacement of warranted items not to exceed the original purchase price of the home and the lot on which it is located.

**MISCELLANEOUS PROVISIONS**

This limited warranty is binding on First America and you and your heirs, executors, administrators, successors, transferees and assigns; it shall inure to the benefit of your successors and assigns, however, only if you and they timely execute and deliver the Subsequent Home Buyer Acknowledgment and Assignment form, a copy of which is included herein, and then, only to the extent therein and herein provided.

If any provision of this limited warranty is determined by a court of competent jurisdiction to be unenforceable, then such determination will not affect the validity of the remaining provisions of this limited warranty. A claim covered by this limited warranty may, in certain instances, also be covered by your homeowner's insurance policy or other insurance coverage. Such an overlap in coverage could result in your receipt of both insurance proceeds and repair work or other compensation under this limited warranty for the same or essentially the same loss, damage, or expense. To avoid such a result and similar results, to the extent of your right to make a claim under this limited warranty, you hereby assign to First America your right to any claim available or insurance proceeds paid under any policy of insurance providing coverage for the same or essentially the same loss, damage, or expense. You agree to cooperate with First America in making any such claim or to provide evidence of this assignment. You further agree to provide all documents and forms reasonably required to effectuate and evidence this assignment.

Sometimes First America may undertake to do certain work even though it is not required by this limited warranty to do so. The fact that First America undertakes to do such work, despite the fact that it is not obligated to do so under the terms of this limited warranty, will not extend, enlarge, or modify the terms of this limited warranty in any respect, nor constitute a waiver of the exclusion or any other term of this limited warranty. Similarly, should First America undertake to do warranty work on a particular occasion without purchaser having complied fully with the notice and claims provisions specified in this limited warranty booklet, that fact will not excuse purchaser's failure to comply with the notice and claims procedures and requirements specified in this limited warranty on any subsequent occasion, and purchaser will still be obligated to do so. Although First America has assigned all manufacturer's warranties to you, should you have a claim under any manufacturer's warranty, you should notify First America of that claim at the same time you notify the manufacturer. Although not obligated

to do so, First America may intercede with the manufacturer and to cause the manufacturer to take prompt action on your claim. This is in no way to be construed as an assumption of liability to you by First America.

#### **MAINTENANCE AND WARRANTY INFORMATION**

Your home is made up of hundreds of different components, both man-made and natural. These components, such as wood, metal, plastic, sheetrock, stone, tile, etc., all have different properties. Some of them settle, some cure, they all expand and contract, some dry out while others do not, and some are exposed to air or water or soil, or a combination of both. Some require maintenance and some do not. In addition to all the different products, there are several different systems that are designed to work together to increase the safety and comfort of your home. Some of these systems are active and some are passive; most of them require some maintenance even if it is minimal. As you go through your maintenance and warranty information, First America will try to give you a basic understanding of some of these components and systems. This information is not, nor is it intended to be, all-inclusive. Careful examination before closing will eliminate many issues. Cosmetic finishes and related issues are not covered by the limited warranty.

Your limited warranty covers certain specified things that may fail or break after you move in. It does not cover defects in appearance or other cosmetic matters or issues. It does not cover normal maintenance or damage resulting from your failure to perform routine or required maintenance or to do so properly. First America does not warrant consumer products, such as your appliances; you will receive an assignment of the manufacturer's warranty which covers these goods and is your exclusive warranty with regard to such products. First America will be glad to assist you in contacting or submitting claims to manufacturers concerning issues covered by a manufacturer's warranty, but will do so only as an intermediary. The manufacturer is the only party responsible for warranty claims or work relating to consumer products.

Unlike a car or most consumer products, you do not have to take your home into the shop to have warrantable items repaired. First America comes to you, but First America must have access to your home **during normal business** hours, Monday through Friday, to perform the work.

All requests for warranty work must be emailed through the Home Owner's Corner located at the bottom of the website at [www.FirstAmericahomes.com](http://www.FirstAmericahomes.com). A written request for warranty performance, submitted digitally, must be submitted no later than thirty (30) days after the expiration of the applicable warranty period.

Your request should make reference to the coverage for each specific item. Verbal requests or requests made in the field may result in communication problems which both you and First America would prefer not to have. Because of this, all warranty requests must be emailed at the link above. You should refer to this limited warranty booklet and in particular, to the following information to determine if you have a covered warranty item, prior to sending a request for warranty service in to First America.

The following maintenance and warranty Information section of this warranty booklet discusses fifteen (15) component parts of your home; each of those fifteen (15) areas is arranged with headings followed by five sub-categories listed from A to E. Section A is a general description of the category listed. Section B is an explanation of your responsibilities concerning this category and may include some helpful hints. Although some maintenance hints are presented here, they are not all inclusive. Section C contains things that you may observe as time progresses. Section D is a statement of what your limited warranty covers (if an item is not in this heading D then it is excluded, even if not defined in E). Section E is a description of some specific items your limited warranty does not cover. The first fifteen (15) categories are warranted either for one or two years after the effective date of warranty.

First America builds its homes in substantial compliance with First America's plans and specifications and in substantial compliance with applicable building codes promulgated or required by governmental entities having jurisdiction over construction in the geographic area where the home is located. As stated in this limited warranty, violations of applicable building codes will not result in First America being required to repair that condition, or being otherwise liable or responsible for any damages it may cause unless the violation results in a construction defect which is otherwise specifically covered by this limited warranty. Should such a violation cause a construction defect covered by this limited warranty, the obligation of the builder under this limited warranty is only to repair the defective warranted portion of the home. The builder is not required to make the home conform to any code or ordinance, unless required to do so by a governmental authority having jurisdiction over that issue in the locale where the home is located.

#### **FIRST AND SECOND YEAR STANDARDS**

**1. Lot grading and drainage**

A. Discussion:

First America is responsible for initially establishing the proper grades and/or swales around your new home. The purpose of this grading is not to eliminate standing water throughout the property. The stated goal is to prevent standing water against the foundation which could lead to future support issues. Swales will be graded into individual lots only in communities with a designated drainage plan instituted by the developer which requires a particular drainage flow pattern for the community. Trees, flowerbeds and the growing of grass and plants may create changes that will affect the drainage.

B. Maintenance by the homeowner:

You should not install any landscaping which adversely affects drainage. You should routinely rake out or fill in minor depressions or bumps as they develop in order to maintain proper drainage away from the foundation. You should provide proper watering and drainage control for all landscaped areas. Consistent, even hydration around the foundation is important to prevent issues of differential pressure from the surrounding soils. **In communities where full sod is not included, it is recommended that the homeowner install sod within two weeks of closing to prevent potential erosion from rain events. Failure to do so could result in the voiding of the drainage warranty.**

C. Condition you may perceive:

Settling of the ground around foundation, utility trenches, or other filled areas interfering with water draining away from the home.

D. What the First America limited warranty covers concerning lot grading and drainage:

First America will fill excessively settled areas that are the result of improper backfilling of trenches or ditches, which affect proper drainage away from the foundation or which restrict flow from the development required swales; excessively settled areas of this type must include depressions in excess of two inches in depth in these designated areas **for the first year after closing only**. First America will establish the grades and swales (sloped low areas) for water to drain away from the home one time prior to the date of closing in communities with a designated drainage plan instituted by the developer which requires a particular drainage flow pattern for the community. Acreage and other communities without a designated drainage plan will not use swales as a drainage method for individual lots. Ordinarily water will not stand or pond for more than 24 hours after a rain; however, in swales, which drain other areas, or where sump pumps discharge, 48 hours is acceptable. It is normal for water to stand for a period of time after a heavy rainfall. No determination of warranty coverage will be made prior to the applicable 24 or 48 hour period. Disturbing natural soil and drainage patterns in areas of existing trees will not be done.

E. What the First America limited warranty does not cover concerning lot grading and drainage:

Minor filling and raking out the recurring changes in soil elevation; plants or shrubs that must be moved to perform any warranty work; drainage problems caused by changes occurring after closing from whatever cause other than those specifically described in section D above. Additionally, debris under the grade and in or on the installed sod and beds is not covered under the warranty. Acreage lots or others in communities that do not have a designated drainage flow pattern designed by the developer are likely to have natural low spots which hold water in areas away from the foundation. Changes to these areas, if desired, are the responsibility of the homeowner and are not included as part of the First America Homeowners warranty program.

**2. Foundation**

A. Discussion:

Foundation work includes cast-in-place concrete in the form of grade beams, piers (on some designs) and a concrete slab. The foundation ("slab") does not include "flatwork", i.e. driveways, sidewalks, and patios that are not structurally connected to the house slab as one piece. Some cracking will occur in the foundation. Concrete slabs may develop corner cracks and hairline cracks; these cracks are not indicative of a defect or damaged foundation. An engineer has designed your home's foundation. It is normally a floating foundation that will rise and fall vertically with soil conditions. Some soils are highly expansive and may rise or fall a number of inches

from a dry condition to a moist or saturated condition. It is not unusual for portions of the foundation to move more than others, causing the slab to bend or tilt. The slab is designed to handle these types of stresses; it is not a defect and does not structurally damage the foundation. Such normal movement of the slab can cause cracks in the flooring, brick, sheetrock or millwork.

B. Maintenance by the homeowner:

A properly designed and constructed slab will experience distress from vegetation and expansive soil. That distress is exaggerated when correct drainage is not maintained or an incorrectly controlled (or uncontrolled) source produces excessive water. The initial site grading should be maintained during the life of the home. A house with the proper foundation and drainage can still experience distress even if you properly landscape and maintain the property. One of the most critical aspects of landscaping is the continual maintenance of drainage. Partial landscaping on one side of the house may result in swelling on the more fully landscaped side of the house and result in differential swelling of soil, resulting in structural distress in the form of brick cracking, windows/doors sticking, and slab cracking. Trees and shrubbery can absorb large amounts of water daily, reducing moisture in the soil and causing soil shrinkage. Soil shrinkage near the foundation causes settlement in that area which in turn can lead to cracks in finishes or sticking doors or other manifestations or movement. In drought conditions, soil in areas around trees and shrubbery must be adequately watered to prevent settlement and shrinkage.

C. Condition you may perceive:

Cracks in slab in attached or detached garage; cracks at the corner of the foundation; uneven concrete floors or slabs; cracks in concrete slab-on-grade floors under finished flooring; pitting, scaling or spalling (flaking, chipping) of concrete surfaces covered; settling, heaving or separating of stoops, steps or garage floors; standing water on stoops; and any cracks in cosmetic underpinning..

D. What the First America limited warranty covers concerning foundations:

First America will repair the foundation if there are cracks of more than 3/16 inch wide or 1/8 inch in vertical displacement in the load bearing portions of the foundation itself. No action will be taken to repair any cracks in the cosmetic underpinning or in any area of the foundation that is not a load bearing portion or element of the foundation such as brick ledges and foundation corners. Water should drain from outdoor stoops and steps. However, it is normal for small amounts of water to stand on stoops for short periods (up to 24 hours) after it rains.

E. What the First America limited warranty does not cover concerning foundations:

Concrete that is damaged by salt, chemicals, mechanical equipment, or other item of that nature occurring after construction. First America does not cover cracks or displacement that does not exceed the tolerances specified above. First America does not cover movement which does not cause a structural defect or movement caused by failure of the homeowner to follow proper maintenance procedures. First America does not cover appearance or cosmetic items such as discoloration or staining, or lack of color matching of materials affected by a covered construction defect or the repair thereof. Normally some minor chipping or flaking of the surface will occur. This is not covered. The failure of the "slab" to technically comply with the plans and specifications for same if such technical non-compliance does not result in material damage to the home.

**3. Rough carpentry**

A. Discussion:

Rough carpentry includes all the wood framing and bracing of your home including joists, rafters, sub-floors, roof decking and all the connecting parts and pieces, usually hidden from view, except in the attic. Floor squeaks or loose sub-floor is often temporary conditions common to new construction, and a squeak-proof floor cannot be guaranteed.

B. Maintenance by the homeowner:

There is no normal or routine maintenance required for rough carpentry.

C. Conditions you may perceive:



Floors squeaking or bouncing, bowed walls, roof or bracing problems. Walls, ceilings or floors bowed or out of plumb.

- D. What the First America limited warranty covers concerning rough carpentry:

Excessively squeaking sub-floors will be repaired during the first year of the warranty period if caused by an underlying construction defect. However, any moving of furniture and any damage to furniture or other personal property are exclusively the homeowner's responsibility. First America has no responsibility for moving furniture or for damage to furniture or personal property occurring during repair. Excessively deflecting floors due to a defect in design, workmanship or material will be repaired. Excessively bowed or out of plumb walls will be repaired if they result from a construction defect. Bowing of walls or floors in excess of 3/8 inch measured within any 30-inch horizontal or vertical measurement or walls out of plumb in excess of 3/8 inch measured within any 30-inch horizontal or vertical measurement will be considered excessive.

- E. What the First America limited warranty does not cover concerning rough carpentry:

A squeak proof floor cannot be guaranteed and minor squeaks or creaks are not covered. Bowing of walls or floors not in excess of 3/8 inch measured within any 30-inch horizontal or vertical measurement. Walls out of plumb not in excess of 3/8 inch measured within any 30-inch vertical measurement.

#### **4. Masonry**

- A. Discussion:

Masonry includes brick, stone, stucco or block walls, and brick fences or brick flatwork. Cracks up to 3/16 inch wide due to shrinkage or thermal expansion are common in masonry construction both in mortar joints and brick.

- B. Maintenance by the homeowner:

First America does not recommend patching minor cracks because the patch is almost always more unsightly than the crack due to the color mismatch of the mortar. Because the brick on your home is strictly a veneer, cracks do not affect the structural integrity or weathering properties of your home. For sake of appearance, you should maintain paint on your steel lintels and caulk in any expansion joints. Never seal up weep holes.

- C. Conditions you may perceive:

Cracks in masonry or veneer walls. Rust stains on door or window lintel areas.

- D. What the First America limited warranty covers concerning masonry:

First America will repair cracks in masonry if they are more than 3/16 inch wide during the first two years after closing.

- E. What the First America limited warranty does not cover concerning masonry:

In the event of repairs First America will not be responsible for obtaining an exact match in the color of the old and new mortar or bricks. Replacement bricks or stone will not exactly match existing, weathered bricks. First America will not be responsible for expansion and contraction cracks of less than 3/16 inch or cracks that are simply a result of the slab doing its job in allowing movement unless they exceed 3/16 inch. Painting or maintaining paint on steel lintels is also not part of the First America limited warranty. The caulk in the expansion joints is not part of this warranty.

#### **5. Finish carpentry (interior trim)**

- A. Discussion:

Finish carpentry covers interior wood including baseboards, crown moldings, doors, shelves, hampers, paneling, and other wood items inside the home. Finish carpentry does not include cabinets. Some stains and discoloration are common in the new homes and are frequently temporary.

- B. Maintenance by the homeowner:

The finish must be maintained. Exposed wood surfaces are protected by some surface finish. This can be paint, varnish, shellac, plastic coating, stains or other more exotic finishes. These surfaces need to be maintained and



occasionally reapplied depending upon events beyond the scope of this book. Some finishes, since they are not exposed to the weather or heavy usage, and if kept clean, may last longer than others.

C. Conditions you may perceive:

Cracking at joints or corners or where dissimilar materials join, normal discoloration, warping or swelling of doors

D. What the First America limited warranty covers concerning finish carpentry (interior trim):

First America will repair any doors or drawer fronts of Finish carpentry that are warped more than 3/8 inch, measured by closing the drawer or door and measuring from the face frame to the furthest point of warping. First America will correct any gap that is more than 3/16 inch wide. First America will repair open joints in moldings (crown molding, baseboard, or casings) or between moldings and surfaces if the gaps are more than 3/16 inch wide. Caulking is an acceptable method of repair. Stains or discoloration only if caused by underlying defects in construction that manifest themselves after the date of closing.

E. What the First America limited warranty does not cover concerning finish carpentry (interior trim):

First America is not responsible for providing an exact match on cabinet finishes. Cabinets and cabinet fixtures and fittings such as hinges, drawer tacks, pulls, or knobs are a manufactured product purchased by First America and are not warranted through the limited warranty. Cracks or warping that are less than the standard specified in section D above. Stains or discoloration, unless caused by underlying defects in construction. Damage from mold and mildew is not covered by this limited warranty. Bi-fold doors which come off track. This condition is a common occurrence and is not covered by this limited warranty.

**6. Thermal and moisture protecting materials**

A. Discussion:

Thermal and moisture protecting materials include waterproofing, insulation, roofing, siding, sheet metal, sealant and gutters. Insulation does not render a wall or rooms soundproof. Your roof has been designed to give you many years of service. Roofs and flashing should not leak under normally anticipated conditions. Gutters and downspouts may overflow during heavy rains but they should not leak at connections. It is industry practice to install gutters so that they are nearly level. Small amounts of water may stand in a gutter after a rain. Roof vents are prone to movement due to expansion and contraction of PVC pipes and other building materials; this movement can cause leaks. Routine homeowner maintenance is needed to prevent such leaks, and the lack of such maintenance which results in any leak is not covered by this warranty.

B. Maintenance by the homeowner:

Buildup of leaves, pine needles and other debris can cause leakage. Roofing and gutters must be kept clean. Ice or snow buildup, although rare, can cause leakage when they melt and run into ice dams. Owner should, on a regular basis, replace caulk or mastic that is used to seal flashing to other materials.

C. Conditions you may perceive:

Ice buildup on roof; leaks in roof or flashing; delamination of veneer siding or joint separation; leaks in gutter and/or downspouts; standing water in gutters; leaks in exterior (outside) walls because caulking is inadequate; leaks of various magnitudes or from various sources; mold or mildew resulting from leaks or moisture.

D. What the First America limited warranty covers concerning thermal and moisture protecting materials:

First America will insulate the home but insulation does not render a wall or room soundproof. First America will repair roof or flashing leaks within the first two years after the date of closing. If originally installed by First America Homes, First America will repair gutter and downspout leaks. If the water is more than one inch deep in a gutter and the gutter is not clogged with debris, First America will repair the gutter so that water can drain properly. If water is coming into the home, First America will repair leaking joints or cracks in the exterior wall surface around openings and flashing that are caused by a construction or installation defect for the first two years after closing.

E. What the First America limited warranty does not cover concerning thermal and moisture protecting materials:

First America does not cover leaks from tropical storms, hurricanes, tornadoes and other similar severe weather. Leaks due to wind driven rain or caused by ice or snow buildup or owner action or negligence, are not covered by this limited warranty. First America limited warranty does not cover any leak or condition which is covered by the owner's homeowner's insurance policy. The cosmetic appearance of roofing, including mildew, is not a warranted condition under this limited warranty. This limited warranty does not cover damage due to the presence of mold, mildew, or toxic substances, however caused. This limited warranty does not cover leaks caused by failure of the homeowner to maintain caulk or sealants on roof penetrations, doors, windows, flashings, exterior vents, or other areas where routine maintenance is required to maintain a moisture seal. If you install solar panels on your roof the roofing will no longer be covered under this warranty.

**7. Exterior doors and windows**

A. Discussion:

Doors and windows include wood, metal, and plastic doors, garage doors, wood, plastic vinyl clad and metal windows, weather-stripping and seals, sliding doors, glass, and hardware. Some warping of doors is normal and is caused by surface temperature and moisture changes. Garage doors and windows should not leak under normal conditions. Normal conditions do not include severe weather such as tropical storms, hurricanes, tornadoes or wind driven rain. During severe weather conditions, some leakage is normal.

B. Maintenance by the homeowner:

All doors need routine maintenance to correct small problems. Exterior stained doors will need wax or polish or polyurethane to keep them looking new. Windows may need annual checks for deterioration of caulking. Maintenance of weather-stripping and caulking is considered to be routine maintenance and is the responsibility of the homeowner.

C. Conditions you may perceive:

Doors may be warped; panels in doors shrink so that raw wood edges show; split in panels of a door; garage doors do not operate properly; rain or snow leaks in through garage doors; windows do not function properly; condensation and/or frost on inside surfaces of windows; air leaks around doors and windows; sliding doors do not operate properly; broken glass; locks on doors or windows do not operate properly.

D. What the First America limited warranty covers concerning exterior doors and windows:

First America will cover the following for two years after closing: First America will repair any doors that warp to the extent that they satisfy one of the following: (1) they no longer open or close secure without excessive effort, (2) they are no longer weather resistant to the extent originally designed or intended by the manufacturer; and/or (3) they warp more than 3/8 inch, measured diagonally from corner to corner. If light is visible through the split in a non-translucent panel, First America will repair the panel. First America will correct the windows so that they operate without excessive effort. Doors and windows will be installed according to the manufacturer's standards. If air beyond the acceptable standards of the energy code in effect at the time of the homes construction comes in because doors, windows, or improperly installed weather-stripping is not properly installed, then First America will repair the improperly fitted doors, windows or weather-stripping. First America will correct improperly fitted screens. Sliding doors will be installed according to the manufacturer's specifications. First America will repair inoperative sliding doors. First America will repair any hardware which does not meet manufacturers' standards for the first year only after closing. Weather-stripping that cannot be adjusted by the homeowner will be repaired during the first year after closing.

E. First America limited warranty does not cover concerning exterior doors and windows:

First America is not responsible for garage doors. Condensation may occur on the interior of windows and doors due to atmospheric and other conditions that are beyond the builder's reasonable control and First America has no responsibility for this condition. Broken or scratched glass or windows. Torn or damaged screen mesh is not covered. Leaks due to extreme weather conditions unless resulting directly from faulty installation. Window condensation or damage from moisture pooling due to window condensation is a result of conditions beyond the control of First America and is not a warranted defect. Damage from pets, mold, mildew, or toxic substances, however caused.

**8. Surface finishes**

A. Discussion:

Surface finishes include finishes on lath and plaster, gypsum wallboard, ceramic tile, finished floors, resilient flooring or floor covering, paint, stain or varnish, wall coverings, carpet, stucco, marble (real or synthetic), plastic laminate, granite, ceramic and other tile, porcelain, and fiberglass. Hairline cracks at joints in moldings, at seams and tape joints, between dissimilar materials are normal and should be expected within certain tolerances. Nail pops are common and are due to contraction and expansion of lumber products. Color and surface variations are inherent in natural products.

B. Maintenance by the homeowner:

Keep all surfaces clean and polish or wax them as needed. Refinish the surface if required. Caulking and repainting will need to be done periodically. Caulking or grouting of tile or marble is frequently required. All vinyl flooring used in your home is no wax vinyl. The manufacturer has recommendations in regards to the Luxury Vinyl Plank. "Sweep or vacuum floors regularly to remove any dust or debris. Avoid using a vacuum with a beater bar. Damp-mop as needed with clean water and diluted floor cleaner. Harsh cleaning chemicals should NOT be used on luxury vinyl flooring. Clean up all spills immediately. Use blinds or drapes to block sunlight during peak hours. Use felt pads for frequently moved furniture to prevent scratching. The feet of furniture must always be covered with appropriate protective material. Chairs, sofas or furniture with castors must be fitted with soft rubber wheels. Use non-staining large surface floor protectors for heavy furniture and appliances. Invest in high-quality floor mats for an extra layer of protection at exits and entrances. The mats will help trap corrosive substances that can be tracked in such as dirt, sand, oil, grit, asphalt and even driveway sealer. After installation the house must be maintained at a constant temperature between 55 degrees F and 100 degrees F." Sharp objects can gouge vinyl floors and you should avoid high heels on vinyl floors. Ceramic tile floors should be cleaned with water only. For best results, clean small sections at a time. Marble and granite are natural products and should be damp mopped only. They will absorb water and may discolor if not dried properly. Grout is not sealed when tile is installed and the homeowner is responsible for maintenance of the grout and joints; there is no warranty coverage for cracking, loss of grout, staining or discoloration of grout as same is the homeowner's sole duty and obligation to maintain. Wood floors finished with a polyurethane coating should be vacuumed or swept on a regular basis.

C. Conditions you may perceive:

Cracks in inside walls and ceilings; nail pops, blisters in drywall tape, and other blemishes on inside of walls and ceilings; cracks; chips or cracks in floor, counter or wall tile; loose floor, counter or wall tile; cracks in grouting of ceramic tile joints or at junctions between tiles and other materials (e.g. between tiles and bathtub); cracks between the floor boards; nail pops on surface of resilient floor covering; dispersions or ridges in resilient flooring because the sub-floor is irregular; resilient flooring lifts, bubbles, or becomes unglued; visible seams or shrinkage gaps at joints of resilient flooring; cuts and gouges; deteriorating, fading, or peeling of outside paint; painting made necessary by other repair work; deteriorating varnish or lacquer finish on outside woodwork; deteriorating varnish or lacquer finish on inside of woodwork; mold, mildew, fungus or other toxic substances on painted surfaces; deteriorating, fading, or peeling of interior paint; peeling wall covering; mismatched edges of wall covering, pattern mismatch, and open seams cracks in outside stucco walls; scratches, nicks, chips, or blemishes.

D. What the First America limited warranty covers concerning surface finishes:

The following items will be covered by this limited warranty for two years after the closing date: Cracks in inside walls and ceilings are not unusual. First America will repair all cracks that are more than 3/16 inch wide. First America will correct nail pops, blisters in drywall tape, and other blemishes only when caused by an underlying construction defect. If wallboard has cracks that are more than 3/16 inch wide, First America will repair the condition. First America will secure loose tiles but an exact finish match is not guaranteed. First America will not replace cracked tiles or creased/wrinkled vinyl flooring planks caused by foundation imperfections or movement. First America will repair all cracks in the floorboards that are more than 3/16 inch wide. First America will repair any ridges or depressions which are readily apparent and which are more than 3/16 inch high or deep. The ridge or depression measurement is the gap created at one end of a 30 inch straightedge (for a ridge) or in the center of a depression (for a depression) placed over the depression or ridge with one end of the straightedge on one

side of the defect, held tightly to the floor or surface. If the gaps are more than 3/16 inch wide between pieces of resilient flooring, First America will repair them. If the gaps between flooring and other materials are more than 1/8 inch wide, First America will repair the affected area only. If painting is required because of other repair work, First America will paint to match surrounding areas as closely as is reasonably practical but an exact match is not guaranteed. First America will repair wall covering which peels other than in tub areas or other areas subject to steam or moisture. Cracks are not unusual in the surfaces of outside stucco walls. First America will repair any cracks that are more than 3/16 inch. First America will repair paint, stain or varnish which peels or deteriorates due to improper application. First America will properly prepare and refinish any areas that are affected.

- E. What the First America limited warranty does not cover concerning surface finishes:

First America will not repair any cracks or gaps in the listed items that are less than the prescribed measurement listed above. First America will not be responsible to match tile patterns and color between the old and the new tile or grout. First America will not be responsible for any crack or chip on a surface finish. Fading of paint or stain is normal and not considered a defect. The amount of fading will depend on the climate where the home is located. Mismatched edges of wall covering, pattern mismatches, and open seams are not covered. First America will not be responsible for an exact match of the old and new flooring. Hollow sounding tile or flooring is not a defect and is not warranted. Varnish or lacquer on outside woodwork deteriorates quickly and is not covered. Spots and/or minor fading can occur naturally when a carpet is exposed to light or chemicals. First America has no responsibility for this condition. Mold, mildew, mold, fungus, or other toxic substances may form on painted surfaces over time because of warmth or moisture and is not covered. Interior painted surfaces will deteriorate, fade, or peel over time and are a homeowner responsibility. Color and surface variations of natural products such as marble, granite, or wood are not covered.

**9. Louvers, vents and fireplaces**

- A. Discussion:

The fireplace and chimney should function as designed. High winds, however, can cause temporary negative draft situations. Similar negative draft situations can also be caused by obstructions such as large branches of trees too close to the chimney. Tightly built homes may also need to have a window opened slightly to create an effective draft.

- B. Maintenance by the homeowner:

Chimney flues need to be kept clean and clear of obstacles. Creosote build-up in the flue is a direct result of the materials and manner in which the fireplace is utilized. Burning of non-seasoned wood or improper operation will greatly worsen this situation. Chimney flues should be professionally cleaned regularly based on the amount of build-up.

- C. Conditions you may perceive:

Inadequate ventilation of attics and crawl spaces; improper drawing of fireplace or chimney; separation of chimney from the structure to which it is attached; firebox (area where the fire burns) paint has changed; cracks in firebrick (brick that lines the fireplace) and mortar joints. Water penetration into the firebox.

- D. What the First America limited warranty covers concerning louvers, vents, and fireplaces:

First America will repair the louvers and vents so that they provide ventilation during the first two years after closing. If the draft problem is caused by improper installation, First America will repair the problem. It is not unusual for a new chimney to separate slightly from the structure to which it is attached. First America will repair any chimney that has separated from the home more than 3/8 of an inch in any three foot vertical measurement.

- E. What the First America limited warranty does not cover concerning louvers, vents, and fireplaces:

First America will not be responsible for problems caused by alteration of the original ventilation system. Several things can cause temporary negative draft situations in a fireplace or chimney. These include the tightness of the home, high winds, obstructions such as large branches or trees too close to the chimney. If a draft problem is caused by improper installation, First America will repair the problem. Since homes are built more tightly in order to be more energy efficient, it may require a partially open window for the fireplace to draw properly. First America will not be responsible for these problems. The heat from a fire can naturally change any finish on the

firebox or surrounding area. This condition is not covered. Roaring fires can naturally cause cracking. This condition is not a defect. A certain amount of water penetration into the firebox is expected and is not a defect and is not covered by this limited warranty.

**10. Countertops and bathroom fixtures**

A. Discussion:

The majority of counter-tops used by First America are slab granite, various solid surfaces, or quality plastics laminated to a wooden base. Any defects in appearance such as scratches, chips, color variation, cuts, surface imperfections, visible or uneven seams, etc. are not covered by warranty.

B. Maintenance by the homeowner:

Some ink found in newspapers and those used for marking meats can stain countertops. Never use knives directly on counter-tops. They scratch the surface and become hiding places for dirt and bacteria. Kitchen and bathroom counters are not built to withstand a person's weight. Sitting or standing on them can cause breakage or may result in the counter pulling away from the wall. To prevent leaks, regularly check the caulking between the backsplash and the wall, as well as at the sinks. When cracks appear, homeowner must properly re-caulk as this is an item of routine homeowner maintenance, and there is no coverage for this condition under this warranty. Caulk shrinkage is common and to be expected and homeowner must maintain the caulking as First America will not re-caulk any area where caulk has not been maintained by the homeowner. The cultured marbled, fiberglass, or enamel surfaces in the bathtubs, sinks and showers of your home are vulnerable to chipping, scraping, scratching and dulling. If heavy or sharp objects are dropped on them, the resulting damage is not covered by this limited warranty. When cleaning, never use an abrasive cleaner because it will scratch the finish. There are many nonabrasive cleaners on the market that will do an excellent job of cleaning. These surfaces can also stain or burn, so be careful what you set on them. It is normal for caulking to dry and shrink with time leaving gaps where tile meets tubs and showers. This is remedied by removing dried, loose caulking and reapplying a thin bead of silicone caulking. Then smooth with your finger. Clean the excess and allow it to dry 48 hours before getting it wet. This is one of the more important maintenance items. Various types of caulking can be purchased at any hardware store.

C. Conditions you may perceive:

Scratches, chips, color variation. Stains and cuts. Leaks and damage caused by unrepaired leaks. Caulk cracking in many parts of the home.

D. What the First America limited warranty covers concerning kitchen counters and bathroom fixtures:

Defects in workmanship or material are covered unless covered by a manufacturer's warranty for the first two years after closing. These are rare in that any defect is usually readily noticeable prior to the date of closing. After that, cosmetic items or flaws, which may appear, are not covered by this warranty. There is no substitute for a careful examination prior to the date of closing.

E. What the First America limited warranty does not cover concerning kitchen counters and bathroom fixtures:

Defects in appearance such as cracks, scratches, chips, tarnish, color variation, cuts, surface depressions, or other cosmetic issues are not covered. Leaks caused by failure to re-caulk. Defects covered by a manufacturer's warranty.

**11. Exterior Trim**

A. Discussion:

Exterior trim consists of exterior doors, cornice work and siding as well as other wood exterior items.

B. Maintenance by the homeowner:

Wooden exterior doors are exposed to the weather, and are used constantly and are coated with a finish that will require routine maintenance. Fiberglass exterior doors should maintain a proper paint coating. Cleaning of exterior wood surfaces of dirt, visible mold, and mildew on a regular basis and occasional painting or staining is necessary.

C. Conditions you may perceive:

Mildew stains, cracks or separation between dissimilar materials or at joints.

D. What the First America limited warranty covers concerning exterior trim during the first year after closing:

If light is visible through the split in a panel, First America will repair the panel. First America will repair any open joints that do not keep out the elements. First America will install exterior trim to obtain an adequate clearance between siding and finished grade at the date of closing, but not thereafter. All siding will be installed so that it meets the manufacturer's standards and is painted or protected. First America will repair or replace any siding that delaminates or separates. First America will only paint new materials as part of the repair. The paint probably will not be an exact match to the original colors.

E. What the First America limited warranty does not cover concerning exterior trim:

Exterior mold, mildew, or other toxic substances. Stains and discoloration. Damage caused by extreme weather conditions, pets, or other outside forces. Cracking or joints or corners not in excess of 3/8 inch. An exact match in paint or stain colors if repair work is done by First America cannot be guaranteed. Damage caused by others to fiber cement siding or trim is not covered under this warranty.

**12. Carpeting**

A. Discussion:

Carpet can be of many different materials or grades.

B. Maintenance by the homeowner:

Refer to your particular manufacturer guidelines for maintenance.

C. Conditions you may perceive:

Open carpet seams; carpet becomes loose, wrinkled; stains and spots on carpet or fading of carpet; excess wear.

D. What the First America limited warranty covers concerning carpeting:

First America will re-stretch carpet once during the first year of the warranty period. Seams that open up or carpet that pulls away from the wall will be repaired for the first two years after closing. The fact that a seam is visible does not amount to a defect. First America will repair any openings or gaps in the seams that are not caused by homeowner neglect. If First America originally installed wall-to-wall carpeting as a primary floor covering, First America will secure or reattach any of the carpeting that has loosened from the material to which it is attached.

E. What the First America limited warranty does not cover concerning carpeting:

Seams will show and are not covered nor are spots on carpet or fading. Wear is not covered; neither is damage caused by abuse or lack of maintenance. If spots or wear is caused by a manufacturing defect, the manufacturer (not First America) is solely responsible for repairing or replacing the carpet.

**13. Plumbing Systems**

A. Discussion:

The type of plumbing fixtures can vary greatly from home to home in appearance and performance depending on which fixtures a particular homeowner has selected.

B. Maintenance by the homeowner:

To keep your faucets looking bright and new, wipe them with a soft, damp cloth or sponge. Use only warm water to remove water spots. Do not use abrasives, alcohol, ammonia-based cleaners or mineral spirits. Your most frequent maintenance task with a faucet will be cleaning the aerators. Aerators add air to the water as it leaves the faucet, thereby reducing splashing and saving water. They are most common in kitchens and bathrooms. To clean an aerator, unscrew it from the mouth of the faucet, remove any debris, remove and rinse washers and screens. Replace them in the original order and put the aerator back on the faucet. Frequency of cleaning will depend on local water conditions. Generally every three or four months is adequate.



C. Conditions you may perceive:

Plumbing pipes have frozen and burst; leaks in faucets or valves; defects in plumbing fixtures, appliances, or trim fittings; noisy water pipes; leaks in pipes; stopped-up sewers, fixtures, and drains; water supply system does not deliver water; septic tank; scratches and tarnish on hardware.

D. What the First America limited warranty covers concerning plumbing systems:

Drain, waste, vent, and water pipes will be protected to the extent required by local building codes, if applicable, or generally accepted industry standards, if no local building code applies. First America will repair or replace any faucets or valves that leak because of defects in workmanship or materials for the first year of the limited warranty.

For two years after closing, the limited warranty will cover piping leaks caused by defects in workmanship or materials. Some noise in the water pipes is natural and comes from the flow of water and from the pipes expanding. If there is a pounding noise from improperly anchored pipes, First America will repair the condition.

First America will repair leaks in drains caused by defects in workmanship or materials. First America will unclog sewer drains within the first 30 days after closing to remove any possible construction debris.

E. What the First America limited warranty does not cover concerning plumbing systems:

It is the manufacturer's responsibility to repair any fixture, appliance, or fitting that does not meet the manufacturer's standards. Any product covered by a manufacturer's warranty is not covered by this limited warranty. Condensation on pipes is not the same as a leak and is not a defect. First America is not responsible for any defect which is not construction related, including any failure of municipal systems. Scratches and tarnish on fixtures is not covered. Plumbing stoppages or "backups," clogged toilets or drains which are the result of a lack of homeowner maintenance, or misuse or abuse. First America is not responsible for conditions beyond its control, such as freezing, saturated oil, an increase in the elevation of the water table, water quality, excessive use of the system, or limitations established by the local governing agency. **First America is not responsible for septic systems or the component parts thereof or for any defect or malfunction or improper design or construction thereof unless there is a separate rider to this limited warranty specifically providing coverage for septic systems, and then First America covers defects relating to septic systems only to the extent specifically set forth in the rider.** Water flow will cause some noise, which is to be expected and is not covered. Grass or shrub growth or lack thereof, or coloration or variation thereof due to underground installation of pipes, drain fields, septic lines, propane tanks or lines is not a defect and is not covered.

**14. Electrical Systems**

A. Discussion:

Electrical systems include electrical conductors, circuit breakers, outlets, switches, fixtures, service and distribution.

B. Maintenance by the homeowner:

The wiring in your home is protected by circuit breakers. They are the safety valves of your home's electrical system. Should the circuit become overloaded by too many appliances or an appliance whose power needs are too great for that circuit, the breaker will trip. The circuit breakers are located in your electrical service panel box, which can normally be found either outside the home, or inside the garage. To reset a circuit breaker, first switch it to full off. There will be an audible click and then back to full on. This is also where you will find the main circuit breaker that controls all electricity to your home. In the event of total power failure, check to see if your neighbors have power. If not, notify your energy provider. If the power is off only in your home, check the main circuit breaker. If breakers continue to trip, contact First America. Your home is also equipped with ground fault circuit interrupter breakers (GFCIs). These breakers serve as a safety feature for the wet areas of your home. You will find them in the outlets located throughout the home or at the breakers in the panel. These safety devices detect a ground fault on the circuit and cut the power to avoid electrical shock. For this reason, it is unlikely that these outlets will accept power tools or appliances such as freezers or vacuum cleaners. All outlets in the garage must be GFCI protected; this may cause tripping or power outages or surges which may result in the freezer (or similar appliance such as a refrigerator) to lose power or turn off. If you are going to place a refrigerator/ freezer in your



garage, you may not be able to use the GFCI outlet for such appliances. Such appliances and additional usage of power are not contemplated by this limited warranty. You also have code required arc fault protectors in your family room, bedrooms, and other locations designated by the building codes. These detectors sense current malfunctions in wiring, lamps, appliances, etc. or the cords attached to these appliances. If these breakers trip you can reset them at the main panel.

There may be something you can easily and safely remedy without the expense of an electrician. Before reporting an electrical problem, check the following items first:

1. Check the GFCI first. Depending on the type installed, the reset may be located at a receptacle inside the home or in the breaker panel. If it continues to trip or malfunction, promptly have a licensed electrician check it;
2. Check the circuit breaker. If a breaker continues to trip, there may be too many appliances on that circuit or one of them may have a short;
3. For your convenience, an outlet may have been wired to a wall switch. Check to see if a wall switch controls the outlet;
4. If the garbage disposal has no power, check the reset button; and check to see that the disposal is not clogged. Never stick your hands in the blade area;
5. If the dishwasher doesn't function, check the dishwasher switch, if one is present, or the circuit breaker.

C. Conditions you may perceive:

Tripped circuit breakers (excluding ground fault interrupters); air leaks around the electrical outlets; malfunctions in electrical outlets, switches, and fixtures; ground fault interrupters frequently trip; electrical wiring does not carry its design load for normal residential use.

D. What the First America limited warranty covers concerning electrical system:

First America will check the wiring circuits and make sure they function properly. Air can be drawn through an outlet on any wall into a room. A certain amount of air infiltration is acceptable, so long as the home meets energy code testing standards, and as such this condition of air infiltration around outlets is not covered under the limited warranty. First America will repair or replace all defective outlets, switches or fixtures for the first year after closing only.

Ground fault and Arc Fault interrupters are sensitive and can easily be tripped. Normally, this is not indicative of a construction defect. First America will correct the interrupters if the tripping is due to a defect in materials or installation for the first year of the limited warranty.

First America will repair any wiring that does not perform as intended for the first two years of the limited warranty period.

E. What the First America limited warranty does not cover concerning electrical systems:

First America is not responsible for problems caused by conditions beyond its control. First America is responsible for original installation only.

First America is not responsible for minor light flickering under a heavy load such as an air conditioning start up.

First America is not responsible for defective lamps, appliances and cords that cause arc fault protectors to trip. First America will not replace defective or burnt out light bulbs. LED disc lights are covered only for a period of 1 year from closing. These LED disc lights will need to be replaced at some point. These fixtures do not have a replaceable light bulb and will need to have the entire fixture replaced when they no longer function.

As more particularly set forth in "Exclusions" above, First America is not responsible for wiring from a power source to a communication device.

If you choose to install solar panels on your home, that new system, as well as all aspects of the original electrical system, will not be covered by this limited warranty.

**15. Heating, ventilation and air conditioning (HVAC)**

A. Discussion:

The HVAC system includes the air distribution system, air return system, condensation drain lines and all associated mechanical equipment.

B. Maintenance by the homeowner:

Owner must maintain equipment according to manufacturer specifications. Unless routinely cleaned condensation lines will eventually clog. Owner must maintain the condensation drain lines. You should replace your media filters every 60-120 days, depending on living conditions. Filters in dehumidifiers, if present, should be changed at the same time. Do not pour bleach into air conditioning drain pans.

C. Conditions you may perceive:

Inadequate heating; leaks in refrigerant lines; inadequate air conditioning; clogged condensation drain lines; mechanical part of the evaporative cooling system does not operate properly; ductwork makes ticking and crackling noises; separated or unattached ductwork, "dripping" sound in the wall or at sink.

D. What the First America limited warranty covers concerning heating and air conditioning for the first two years of the limited warranty:

The heating system is designed to maintain an indoor temperature of 70 degrees Fahrenheit. The temperature is measured in the center of each room at a height of five feet above the floor. First America will repair any heating system which does not provide this temperature. First America will repair all leaking air conditioner refrigerant lines and will recharge the unit if due to a defect in workmanship or materials. The cooling system is designed to maintain a 20 degree temperature differential between indoor temperature and outside temperature. The temperature is measured in the center of each room at a height of five feet above the floor. First America will repair any cooling system that does not provide this temperature differential. First America will provide clear condensation drain lines on the date of closing or first occupancy, whichever occurs first. After this, you are responsible for keeping the condensation drain lines clear. First America will reattach or secure all ductwork that has become separated or detached unless damaged by others

E. What the First America limited warranty does not cover concerning HVAC:

Items beyond the design specifications of the system. First America will not be responsible for problems caused by improper maintenance or lack of maintenance. The ductwork may make ticking and crackling noises when the metal in it expands from the heat and contracts from the cold. This condition is natural and is not covered. Interior moisture or humidity issues caused by improper maintenance or usage of the HVAC equipment by the homeowner are not covered by this limited warranty.

**TEN-YEAR MAJOR STRUCTURAL WARRANTY**

Only repair of a Major structural failure is covered during years one through ten and First America's liability for major structural failure is limited as follows:

**1. Major Structural Non-Foundation Failure**

A. Discussion

**Major Structural Non-Foundation Failure** means actual physical damage to a load-bearing component of the home specifically listed below, only if it meets all of the following requirements:

1. actual physical damage to any of the loadbearing portions of the home listed in this section,
2. which is caused by failure of a load-bearing component listed in this section,
3. which affects it's load bearing function, and
4. the reasonable and customary cost to repair such component listed below exceeds \$250.00,
5. if the customer care request is submitted by the homeowner during years three through ten of coverage.

The load bearing components that may be major structural non-foundation failures if they meet all of the above conditions are items such as the following:

1. Floor framing systems;
2. Structural girders;
3. Load-bearing walls;
4. Structural columns;
5. Load-bearing beams;
6. Roof framing systems; and
7. Lintels other than those that support decorative components or brick veneer.

The following are examples of components that are not load bearing. This list is not all-inclusive:

1. Roofing and sheathing;
2. Plumbing, electrical, HVAC systems and mechanical systems;
3. Doors, windows, trim, cabinets and hardware;
4. Insulation;
5. Sheetrock, drywall, plaster and paneling;
6. All exterior siding and trim;
7. Brick, stone, stucco, veneer;
8. Subflooring material and floor coverings;
9. Paints and stains;
10. Wall coverings including wall tile;
11. Appliances, equipment and fixtures;
12. Non-load bearing walls and partitions; and
13. Concrete floors of attached garages and detached garages that are built separately from the foundation walls or separate from other elements of the home.

As outlined in the provisions of this Ten-Year Major Structural Limited Warranty, First America will repair a major structural failure occurring during the ten-year warranty period. The repair is limited, however, to (a) the repair of damage to the load-bearing portion of the home itself that is necessary to restore its load-bearing function, and (b) the repair of those items or components of the home damaged by the major structural failure.

## **2. Foundation Failure**

### **A. Discussion**

**Major Structural Failure** means (in the context of a foundation system) actual physical damage to a load-bearing component of the foundation that meets the requirements specifically listed below, only if it meets all of the following requirements:

6. actual physical damage to any of the loadbearing portions of the home listed in this section,
7. which is caused by failure of a load-bearing component listed in this section,
8. which affects it's load bearing function,
9. the reasonable and customary cost to repair such component listed below exceeds \$250.00, and
10. if the Request for Customer Care is submitted by the homeowner during years three through ten of coverage.

**Foundation Failure** means a failure of the foundation of the home as determined by the standards set forth in this warranty and confirmed by an engineer chosen by First America Homes. The foundation must provide sufficient stiffness or rigidity so that undue distress does not occur in the frame structure above. When a foundation bends or flexes excessively, distress will show in various forms, including, without limitation, interior wallboard or plaster cracks, doors out of square, doors that do not open or close properly, cracks in exterior siding materials, cracks in brick veneer and/or, separation of adjacent components such as door or window frames, or building frames and trim elements. Some of these signs of distress may be unequal shrinkage of dissimilar materials such as concrete and wood or wood and brick. Some are due to normal seasonal changes in foundation supporting soil volumes because of changes in natural moisture contents. Architects, engineers, homeowners, code enforcers, legal bodies or others, may define a foundation failure in different ways, depending upon the subjective opinion of the inspection party. Our engineers and this First America warranty define a foundation failure as the point at which the foundation no longer provides stable support to the load-bearing elements of the structure and is no longer performing the function it was designed to perform. While to some a sticking door or some slab flexing signifies a failure of the foundation, as examples, it does not qualify as a foundation failure under this warranty. In this warranty in order to be classified, as a structural failure the component must no longer be performing the function it was intended to perform and to have actually failed. If there is a potential foundation failure suspected by the homeowner, the parties agree that the following provisions will apply and that the following steps will be taken:

1. The homeowner, within the time limits of the limited warranty, will submit a customer care request form;
2. The First America customer care department, will inspect the home;
3. If the First America representative discovers any indication of a foundation failure;
4. First America's structural engineer will do an inspection of the home;
5. If there is found to be a failure they will engineer the repair; and
6. First America will execute the repair.
7. If the homeowner does not agree with the findings of the engineer and an agreement cannot be reached, both parties will go through the dispute resolution as outlined in this warranty.

**3. Provisions and Standards Applicable during the entire ten-year warranty period**

- A. Structural element
1. Flooring systems
    - a. Structural concrete crack of ¼ inch in width and ¼ inch in vertical displacement
    - b. Joists deflection of 1 inch in 15 feet
    - c. Trusses deflection of 1 inch in 10 feet
  2. Foundation
    - a. Concrete beams crack of 1/8 inch in width, or deflection of ¼ inch in 30 inches
    - b. Wood beams deflection of 1 inch in 10 feet
    - c. Steel beams deflection of ½ inch in 8 feet
    - d. Footings crack of ½ inch in width
    - e. Concrete walls crack of ¼ inch in width and ¼ inch vertical displacement, or out of plumb ¼ inch in 12 inches measured from the base of wall
    - f. Wood columns bow of 1 inch in 8 feet, or out of plumb ¼ inch in 12 inches measured from base of column.
  3. Lintels and headers
    - a. Concrete, masonry, steel or wood deflection of 1 inch in 4 feet
  4. Roof framing

- a. Ridge beam deflection of 1 inch in 10 feet
  - b. Rafters, common, jack or valley/hip deflection or bow of 1 inch in 10 feet
  - c. Ceiling joists deflection of 3/4 inch in 10 feet
  - d. Trusses deflection of 1 inch in 10 feet
5. Structural beams and girders
- a. Steel deflection of ½ inch in 8 feet
  - b. Wood, solid, built-up or laminated deflection of 1 inch in 10 feet
6. Structural columns
- a. Wood bow of 1 inch in 8 feet, or out-of-plumb ¼ inch in 12 inches measured from base of column
7. Load bearing walls and partitions
- a. 1. Studs bowing or cupping of more than 1 inch in 8 feet

Deflection means the difference in elevation of high and low points along a diagonal, horizontal or vertical plane caused by stress-induced deformation of a load-bearing member. Deflection is measured from any two end points and a third reference point. The reference point may be located at any distance between the two end points.



*First America Homes, Ltd.*

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**ASSIGNMENT OF MANUFACTURERS' WARRANTIES**

First America Homes, Ltd., for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged hereby assigns, grants, conveys and sells to purchaser/owner (whether one or more) any and all rights, title, obligations or claims under any manufacturer's warranty relating to any consumer products (e.g., furnace/air conditioner, water heater, refrigerator, other appliances, equipment, materials or other "consumer products" (as defined by the Federal Trade Commission) which are the subject of a manufacturer's warranty, which have been or will be incorporated into the real property and improvements which is the subject of a contract between First America and purchaser/owner (the property). Purchaser/owner agrees, acknowledges and understands that many, if not all, of the actual warranty documents will not be delivered to First America by the manufacturer(s) (and hence not available to purchaser/owner) until the products to which they pertain are delivered to First America and incorporated into the house and improvements which are the subject of the contract between the purchaser/owner and First America. Purchaser/owner also understands that such warranty documents may be available to them at the websites of the various manufacturers. Purchaser/owner agrees that even if they never receive one or more of the manufacturer's warranties pertaining to the consumer products incorporated into the home for which they have contracted with First America, this transfer of warranties is effective and binding and that First America makes no warranties of any kind related to same. In consideration of First America entering into the contract with purchaser, PURCHASER/OWNER UNDERSTANDS AND AGREES THAT FIRST AMERICA HOMES IN NO WAY, MAKES ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, WITH REGARD TO ANY CONSUMER PRODUCT OR OTHER PRODUCT INCORPORATED INTO THE PROPERTY, WHETHER THE PRODUCT MANUFACTURER PROVIDES A WRITTEN WARRANTY OR NOT. THERE ARE NO WARRANTIES BY FIRST AMERICA HOMES, WHETHER EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, SUITABILITY OR FITNESS FOR PURPOSE OR INTENDED USE OF THE CONSUMER PRODUCTS OR ANY OTHER PRODUCTS WHICH ARE INCORPORATED INTO THE PROPERTY OR ARE OTHERWISE THE SUBJECT OF THIS ASSIGNMENT. Purchaser/owner expressly agrees and understands that First America will have no contractual or legal liability for any consumer product incorporated into the property and that any claim relating to a consumer product incorporated into the property shall be directed solely to the manufacturer of the consumer product. Finally, Purchaser/Owner agrees to register all consumer products with manufacturers in order to activate any warranties provided by said manufacturers.

**So ACCEPTED:**

\_\_\_\_\_  
Purchaser Signature/Date

\_\_\_\_\_  
Purchaser Signature/Date

State of                     Texas                     §

§

County of \_\_\_\_\_ §

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_ **and** \_\_\_\_\_ (purchaser(s)), known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

SWORN TO AND SUBSCRIBED BEFORE ME, to certify which witness my hand and seal of office, this the

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of T E X A S

\_\_\_\_\_  
Printed Name and Commission

\_\_\_\_\_  
Expiration Date