

**PINNACLE DEVELOPMENT CORPORATION D/B/A
LIFESTYLE BY STADLER
32335 Highway 281
Bulverde, Texas 78163**

Limited Warranty

© 9/19/19

**PINNACLE DEVELOPMENT CORPORATION D/B/A
LIFESTYLE BY STADLER**

Limited Warranty

Table of Contents

| Section | Page No. |
|--|-----------------|
| A. Defined Terms | 3 |
| B. Limited Warranty Coverage | 4 |
| 1. Appliances | 5 |
| 2. Coverage for Variance from Performance Guidelines | 5 |
| 3. Structural Integrity Coverage for Ten Years | 5 |
| 4. Performance Standards | 6 |
| C. Making a Claim | 38 |
| 1. Claim Form | 38 |
| a. Step One | 38 |
| b. Step Two | 38 |
| c. Step Three | 38 |
| d. Step Four | 39 |
| 2. Emergency Claims | 39 |
| 3. Response to Covered Claims | 39 |
| a. Repair Materials/Subcontractors | 39 |
| b. No obligations for Reimbursement | 39 |
| c. Time for Corrective Work | 39 |
| d. Limit on Repair Obligations | 39 |
| 4. Claims Not Covered by Limited Warranty | 40 |
| D. Exclusions | 40 |
| E. Limited Warranty Coverage Disputes | 41 |
| 1. Intent of Parties | 41 |
| 2. Negotiation | 42 |
| 3. Arbitration of Disputes | 43 |
| 4. Statute of Limitations | 43 |

**PINNACLE DEVELOPMENT CORPORATION D/B/A
LIFESTYLE BY STADLER
LIMITED WARRANTY**

§1.10 Definitions and Warranty Coverage

A. DEFINED TERMS

The following italicized terms are used throughout the Limited Warranty and will have the meanings set forth below:

| | |
|---------------------------------------|--|
| <i>“Adverse effect”</i> | A tangible condition that substantially impairs the functionality of the habitable areas of the Home. |
| <i>“Code”</i> | The International Residential Code or, if the context requires, the National Electrical Code. |
| <i>“Contractor”</i> | J. Long Builder, Ltd. |
| <i>“Contractor Responsibility”</i> | A statement of the corrective action required by the Contractor to repair the construction defect and any other damage resulting from making the required repair. Parties may agree to an alternative remedy. |
| <i>“Defect”</i> | A condition of any item warranted by this Limited Warranty which exceeds the allowable tolerance specified in this Limited Warranty. A Code Violation in the absence of actual physical damage, is not in and of itself a Defect. |
| <i>“Excessive or excessively”</i> | A quantity, amount or degree that exceeds that which is normal, usual or reasonable under the circumstance. |
| <i>“Extreme Weather Condition(s)”</i> | Weather conditions in excess of or outside of the scope of the design criteria stated or assumed for the circumstance in the Code. |
| <i>“Habitable Area”</i> | The air-conditioned space of a Home or if there is no air-conditioning, then the livable area, excluding the garage, porches, and patios. |
| <i>“Homeowner”</i> | Whether one or more means the person(s) listed on the Limited Warranty Enrollment Form and their successors in title. |
| <i>“Homeowner Responsibility”</i> | An action required by the Homeowner for proper maintenance or care of the Home or the element or component of the Home concerned. A Homeowner's failure to substantially comply with a stated Homeowner responsibility creates an exclusion to the warranty for the performance guideline. |
| <i>“Parties”</i> | The parties to this Agreement (that is, Contractor and Homeowner). |
| <i>“Home”</i> | The new Home constructed by Contractor which is referenced on the Limited Warranty Enrollment Form. |
| <i>“Purchase Price”</i> | The purchase price of the Home as set forth in the Limited Enrollment Form. |
| <i>“Effective Date”</i> | The date of closing or date of first occupancy as shown on the Limited Warranty Enrollment Form. |

*“Appliances, Fixtures
And Items of Equipment”*

A component of the home that was manufactured away from the site of the home and that was installed in the home without significant modifications to the product as manufactured. It includes but is not limited to: furnaces and fittings, air handling equipment, exhaust fans, air conditioning equipment, water heaters, pumps, stoves, ovens, microwave ovens, ceiling fans, ice machines, security alarms, garbage disposals, trash compactors, dishwashers, automatic door openers, bathtubs, whirlpool tubs, sinks, toilets, faucets and fittings, central vacuum systems, lighting fixtures, speakers, circuit breakers and any other manufactured products attached to or installed in the Home.

*“Original Construction
Elevations”*

Actual elevations of the foundation taken prior to substantial completion of the residential construction project. Such actual elevations shall include elevations of porches and garages if those structures are part of a monolithic foundation. To establish original construction elevations, elevations shall be taken at a rate of approximately one elevation per 100 square feet showing a reference point, subject to obstructions. Each elevation shall describe the floor. If no such actual elevations are taken, then the foundation for the habitable areas of the Home are presumed to be level within 0.75 inches plus or minus over the overall length of the foundation.

“Performance Guidelines”

Subject to Exclusion D.5., the International Residential Code (“IRC”) and National Electrical Code (“NEC”) for One- and Two-Family Dwellings as modified locally or by statute (collectively referred to as the “Codes”) in effect at the time construction of the Home began, the *Building and Performance Standards* (set forth herein), manufacturer’s instructions and specifications (as used herein, “manufacturer’s instructions,” manufacturer’s specifications,” or terms of similar import, include alternative methods of installation, acceptable to the manufacturer, that do not void any warranty), and to the extent that specific standards do not exist in any of the foregoing publications for a claimed defect, then the locally accepted building practices. The Codes shall be limited to the applicable warranty period. E.g. Claims for Code violations for plumbing, electrical, and mechanical must be brought in the first two years. All other Code complaints, except must be brought in the first year.

“Span” (L)

The distance between two supports. For cantilevered elements, L shall be determined as twice the distance from the last support to the unsupported end of the element. For calculating overall deflection or tilt of slab foundations, L shall be defined as the edge to edge distance across any slab cross-section for which deflection or tilt is to be calculated.

“Living Space”

The air-conditioned portion of a Home.

B. LIMITED WARRANTY COVERAGE

Contractor warrants that the Home and the lot will be constructed consistent with the *Performance Guidelines*. During the first and second year following the Effective Date, Contractor will provide warranty coverage for conditions, which vary from the *Performance Guidelines* as set forth in section B.3. For a period of ten years from the Effective Date, Contractor will provide warranty coverage for Structural Components as set forth in section B.1. Contractor’s sole obligation shall be to repair the condition or alternatively, it may, in its sole discretion, pay Homeowner the reasonable cost of repair. This is not an insurance policy. It is a Limited Warranty from Contractor to Homeowner. The coverage afforded by Contractor in this Limited Warranty is not insured. Where a claimed defect is filed that cannot be observed or determined under normal conditions, it is Homeowner’s responsibility to substantiate that the condition does exist. Any investigative cost shall be paid by Homeowner.

These warranties are expressly limited by the contents of the “Exclusions” (Section D) and may not be modified, revised, extended or supplemented except in writing signed by Homeowner and an authorized representative of Contractor. The warranties are as follows:

1. APPLIANCES, FIXTURES, AND ITEMS OF EQUIPMENT

Contractor assigns to Homeowner, without recourse, all warranties for Appliances, Fixtures and Items of Equipment, which are furnished by the manufacturers to Contractor. Contractor provides no warranty on those items. If it is necessary to request warranty service, Homeowner must make a request directly to the manufacturer or its representative. In the unlikely event that the manufacturer is not responsive to the request, Contractor may (but is not obligated to) assist Homeowner in attempting to obtain the necessary repairs or replacements from the manufacturer if the appliance or equipment is still in warranty. In the event that Contractor provides necessary repairs or replacement of any Appliances, Fixtures and Items of Equipment, it shall be subrogated to Homeowner’s rights against the manufacturer.

2. COVERAGE FOR VARIANCE FROM PERFORMANCE GUIDELINES

First Year Coverage: Subject to the exclusions in Section D, Contractor warrants the Home and all components of the Home, not otherwise expressly limited in this warranty, to be in substantial compliance with the *Performance Guidelines*, for a period of one year after the Effective Date.

First Two Years Coverage: Subject to the exclusions in Section D, Contractor warrants that all components of the plumbing, electrical, heating, ventilation and air-conditioning delivery systems of the Home, not otherwise expressly limited in this warranty, to be in substantial compliance with the *Performance Guidelines*, for a period of two years after the Effective Date.

“*Appearance items*” are those characteristics in the Home, which can be seen, but have no functional, mechanical or structural value. Visual perception of these items vary from person to person. For example, variations in the wall texture may look appealing to one person and unappealing to another. Prior to taking ownership of the Home, you will be required to attend a “walk-through” of the Home with a representative of Contractor. If an appearance item looks unappealing to you, address it at the time of your walk-through. The Contractor representative will advise you if action will be taken to modify the appearance, and it will be noted on the walk-through checklist. **Appearance items not noted on the walk-through checklist are not warranted.**

“*Cosmetic damage*” includes but is not limited to chipped tubs, scratched countertops or windows, smudged paint, chips or dents in vinyl flooring, dents in walls, etc. Cosmetic damage caused by Homeowner or Homeowner’s invitees is not covered by this Limited Warranty. **Unless the Homeowner notifies Contractor of a particular item of cosmetic damage at the time of the walk-through inspection, such cosmetic damage will be deemed to be an item of Homeowner damage and will not be covered by Contractor.**

3. STRUCTURAL INTEGRITY COVERED FOR TEN YEARS

a. Contractor warrants the Structural Components of the Home will substantially comply with the *Performance Standards* for Foundations and Structural Components of a Home, set forth below, for a period of ten (10) years beginning on the Effective Date. Other types of damage or defects in the Home not specifically mentioned in this Section B.1. may be covered by the warranties provided in Section B.2.

“*Structural Components*” The load-bearing portions of the following elements of the Home:

1. Footings and Foundation;
2. Beams;
3. Headers;
4. Girders;
5. Lintels;
6. Columns (other than a column that is designed to be cosmetic);
7. Load-bearing portions of walls and partitions;

8. Roof framing systems, to include ceiling framing;
9. Floor systems; and
10. Masonry arches

Damage to the following non-load bearing portions of the Home may be covered during the first year of this Limited Warranty, but is not covered under this section:

1. Roofing materials and sheathing
2. Drywall and plaster
3. Exterior siding
4. Brick, stone or stucco veneer
5. Floor covering material
6. Wall tile and other wall coverings
7. Non-load bearing walls and partitions
8. Concrete floors in attached garages and basements that are built separately from foundation walls or other structural elements of the Home.
9. Electrical, plumbing, heating, cooling and ventilation systems
10. Appliances, fixtures and items of equipment
11. Paint
12. Doors and windows
13. Trim
14. Cabinet
15. Hardware
16. Insulation

b. Contractor's obligation with respect to Structural Components is limited to the repair or payment of the reasonable cost of repair, as is necessary to restore the structural integrity to or performance of the Structural Component of the Home, which has failed to perform in accordance with the *Performance Standards* for Foundations and Structural Components of a Home, subject to the Exclusions in Section D.

c. Performance Standards for Foundations and Structural Components of a Home:

i. Performance Standards for Slab Foundations¹:

Slab foundations should not move differentially after they are constructed, such that a tilt or overall deflection in the slab in excess of the standards defined below arises from post-construction movement. The protocol and standards for evaluating and repairing slab foundations shall follow the *Guidelines for the Evaluation of Repair of Residential Foundations* Version 2 as published by the Texas Section of the American Society of Civil Engineers (2009), hereinafter referred to as the *ASCE Guidelines* with the following modifications:

A. Deflection

- (1) Overall deflection of a slab foundation from the original construction elevations shall be no greater than the overall length or width of the foundation divided by 360 (L/360) and must not have more than one associated symptom of distress, as described in Section 5.3 of the *ASCE Guidelines*, that results in actual observable physical damage to the Home.
- (2) If a slab foundation deflects more than L/360 from its original construction elevation and the movement has created actual observable physical damage to the components of the Home identifiable in Section 5.3 of the *ASCE Guidelines*,

¹ For the purposes of this §3(c), if there are no "construction elevations" the structural component is presumed to be flat with 0% tilt.

the plan of repair shall be based on applicable remedial measures as described in Section 7 of the *ASCE Guidelines*.

B. Tilt

- (1) The slab foundation shall not move after construction in a tilting mode in excess of one percent from the original construction elevations, resulting in actual observable physical damage to the components of the Home.
- (2) If the slab foundation moves after construction in a tilting mode in excess of one percent from the original construction elevations resulting in actual observable physical damage to the components of the Home, the plan of repair shall be based on applicable remedial measures as described in Section 7 of the *ASCE Guidelines*.

ii. **Performance Standards for Structural Components Other than Slab Foundations.**

A. Floor pier and beam foundations.

- (1) A floor over pier and beam foundation shall not deflect more than $L/360$ from its original construction elevations and have that movement create actual observable physical damage to the components of the Home identifiable in Section 5.3 of the *ASCE Guidelines*.
- (2) If a floor over pier and beam foundation deflects more than $L/360$ from its original construction elevation and the movement has created actual observable physical damage to the components of the Home identifiable in Section 5.3 of the *ASCE Guidelines*, the plan of repair shall be based on applicable remedial measures as described in Section 7 of the *ASCE Guidelines*.

B. Cracked or Distorted Structural Components.

- (1) A defined Structural Component shall not crack, bow, become distorted or deteriorate, such that it compromises the structural integrity of the Home or the performance of a structural system of the Home resulting in actual observable physical damage to a component of the Home.
- (2) If a Structural Component of the Home cracks, bows, is distorted or deteriorates such that it results in actual observable physical damage to a component of the Home, the Contractor shall take such action as is necessary to repair, reinforce or replace such structural component to restore the structural integrity of the Home or the load-bearing capability of the affected structural system.

C. Deflected Structural Components.

- (1) A Structural Component shall not deflect more than the ratios allowed by the Code.
- (2) If a Structural Component of the Home is deflected more than the ratios allowed by the Code, the Contractor shall take such action as is necessary to repair, reinforce or replace such Structural Component to restore the structural integrity of the Home or the load-bearing capability of the affected structural system.

D. Damaged Structural Components.

- (1) A Structural Component shall not be so damaged that it compromises the structural integrity or performance of the affected structural system.

- (2) If a Structural Component is so damaged that it compromises the structural integrity or performance of a structural system of the Home, the Contractor shall take such action as is necessary to repair, reinforce or replace such Structural Component to restore the structural integrity of the Home or the load-bearing capability of the affected structural system.

E. Separated Structural Components.

- (1) A Structural Component shall not separate from a supporting member more than $\frac{3}{4}$ of an inch or such that it compromises the structural integrity or performance of the system.
- (2) If a Structural Component is separated from a supporting member more than $\frac{3}{4}$ of an inch or separated such that it compromises the structural integrity or performance of a structural system of the Home, the Contractor shall take such action as necessary to repair, reinforce or replace such Structural Component to re-establish the connection between the Structural Component and the supporting member and to restore the structural integrity of the Home or the load-bearing capability of the affected structural system.

F. Non-performing Structural Components.

- (1) A Structural Component shall function as required by the Code.
- (2) If a Structural Component does not function as required by the Code, the Contractor shall take such action as is necessary to bring the variance within the standard stated in subparagraph (A) of this paragraph.

Performance Standards for Components of a Home Subject to a Warranty of One Year for Workmanship and Materials.

§2.10. Performance Standards for Foundations and Slabs.

(a) Performance Standards for Raised Floor Foundations, Basements, or Crawl Spaces.

- (1) A crawl space shall be graded and drained properly to prevent surface run-off from accumulating deeper than two inches in areas 36 inches or larger in diameter. Exterior drainage around perimeter crawl space wall shall not allow water to accumulate within ten feet of the foundation for more than 24 hours after a rain except in a sump that drains other areas.
 - (A) If the crawl space is not graded or does not drain in accordance with the performance standard stated in paragraph (1) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall not modify improperly the existing grade or allow water from an irrigation system to cause water to accumulate excessively under the foundation. The Homeowner shall not allow landscape plantings to interfere with proper drainage away from the foundation. The Homeowner shall not use the crawl space for storage of any kind.
- (2) Water shall not enter through the basement or crawl space wall or seep through the basement floor.
 - (A) If water enters the basement or crawl space wall or seeps through the basement floor, the contractor shall take such action as is necessary to bring the variance within the standard stated in paragraph (2) of this subsection, unless caused by excessive watering by the Homeowner.
 - (B) The Homeowner shall not modify improperly the existing grade or allow water from an irrigation system to cause water to accumulate excessively near the foundation. The Homeowner shall not allow landscape plantings to interfere with proper drainage away from the foundation.
 - (C) Dampness of concrete walls or floors in a basement, cause by condensation is not warrantable.

- (3) Unfinished concrete or concrete block walls in basements shall not bow or be out of plumb in excess of 1" in eight feet. However, if the wall complies with Code as evidence by passing inspection, no corrective action is necessary.
- (4) Cracks in unfinished concrete or concrete block walls in basements, shall not exceed 1/4" in width. If a crack exceeds this tolerance, Contractor shall fill the crack with a material designed to fill cracks in concrete.
- (5) Pits or surface voids in unfinished concrete walls shall not exceed 1" in width or depth. Pits or voids in excess of 1" in depth shall be filled with a suitable material.

(b) Performance Standards for Concrete Slab Foundations, excluding Finished Concrete Floors.

- (1) Concrete floor slabs in Living Spaces that are not otherwise designed with a slope for drainage, such as a laundry room, shall not have excessive pits, depressions or unevenness equal to or exceeding 3/8 of an inch in any 32 inches and shall not have separations or cracks that equal or exceed 1/8 of an inch in width or 1/16 of an inch in vertical displacement. If a concrete floor slab in a Living Space fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within that standard.
- (2) Concrete slabs shall not have protruding objects, such as a nail, rebar or wire mesh. If a concrete slab has a protruding object, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (3) A separation in an expansion joint in a concrete slab shall not equal or exceed 1/4 of an inch vertically or one inch horizontally from an adjoining section because of settlement, heaving or separation. If an expansion joint in a concrete slab fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) Cracks in unfinished concrete floors in excess of 3/16 of an inch in width or vertical displacement, shall be repaired if within the Living Space of the Home. Repairs can be made by using material, designed to fill cracks in concrete, such as epoxy.
- (5) Efflorescence is a typical condition, caused by water reacting to the soluble salts in concrete and is not warrantable.
- (6) Loose sandy surfaces ("dusting") shall not be so sandy as to cause a problem with flooring adhering to the concrete. The surface shall be corrected so as to make the concrete floor suitable for application of the finished flooring (such as tile or wood).

(c) Performance Standards for Exterior Concrete including Patios, (Stem Walls, Exposed Beams, Driveways, Stairs or Walkways)

- (1) Concrete corners or edges shall not be damaged excessively due to construction activities. If a concrete corner or edge is damaged excessively, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (2) A crack in exterior concrete shall not cause vertical displacement equal to or in excess of 1/4 of an inch or horizontal separation equal to or excess of 1/4 of an inch.
 - (A) If an exterior concrete slab is cracked, separated or displaced beyond the standard of performance stated in paragraph (2) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall not over-water surrounding soil or allow the surrounding soil to become excessively dry. The Homeowner shall not allow heavy equipment to be placed on the concrete.
- (3) The finish on exterior concrete shall not be excessively smooth, so that the surface becomes slippery.
 - (A) If the finish on exterior concrete is excessively smooth so that the surface becomes slippery, the Contractor shall take such action as is necessary to bring the variance within the standard stated in paragraph (3) of this subsection.
 - (B) A concrete surface that has been designed to be smooth is excepted from this performance standard.

- (4) Exterior concrete shall not contain a protruding object, such as a nail, rebar or wire mesh. If an exterior concrete surface has a protruding object, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (5) A separation in an expansion joint in exterior concrete shall not equal or exceed 1/2 of an inch vertically from an adjoining section or one inch horizontally, including joint material. If an expansion joint fails to perform in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (6) A separation in a control joint shall not equal or exceed 1/4 of an inch vertically or 1/2 of an inch horizontally from an adjoining section. If a control joint fails to perform in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) Concrete stair steepness and dimensions, such as tread width, riser height, landing size, and stairway width shall comply with the Code. If the steepness and dimensions of concrete stairs do not comply with the Code, the Contractor shall take such action as is necessary to bring the variance within the standard for Code compliance.
- (8) Handrails shall remain securely attached to concrete stairs or exterior wall. If handrails are not firmly attached to the concrete stairs or exterior wall, the Contractor shall take such steps necessary as to attach the rails securely.
- (9) Concrete stairs or stoops shall not settle or heave in an amount equal to or exceeding 3/8 of an inch. Concrete stairs or stoops shall not separate from the Home in an amount equal to or exceeding one inch, including joint material. If the stairs or stoops settle, heave or separate from the Home in an amount equal to or exceeding the standard above Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (10) A driveway will not have a negative slope unless due to site conditions, the lot is below the road. If a driveway has a negative slope due to site conditions, it shall have swales or drains properly installed to prevent water from entering into the garage. If a driveway has a negative slope that allows water to enter the garage in normal weather conditions, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (11) Concrete floor slabs in detached garages, carports, or porte-cocheres shall not have excessive pits, depressions, deterioration, or unevenness. Separations or cracks in these slabs shall not equal or exceed 3/16 of an inch in width, except at expansion joints, or 1/8 of an inch in vertical displacement. If a concrete floor slab in a detached garage, carport or porte-cochere does not meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (12) Bulges in exterior grade beams of the foundation are Cosmetic damage, and if noted on the walk-through list, will be repaired in Contractor's sole discretion.
- (13) Efflorescence on exterior grade beams and other concrete surfaces is a typical condition, caused by water reacting to the soluble salts in concrete and is not warrantable.

§2.11. Performance Standards for Framing.

(a) Building and Performance Standard for Walls.

- (1) Walls shall not bow or have depressions that equal or exceed 1/4 of an inch out of line within any 32-inch horizontal measurement as measured from the center of the bow or depression or 1/2 of an inch within any eight-foot vertical measurement. If a wall does not meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) Walls shall be level, plumb and square to all adjoining openings or other walls within 3/8 of an inch in any 32-inch measurement. If a wall does not meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) A crack in a beam or a post shall not equal or exceed 1/2 of an inch in width at any point along the length of the crack and shall not exceed 5 inches in length. If a crack in the beam or post fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

- (4) A non-structural post or beam shall not have a warp or twist to equal or exceeding one inch in eight-feet of length. Warping or twisting shall not damage beam pocket. If a non-structural post or beam fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) Exterior sheathing shall not delaminate or swell.
 - (A) If exterior sheathing delaminates or swells, the Contractor shall take such action as is necessary to bring the variance within the standard stated in paragraph (5) of this subsection.
 - (B) The Homeowner shall not make penetrations in the exterior finish of a wall that allow moisture to come in contact with the exterior sheathing. The Contractor will not be liable for swelling or delamination caused by penetrations made by the Homeowner.
- (6) An exterior moisture barrier shall not allow an accumulation of moisture inside the barrier.
 - (A) If an exterior moisture barrier allows an accumulation of moisture inside the barrier, the Contractor shall take such action as is necessary to bring the variance within the standard stated in paragraph (6) of this subsection.
 - (B) The Homeowner shall not make penetrations through the exterior moisture barrier that permit the introduction of moisture inside the barrier. The Contractor will not be liable for moisture caused by penetrations made by the Homeowner.

(b) Performance Standards for Ceilings.

A ceiling shall not bow or have depressions that equal or exceed 1/2 of an inch out of line within a 32-inch measurement as measured from the center of the bow or depression running parallel with a ceiling joist. If a ceiling has a bow or depression that is greater than the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard. Homeowner should understand that lighting can exaggerate the “waviness” of ceilings.

(c) Performance Standards for Sub-floors.

- (1) Under normal residential use, the floor shall not make excessive squeaking or popping sounds. If the floor makes excessive squeaking or popping sounds under normal residential use, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (2) Sub-floors shall not delaminate or swell to the extent that it causes observable physical damage to the floor covering or visually affects the appearance of the floor covering. Exposed structural flooring, where the structural flooring is used as the finished flooring, is excluded from the standard stated in this paragraph. If a sub-floor delaminates or swells to the extent that it affects the floor covering as stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) Sub-flooring shall not have excessive humps, ridges, depressions or slope within any room that equals or exceeds 3/8 of an inch in any 32-inch direction. If the sub-flooring fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) Subfloors shall not be excessively springy or bouncy. Floors that are excessively springy or bouncy shall be reinforced by Contractor.
- (5) If a wood subfloor is out of level by more than 1/2 inch in 20 feet, Contractor will correct in a reasonable and cost-effective manner to restore levelness, including but not limited to the use of self-leveling compounds or reinforcement of the floor. Deflections caused by overloading of the floor by the Homeowner, are not warrantable.

(d) Performance Standards for Stairs.

- (1) Stair steepness and dimensions such as tread width, riser height, landing size and stairway width, shall comply with the Code. If stair steepness and dimensions do not comply with the Code, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (2) Under normal residential use, stairs shall not deflect excessively or make excessive squeaking or popping sounds. If stairs deflect excessively or make excessive squeaking or popping sounds under normal residential use, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.

- (3) Gaps between adjoining parts of stairs that are intended to be flush shall not exceed 1/8 of an inch. Gaps in excess of 1/8 of an inch shall be filled or the parts replaced.
 - (4) Gaps between adjoining parts of stair railings that are intended to be flush shall not exceed 1/8 of an inch. Contractor shall insure that railings are secure and fill any remaining gaps.
- (e) **Performance Standards for Wood or Wood Framed Columns**
- (1) Wood or wood framed columns shall not be out of plumb in excess of 3/4 of an inch in an 8-foot span. If the column fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) Wood columns shall not have a crack that equals or exceeds 1/2 of an inch in width at any point along the length of the crack. If a crack in a wood column fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

§2.12. Performance Standards for Drywall.

- (a) A drywall surface shall not have a bow or depression that equals or exceeds 1/4 of an inch out of line within any 32-inch horizontal measurement as measured from the center of the bow or depression or 1/2 of an inch within any eight-foot vertical measurement. If a drywall surface fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (b) A ceiling made of drywall shall not have bows or depressions that equal or exceed 1/2 of an inch out of line within a 32-inch measurement as measured from the center of the bow or depression running parallel with a ceiling joist or 1/2 of an inch deviation from the plane of the ceiling within any eight-foot measurement. If a drywall ceiling fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (c) A drywall surface shall not have a crack such that any crack equals or exceeds 1/16 of an inch in width at any point along the length of the crack. If a drywall surface has a crack that exceeds the standard in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (d) Crowning at a drywall joint shall not equal or exceed 1/4 of an inch within a twelve-inch measurement centered over the drywall joint. If crowning at a drywall joint exceeds the standards stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard. Crowning occurs when a drywall joint is higher than the plane of the drywall board on each side.
- (e) A drywall surface shall not have surface imperfections such as blisters, cracked corner beads, seam lines, excess joint compound or trowel marks that are visible from a distance of six feet or more in normal light. If a drywall surface fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (f) A drywall surface shall not be out of level (horizontal), plumb (vertical) or square (perpendicular at a 90-degree angle) such that there are variations in those measurements to wall or surface edges at any opening, corner, sill, shelf, etc. shall not equal or exceed 3/8 of an inch in any 32-inch measurement along the wall or surface.
 - (1) If a drywall surface fails to meet the standard stated in subsection (f) of this section, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) This standard shall not apply to remodeling projects where existing conditions do not permit the Contractor to achieve the performance standard. At or about the time of discovery of such a preexisting condition, a remodeler shall notify the Homeowner, in writing, of any existing condition that prevents achievement of the standard.
- (g) Nails or screws shall not be visible in a drywall surface. If nails or screws are visible, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (h) Texture does not match. Variations in texture that are visible from six feet under normal lighting conditions shall be repaired if noted at the time of walk-through.

§2.13. Performance Standards for Insulation.

- (a) Insulation shall be installed in the walls, ceilings and floors of a Home in accordance with the building plan and specifications and the Code. If the insulation in walls, ceilings or floors is not in accordance with the building plans and specifications and the Code, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.
- (b) Blown insulation in the attic shall not displace or settle so that it reduces the R-value below manufacturer's specifications, the building plans and the Code. If the blown insulation in the attic reduces, settles or is displaced to the extent that the R-value is below the manufacturer's specifications, the building plans and Code, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.
- (c) A gap equal to or in excess of 1/4 of an inch between insulation batts or a gap between insulation batts and framing members is not permitted. If a gap equal to or greater than 1/4 of an inch occurs between insulation batts; or a gap occurs between an insulation batt and a framing member, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.
- (d) Insulation shall not cover or block a soffit vent to the extent that it blocks the free flow of air. If the insulation covers or blocks the soffit vent, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.

§2.14. Performance Standards for Exterior Siding and Trim.

(a) Performance Standards for Exterior Siding.

- (1) Exterior siding shall be equally spaced and properly aligned. Horizontal lap siding shall not equal or exceed 1/2 of an inch off parallel with the adjacent course over a 20-foot span. If siding is misaligned or unevenly spaced and fails to meet the performance standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) Siding shall not gap or bow. A siding end joint shall not have a gap that equals or exceeds 1/4 of an inch in width. Siding end joint gaps shall be caulked. A bow in siding shall not equal or exceed 1/2 of an inch out of line in a 32-inch measurement. If siding has gaps or bows that exceed the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) Nails shall not protrude from the finished surface of siding but nail heads may be visible on some products where allowed by the manufacturer's specifications. If a nail protrudes from the finished surface of siding, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph. Nails that are over-driven (below the surface of the siding) shall be caulked and painted.
- (4) Siding shall not have a nail stain. If siding has a nail stain, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (5) Siding and siding knots shall not become loose or fall off. If siding or siding knots become loose or fall off, the Contractor shall secure them.
- (6) Siding shall not delaminate. If siding fails to comply with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) Siding shall not cup in an amount equal to or exceeding 1/4 of an inch in a six-foot run. If siding fails to comply with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (8) Siding shall not have cracks or splits that equal or exceed 1/8 of an inch in width. If siding fails to comply with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (9) Boards that buckle, such that they project more than 3/16 of an inch from the face of adjacent boards will be nailed to meet the performance standard or shall be replaced.
- (10) Butt joints of siding shall not separate in excess of 3/16 of an inch. If the separate in excess of the standard, the Contractor shall fill the gap with caulk and repaint the localized area.
- (11) Siding should be parallel with eaves and wall openings. Any piece of lap siding that is off parallel by more than a 1/2 inch I twenty feet shall be removed and reinstalled or replaced.

- (12) All manufactured siding shall be installed in general conformity with manufacturer's recommendations. Manufactured siding that is not installed in general conformity with manufacturer's recommendations, shall be removed and reinstalled.

(b) Performance Standards for Exterior Trim.

- (1) A joint between two trim pieces shall not have a separation at the joint equal to or exceeding 1/4 of an inch in width and all trim joints shall be caulked. If there is a separation at a trim joint that fails to comply with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) Exterior trim and eave block shall not warp or twist in an amount equal to or exceeding 1/2 of an inch in an eight-foot run. If exterior trim or eave block warps in excess of the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) Exterior trim and eave block shall not cup in an amount equal to or in excess of a 1/4 of an inch in a six-foot run. If exterior trim or eave block cups in excess of the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) Exterior trim and eave block shall not have cracks or splits equal to or in excess of 1/8 of an inch in average width. If exterior trim or eave block has cracks in excess of the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) Trim shall not have nails that completely protrude through the finished surface of the trim but nail heads may be visible on some products.
- (A) If a nail protrudes from the finished surface of the trim, the Contractor shall take such action as is necessary to bring the variance within the standard stated in paragraph (5) of this subsection.
- (B) Some products specify that the nails be flush with the trim surface. When these products are used, visible nail heads are not considered protruding nails as long as they are painted over.
- (6) Trim shall not have a nail stain. If trim has a nail stain, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (7) Trim cupping in excess of 3/16th of an inch in a 5" span is considered excessive and Contractor shall take corrective action to bring the trim within the standard.

§2.15. Performance Standards for Masonry including Brick, Block and Stone.

- (a) A masonry wall shall not bow in an amount equal to or in excess of one inch when measured from the base to the top of the wall.
- (1) If a masonry wall fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) The standard set forth in this subsection does not apply to natural stone products.
- (b) A masonry unit or mortar shall not be broken or loose. If a masonry unit or mortar fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (c) A masonry mortar crack shall not equal or exceed 1/4 of an inch in width or be visible under normal lighting conditions at a distance of 20 feet. If a crack in masonry mortar fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (d) A masonry unit or mortar shall not deteriorate. If a masonry unit or mortar fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (e) Masonry shall not have dirt, stain or debris on the surface due to construction activities. If masonry fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.

- (f) A gap between masonry and adjacent material shall not equal or exceed 1/4 of an inch in average width and all such gaps shall be caulked. If a gap between masonry and adjacent material fails to meet the standards stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (g) Mortar shall not obstruct a functional opening, such as a vent, weep hole or plumbing cleanout.
 - (1) If the mortar obstructs a functional opening, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.
 - (2) The Homeowner shall not put any material into weep holes. Weep holes are an integral part of the wall drainage system and must remain unobstructed.
- (h) Cut bricks below openings in walls, shall not vary in thickness by more than ¼ of an inch. If cut bricks do not meet this standard, the Contractor shall take corrective action to bring the cut bricks within the standard.
- (i) No point along the bottom of a course of bricks shall be more than ¼ of an inch higher or lower than any other point along the bottom of the same course of bricks over a distance of 10 feet. If the course of bricks fails to comply then Contractor shall take action to bring the course within the standard,
- (j) Efflorescence evidenced by a white film on the surface of the mortar or brick is not warrantable and is a normal chemical reaction between water and the soluble salts in the mortar.
- (k) Masonry Columns.
 - (1) Masonry columns shall not be out of plumb in excess of one inch in an 8-foot span. If the column fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

§2.16. Performance Standards for Stucco.

- (a) Stucco surfaces shall not be excessively bowed, uneven, or wavy.
 - (1) If a stucco surface bows more than 1 inch from the base of the wall to the top of the wall, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) This standard shall not apply to decorative finishes.
- (b) Stucco shall not be broken or loose. If stucco is broken or loose, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.
- (c) Stucco shall not have cracks that equal or exceed 1/8 of an inch in width at any point along the length of the crack.
 - (1) If the stucco fails to perform as stated in subsection (c) of this section, the Contractor shall take such action as is necessary to bring the variance within the standard. Caulking and repainting the immediate area is an acceptable repair.
 - (2) The Contractor shall not be responsible for repairing cracks in stucco caused by the Homeowner's actions, including the attachment of devices to the stucco surface, such as, but not limited to, patio covers, plant holders, awnings and hose racks.
- (d) Stucco shall not deteriorate excessively.
 - (1) If the stucco deteriorates excessively, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) The Homeowner shall not allow water from irrigation systems to contact stucco finishes excessively.
- (e) Stucco shall not have dirt, stain or debris on surface due to construction activities. If the stucco fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (f) Stucco surfaces shall not have imperfections that are visible from a distance of six feet under normal lighting conditions that disrupts the overall uniformity of the finished pattern. If the stucco fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.

- (g) The lath shall not be exposed. If the lath is exposed, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.
- (h) A separation between the stucco joints shall not equal or exceed 1/16 of an inch in width. If a separation between the stucco joints occurs in excess of the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (i) A separation between a stucco surface and adjacent material shall not equal or exceed 1/4 of an inch in width and all separations shall be caulked. If a separation occurs between a stucco surface and adjacent material occurs in excess of the standard stated in this subsection or if such a separation is not caulked, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (j) Stucco shall not obstruct a functional opening, such as a vent, weep hole or plumbing cleanout. If stucco obstructs a functional opening, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.
- (k) Stucco screed shall have a minimum clearance of at least 4 inches above the soil or landscape surface and at least 2 inches above any paved surface. If the stucco screed clearance does not meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (l) Exterior Installation Finish Systems (EIFS) stucco screed shall be clear of any paved or unpaved surface by 6 inches. If the EIFS stucco screed clearance does not meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (m) The colors of stucco do not match. Stucco applied on different days under different environmental conditions may vary in shade. Unless it is excessive, no action is required.
- (n) Rust marks on stucco finish. Rust marks are considered excessive and Contractor will take corrective action if more than 5 rust marks measuring an inch or more occur in 100 square feet.
- (o) Water damage to the interior of the residence as a result of a leak in the stucco system. Under normal weather conditions, stucco should not permit the penetration of water to the interior of the residence and Contractor shall take corrective action. Contractor is not responsible for water intrusion under Extreme Weather Conditions.

§2.17. Performance Standards for Roofs.

- (a) Flashing shall prevent water penetration.
 - (1) If the flashing fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) The Contractor shall not be responsible for leaks caused by Extreme Weather Conditions.
- (b) The roof shall not leak under normal weather conditions.
 - (1) If the roof fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) The Contractor shall not be responsible for leaks caused by Extreme Weather Conditions, wind-driven rain, or penetrations made by the Homeowner.
 - (3) The Homeowner shall perform periodic maintenance to prevent leaks due to build-up of debris, snow or ice. The Homeowner shall take such action as is necessary to prevent downspouts and gutters from becoming clogged. The Homeowner should periodically apply mastic around roof penetrations.
- (c) A vent, louver or other installed attic opening shall not leak under normal weather conditions.
 - (1) If a vent, louver or other installed attic opening fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) The Contractor shall not be responsible for leaks caused by Extreme Weather Conditions or wind driven rain.
- (d) A gutter or downspout shall not leak or retain standing water. After cessation of rainfall, standing water in an unobstructed gutter shall not equal or exceed 1/2 of an inch in depth.

- (1) If a gutter or downspout fails to meet the standard in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard. Sealants are an acceptable repair for gutter leaks.
 - (2) The Contractor shall not be responsible for leaks caused by Extreme Weather Conditions.
 - (3) The Homeowner shall maintain and clean gutters and downspouts to prevent buildup of debris or other obstructions.
- (e) Shingles, tiles, metal or other roofing materials shall not become loose or fall off in wind speeds less than those set forth in the manufacturer's specifications. If the shingles, tiles, metal or other roofing materials fail to meet the standard in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (f) A skylight shall not leak. If a skylight fails to meet the standard in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard. Condensation on interior surfaces is not a leak.
 - (g) Water shall drain from a built-up roof within two hours after cessation of rainfall. The standard does not require that the roof dry completely within the time period. If the built-up roof fails to meet the standard in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (h) A roof tile shall not be cracked or broken. No shingle shall be broken so that it detracts from the overall appearance of the Home. If roof tiles or shingles fail to meet the standard in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (i) A pipe, vent, fireplace or other object designed to penetrate the roof shall not be located within the area of roof valley centerline without proper "cricketing" or other Code-approved water diversion methods. If a pipe, vent, fireplace or other object designed to penetrate the roof is not correctly located as provided in the performance standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (j) Shingles shall be installed in general compliance with the manufacturer's instructions (so as not to void any manufacturer's warranty). Shingles not meeting this standard shall be repaired or replaced. New shingles installed will not match the existing shingles due to weathering and this is not Contractor's responsibility.
 - (k) Asphalt shingle edges are curling or cupping. Shingle edges shall not curl or cup in excess of ½ inch. Shingles not meeting this standard shall be repaired or replaced.
 - (l) Shingles shall extend beyond the edge of the roof ½ to ¾ of an inch. Shingles not meeting this standard shall be repaired or replaced.
 - (m) Shingles are buckling. Buckling in excess of ¼ of an inch is considered excessive and shall be repaired or replaced by Contractor.
 - (n) Roof sheathing nails have loosened and are pushing shingles up. Contractor shall repair this condition by re-driving nails or replacing fasteners. Any holes shall be sealed.
 - (o) Roofing nails are exposed. Any exposed roofing nails shall be sealed.
 - (p) Holes in asphalt shingles due to construction activities shall be flashed or sealed below the shingle tab to prevent leakage.
 - (q) Standing seam metal roofs shall not rust.
 - (1) If the standing seam metal roof fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) Galvanized metal roofs should not rust during the first year. Paint grip roofs may develop small patches of rust. Excessive rust will be repaired by Contractor.
 - (r) Water is trapped under roll roofing. If water is trapped under roll roofing in the first year, Contractor shall repair or replace to meet the standard.
 - (s) Roll roofing is blistered. Unless the blistering allows water intrusion, no action is required.
 - (t) Ridge beams deflecting in excess of 1" in 8 feet is considered excessive. Contractor shall repair affected ridge beams that do not meet this criteria.

- (u) Roof is wavy. Rafters may crown or sag. Crowns or sags in excess of one inch in 8 feet are considered excessive and Contractor shall take such action as is required to bring the variance within this standard.
- (v) Attic ventilation is inadequate. Contractor is responsible for insuring that attic ventilation complies with Code requirements and if it fails to meet that standard, the Contractor shall take such action as is necessary to bring the variance within the standard, through ridge vents, gable vents, soffit vents, turtle vents or otherwise.

§2.18. Performance Standards for Doors and Windows.

(a) Performance Standards for Both Doors and Windows.

- (1) When closed, a door or window shall not allow excessive infiltration of air or dust. If a door or window fails to meet the performance standard stated in this paragraph the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) When closed, a door or window shall not allow excessive accumulation of moisture inside the door or window. On occasion, wind-blown rain may cause minor leaks and is to be expected.
 - (A) If a door or window fails to meet the performance standard stated in paragraph (2) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall keep weep holes on windows and doors free of dirt buildup and debris, thereby allowing water to drain properly.
 - (C) Most door and window assemblies are designed to open, close and weep moisture-allow condensation or minor penetration by the elements to drain outside.
 - (D) Condensation forming on the inside surface of windows due to high humidity is not warrantable if the window is installed in accordance with the manufacturer's recommendation.
- (3) Glass in doors and windows shall not be broken due to improper installation or construction activities. If glass in a window or door is broken due to improper installation or construction activities, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph. Scratches on windows from construction activities, observable at a distance of six feet, under normal lighting conditions are deemed excessive and will be re-glazed.
- (4) A screen in a door or window shall fit properly and shall not be torn or damaged due to construction activities. A screen shall not have a gap equal to or exceeding 1/4 of an inch between the screen frame and the window frame. If a screen in a door or window fails to meet the performance standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) There shall be no condensation between window and door panes in a sealed insulated glass unit.
 - (A) If a window or door fails to meet the performance standard stated in paragraph (5) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall not apply a tinted window film or coating to window or door panes in sealed insulated glass units.
- (6) A door or window latch or lock shall close securely and shall not be loose or rattle. If a door, window latch or lock fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) A door or window shall operate easily and smoothly and shall not require excessive pressure when opening or closing. If a door or window fails to meet the performance standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (8) A door or window shall be painted or stained according to the manufacturer's specifications. If a window or door fails to meet the performance standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

(b) Performance Standards for Windows.

A double hung window shall not move more than two inches when put in an open position. If a window fails to meet the performance standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.

(c) Performance Standards for Doors.

- (1) A sliding door, bifold door, and door screen shall stay on track.
 - (A) If a sliding door, bifold door, or door screen fails to perform to the standard stated in paragraph (1) of this subsection, Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall clean and lubricate sliding door or door screen hardware as necessary.
- (2) The spacing between an interior door bottom and original floor covering, except closet doors, shall not exceed 1.5 inches and shall be at least 1/2 of an inch. The spacing between an interior closet door bottom and original floor covering shall not exceed two inches and shall be at least 1/2 of an inch. If the spacing between a door bottom and the original floor covering does not meet the performance standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) A door shall not delaminate. If a door becomes delaminated, a Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (4) A door panel shall not split so that light from the other side is visible. If a door panel fails to meet the performance standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) A door shall open and close without binding. If a door fails to perform in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (6) A door shall not warp to the extent that it becomes inoperable. A warp in a door panel shall not equal or exceed 1/4 of an inch from original dimension measured vertically, horizontally or diagonally from corner to corner. If a door fails to perform in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) A storm door shall open and close properly and shall fit properly. If a door fails to perform in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (8) When a door is placed in an open position, it shall remain in the position it was placed, unless the movement is caused by airflow. If a door fails to perform in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (9) A metal door shall not be dented or scratched due to construction activities. If a metal door fails to comply with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (10) An exterior door shall shut completely. If it fails to do so, Contractor shall adjust the door to meet the performance standard.
- (11) Tarnish on Exterior door hardware and kickplates is covered by the manufacturer's warranty and is not a warrantable item by Contractor.
- (12) Doorknobs, deadbolts, and locksets shall operate smoothly. If the doorknob, deadbolt, or lockset binds, or is inoperable, Contractor shall make adjustments so that they operate smoothly on a one-time basis.
- (13) The reveal between a door and the doorjamb shall not vary in width by more than 3/16 of an inch. If the variation exceeds 3/16 of an inch, Contractor shall adjust the door.
- (14) Pocket doors rub against the pocket under normal operation. Pocket doors should not rub and Contractor will adjust the door on a one-time basis. Overtime, pocket doors may rub, derail, or stick due to the inherent nature of the product.

(d) Performance Standards for Garage Doors.

- (1) A metal garage door shall not be dented or scratched due to construction activities. If a metal garage door fails to comply with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) A garage door opener, if provided, shall operate properly in accordance with manufacturer's specifications.
 - (A) If a garage door opener fails to perform in accordance with the standard stated in paragraph (2) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) A Homeowner shall maintain tracks, rollers and chains and shall not block or bump sensors to electric garage door openers.
- (3) A garage door shall not allow excessive water to enter the garage and the gap around the garage door shall not equal or exceed 1/2 of an inch in width, when the door is closed. If a garage door allows excessive water to enter the garage or the gap around the garage door equals or exceeds 1/2 of an inch, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (4) A garage door spring shall operate properly and shall not lose tension, break or be undersized. If a garage door spring fails to perform in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) A garage door shall remain in place at any open position, operate smoothly and not be off track. If a garage door fails to perform in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

§2.19. Performance Standards for Interior Flooring.

(a) Performance Standards for Carpet, Vinyl Flooring and Wood Flooring.

Performance standards for ceramic tile, flagstone, marble, granite, slate, quarry tile other hard surface floors, except finished concrete floors, are located in §2.20.

(b) Performance Standards for Carpet.

- (1) Carpet shall not wrinkle and shall remain tight, lay flat and be securely fastened. If the carpet fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) Carpet seams shall be smooth without a gap or overlap. If the carpet fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) Carpet shall not be stained or spotted due to construction activities. If the carpet fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) Carpet is faded or discolored. Fading or discoloration is a manufacturer's responsibility unless caused by chemicals used during construction activities.
- (5) Dips are visible in the carpeting. Dips resulting from inadequate padding coverage shall be corrected.

(c) Performance Standards for Finished Concrete Floor.

- (1) A finished concrete floor, located in a Living Space that is not otherwise designed for drainage, shall not have pits, depressions or unevenness that equals or exceeds 3/8 of an inch in any 32 inches.
 - (A) If a finished concrete floor in a Living Space fails to meet the standard stated in paragraph (1) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard. Filling pits is an acceptable repair.
 - (B) Finished concrete slabs in Living Spaces that are designed for drainage, such as a laundry room, are excepted from the standards stated in paragraph (1) of this subsection.

- (2) Finished concrete slabs in Living Spaces shall not have separations, including joints, and cracks that equal or exceed 3/8 of an inch in width or 1/8 of an inch in vertical displacement. If a finished concrete slab in a Living Space fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

(d) Performance Standards for Wood Flooring.

- (1) Wood flooring shall not have excessive humps, depressions or unevenness that equals or exceeds 3/8 of an inch in any 32-inch direction within any room. If wood flooring fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) Wood flooring shall remain securely attached to the foundation or sub-floor unless the wood flooring is designed to be installed without nails, glue, adhesives or fasteners. If wood flooring fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) Wood flooring shall not have open joints and separations that equal or exceed 1/8 of an inch.
 - (A) If wood flooring fails to meet the standards of paragraph (3) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) These standards do not apply to non-hardwood species that contain greater moisture and may shrink after installation or structural floors that are designed to serve as the finished floor. If the floor is designed as a structural finish floor, the Contractor must provide a written explanation of the characteristics of that floor to the Homeowner prior to the execution of the contract.
- (4) Strips of floorboards shall not cup or crown in an amount that equals or exceeds 1/16 of an inch in height in a three-inch distance when measured perpendicular to the length of the board.
 - (A) If the wood flooring fails to meet the standard stated in paragraph (4) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) This standard does not apply to non-hardwood species that typically shrink after installation or structural floors that are designed to serve as the finished floor. If the floor is designed as a structural finish floor, the Contractor must provide a written explanation of the characteristics of that floor to the Homeowner.
- (5) Excessive lippage. Lippage greater than 1/16th of an inch is considered excessive. Contractor will perform repairs to meet the standard.
- (6) Unless installed as a specialty feature, wood flooring shall not have excessive shade changes or discoloration due to the construction activities of the Contractor. If the wood floor fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) Splinters or splinters are observed. Splinters or splinters occurring during construction shall be shaved and the area filled, prior to sanding and refinishing.
- (6) Unless installed as a specialty feature, wood flooring shall not be stained, spotted or scratched due to construction activities of the Contractor. If wood flooring fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

(e) Performance Standards for Vinyl Flooring.

- (1) Vinyl flooring shall be installed square to the most visible wall and shall not vary by 1/4 of an inch in any six-foot run. If the vinyl flooring fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) The seam alignment in vinyl flooring shall not vary such that the pattern is out of alignment in an amount that equals or exceeds 1/8 of an inch. If the vinyl flooring fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

- (3) Vinyl flooring shall remain securely attached to the foundation or sub-floor. If the vinyl flooring fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) A vinyl floor shall not have a depression that equals or exceeds 1/2 of an inch in any six-foot run. If a vinyl floor has a depression that exceeds the standard stated in this paragraph and the depression is due to construction activities, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) A vinyl floor shall not have a ridge that equals or exceeds 1/2 of an inch when measured as provided in this paragraph. The ridge measurement shall be made by measuring the gap created when a six-foot straight edge is placed tightly three inches on each side of the defect and the gap is measured between the floor and the straight edge at the other end. If a vinyl floor has a ridge that fails to comply with the standard stated in this paragraph and the ridge is due to construction activities, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (6) Vinyl floor shall not be discolored, stained or spotted due to the construction activities of the Contractor. If the vinyl floor fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) Vinyl flooring shall not be scratched, gouged, cut or torn due to construction activities. If the vinyl flooring fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (8) Debris, sub-floor seams, nails and/or screws shall not be detectable under the vinyl floor from a distance of three feet or more in normal light. If the vinyl flooring fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (9) Sub-flooring shall not cause vinyl flooring to rupture. If vinyl flooring fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (10) A seam in vinyl flooring shall not have a separation that equals or exceeds 1/16 of an inch in width. Where dissimilar materials abut, there shall not be a gap equal to or greater than 1/8 of an inch. If vinyl flooring fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

§2.20. Performance Standards for Hard Surfaces, including Ceramic Tile, Flagstone, Marble, Granite, Slate, Quarry Tile, Finished Concrete or Other Hard Surfaces.

(a) Performance Standards for Hard Surfaces Generally.

- (1) A hard surface shall not break or crack due to construction activities. If a hard surface is cracked or broken due to construction activities, the Contractor shall take such action as is necessary to bring the variance within the standard. Filling and buffing the surface is an acceptable repair.
- (2) A hard surface shall remain secured to the substrate. If a hard surface fails to perform in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) A surface imperfection in floor hard surface shall not be visible from a distance of three feet or more in normal light. A surface imperfection in non-floor hard surface shall not be visible from a distance of two feet or more in normal light. If a hard surface fails to meet the standards stated in this paragraph due to construction activities, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) Color variations between field hard surfaces and trim hard surfaces should not vary excessively due to construction activities.
 - (A) If color variations between field and trim hard surfaces are excessive and are due to construction activities, the Contractor shall take such action as is necessary to bring the variance within the standard stated in paragraph (4) of this subsection.
 - (B) Natural products such as flagstone, marble, granite, slate and other quarry tile will have color variation.

- (5) Hard surface areas shall not leak. If a hard surface area fails to perform in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (6) The surfaces of two adjacent hard surfaces shall not vary in an amount equal to or exceeding 1/16 of an inch displacement at a joint (lippage), in addition to the actual manufacturing variations of the hard surface, such as warpage or dimensional differences in the hard surfaces, including thickness. If a joint between two hard surfaces fails to meet the performance standard stated in this paragraph (excluding transition trim pieces), the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) Hard surface layout or grout line shall not be excessively irregular.
 - (A) If hard surface layouts or grout lines fail to meet the performance standard stated in paragraph (7) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) Natural products such as flagstone, marble, granite, slate, and other quarry tile will have size variations that may create irregular layouts or grout lines.
- (8) Hard surface countertops shall be level to within 1/4 of an inch in any six-foot measurement. If a hard surface countertop is not level to within the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

(b) Performance Standards for Grout

- (1) Grout shall not crack or deteriorate. If grout fails to meet the performance standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) Grout shall not change shade or discolor excessively due to construction activities. If grout fails to perform to the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

(c) Performance Standards for Concrete Countertops.

- (1) A concrete countertop shall not have excessive pits, depressions, or unevenness that equal or exceed 1/8 of an inch in any 32-inch measurement. If a concrete countertop fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) A concrete countertop shall not have separations or cracks equal to or exceeding 1/16 of an inch in width or 1/64 of an inch in vertical displacement. If a concrete countertop fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) A finished concrete countertop shall not be stained, spotted or scratched due to construction activities. If a concrete countertop fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) A concrete countertop shall not have a chipped edge that extends beyond 1/16 of an inch from the edge of the countertop due to construction activities. If a concrete countertop fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) A concrete countertop shall not change shade or discolor excessively due to construction activities. If a concrete countertop fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

§2.21. Performance Standards for Painting, Stain and Wall Coverings.

(a) Performance Standards for Caulking. Interior caulking shall not deteriorate or crack excessively.

If the interior caulking fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard. After the first year this is considered to be a Homeowner Responsibility.

(b) Performance Standards for Painting and Stain.

- (1) Paint or stain shall not have excessive color, shade or sheen variation.
 - (A) If the paint or stain fails to meet the standard stated in paragraph (1) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) This standard shall not apply to stained woodwork, such as cabinetry. The actual wood color and porosity differences in the wood create magnified color differences in stained wood surfaces. This is expected and is not a deficiency.
 - (C) Fading will occur over time and is not considered to be a deficiency
- (2) Paint shall cover all intended surfaces so that unpainted areas shall not show through paint when viewed from a distance of six feet in normal light. If the painting fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard. Raised panels/trim on painted/stained cabinet doors may shrink in the first year exposing bare wood. Contractor shall touch up exposed bare wood or undercoating to match the door finish as near as possible, where door panels/trim have shrunk in excess of 1/8th inches.
- (3) Interior paint or stain shall not deteriorate, such as peeling or flaking. If paint or stain fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) Exterior paint or stain shall not deteriorate excessively. If paint or stain fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) Paint over-spray shall not exist on any surface for which it was not intended. If the paint is sprayed onto a surface for which it was not intended, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (6) Interior varnish, polyurethane or lacquer finish shall not deteriorate. If an interior finish fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) Exterior varnish, polyurethane or lacquer finishes shall not deteriorate excessively.
 - (A) If an exterior finish fails to meet the standard stated in paragraph (7) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) Exterior varnish, polyurethane or lacquer finishes that are subject to direct sunlight or subject to water splashing, such as exterior doors, are excluded from this standard and Contractor has no responsibility.
- (8) Interior painted, varnished or finished surface shall not be scratched, dented, nicked or gouged due to construction activities. If interior painted, varnished or finished surfaces fail to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (9) A paint product shall perform as represented by the manufacturer to meet manufacturer's specifications for washability and/or scrubability. If the paint product fails to meet the standards of this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (10) Exterior painting or staining is required for repair work. Contractor is only required to paint the affected area as a result of repairs required under these Performance Guidelines. An exact color match may not be achieved. Contractor shall attempt to match surrounding colors as close as practical.
- (11) Brush or lap marks are visible on interior painted surfaces. Brush or lap marks shall not be visible when viewed at a distance of six feet or more under normal lighting conditions. Areas not meeting this standard shall be refinished.
- (12) Resin or sap bleeds through paint. This is a common occurrence and no action is necessary.

(c) Performance Standards for Wall Coverings.

- (1) A wall covering shall be properly secured to the wall surface and shall not peel or bubble. If a wall covering fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) Pattern repeats in wall coverings shall match. Wall coverings shall be installed square to the most visible wall. Pattern repeats shall not vary in an amount equal to or exceeding 1/4 of an inch in any six-foot run. If the wall covering fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) A wall covering seam shall not separate or gap. If the wall covering fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) Lumps or ridges in a wall covering shall not be detectable from a distance of six feet or more in normal light. If the appearance of the wall covering fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) Wall coverings shall not be discolored, stained or spotted due to construction activities. If a wall covering fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (6) Wall coverings shall not be scratched, gouged, cut or torn due to construction activities. If a wall covering fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) Wall coverings shall perform as represented by the manufacturer to meet manufacturer's specifications for washability and/or scrubability. If a wall covering fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

§2.22. Performance Standards for Plumbing.

(a) Performance Standards for Plumbing Accessories.

- (1) A fixture surface or vanity shall not have a chip, crack, dent or scratch due to construction activities. If a fixture fails to meet the standard stated in this paragraph and is identified during the walk-through, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) A fixture shall not have tarnish, blemishes or stains unless installed as a specialty feature.
 - (A) If a fixture fails to meet the standard stated in paragraph (2) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) Fixture finishes that are tarnished, blemished or stained due to high iron, manganese or other mineral content in water are excluded from this standard.
- (3) A fixture or fixture fastener shall not corrode.
 - (A) If a fixture or fixture fastener fails to meet the standards of paragraph (3) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) A Contractor is not responsible for corrosion caused by factors beyond the manufacturer's or the Contractor's control, including the Homeowners use of corrosive chemicals or cleaners or corrosion caused by water content.
- (4) A decorative gas appliance shall be installed in accordance with manufacturer's specifications and when so installed shall function in accordance with manufacturer's representations. If a decorative gas appliance fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) Fixtures shall be secure and not loose.
 - (A) If a fixture fails to meet the standard stated in paragraph (5) of this subsection, the Contractor shall take such action as is necessary to bring, the variance within the standard.

- (B) The Homeowner shall not exert excessive force on a fixture.
- (6) A fixture stopper shall operate properly and shall retain water in accordance with the manufacturer's specifications. If a fixture stopper fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) The toilet equipment shall not allow water to run continuously.
 - (A) If the toilet equipment fails to meet the standard stated in paragraph (7) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) If toilet equipment allows water to run continuously, the Homeowner shall shut off the water supply or take such action as is necessary to avoid damage to the Home.
- (8) A toilet shall be installed and perform in accordance with the manufacturer's specifications.
 - (A) If a toilet fails to meet the standard stated in paragraph (8) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) In the event of water spillage, the Homeowner shall shut off the water supply and take such action as is necessary to avoid damage to the Home.
- (9) A tub or shower pan shall not crack. If a tub or shower pan fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (10) A tub or shower pan shall not squeak or flex excessively. If a tub or shower pan fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (11) Bathtub or shower leaks. Contractor shall correct the condition to meet this performance standard. Caulking is an acceptable repair and Homeowner shall be responsible to maintain the caulking.
- (12) A waste disposal unit shall be installed and operate according to the manufacturer's specifications. If a waste disposal unit fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (13) A faucet or fixture shall not drip or leak. This standard does not include drips or leaks due to debris or minerals from the water source, unless it is due to construction activities. If a faucet or fixture fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (14) Waster water line is clogged or backs up. Contractor is responsible for construction debris that clogs a line and shall clear it. After the first two weeks of occupancy it is presumed that the line is clear of construction debris.
- (15) A sump pump shall be installed in accordance with the manufacturer's specifications and shall operate properly when so installed. If a sump pump fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (16) A water heater shall be installed and secured according to the manufacturer's specifications and the Code. If a water heater fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

(b) Performance Standards for Pipes and Vents.

- (1) A sewer gas odor originating from the plumbing system shall not be detectable inside the Home under conditions of normal residential use.
 - (A) If a sewer gas odor is detected inside the Home under conditions of normal residential use, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall keep plumbing traps filled with water.

- (2) A vent stack shall be free from blockage and shall allow odor to exit the Home. If a vent stack fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) A water pipe shall not make excessive noise such as banging or hammering repeatedly.
 - (A) If a water pipe fails to meet the standard stated in paragraph (3) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) A water pipe subject to expansion or contraction of the pipe as warm or cool water flows through the pipe may cause a "ticking" sound temporarily. The standard stated in paragraph (3) of this subsection does not require a Contractor to remove all noise attributable to water flow and pipe expansion.
- (4) Pipe or fitting leaks. No leaks of any kind should exist in piping or fittings and Contractor shall repair to meet this standard. Sweating pipes are not considered a leak and are not warrantable.
- (5) Water in a plumbing line freezes and bursts the pipe. Contractor shall install the plumbing to Code including adequate insulation of pipes. Owner is responsible for "dripping" pipes during cold weather to prevent lines from freezing.
- (6) Water supply system does not deliver water. Contractor is responsible to connect to the water supply in accordance with Code. Contractor is not responsible for water pressure from the system, except if a pressure reducing valve is required by the water purveyor.

§2.23. Performance Standards for Heating, Cooling and Ventilation.

(a) Performance Standards for Heating and Cooling.

- (1) A condensation line shall not be obstructed due to construction activities.
 - (A) If a condensation line fails to meet the standard stated in paragraph (1) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall periodically check for the free flow of condensate (water) from the line and clear the line when necessary.
- (2) A drip pan and drain line shall be installed under a horizontal air handler as per the Code.
 - (A) If a drip pan and drain line fails to meet the standard stated in paragraph (2) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall periodically check for the free flow of condensate (water) from the line and clear the line when necessary.
- (3) Insulation shall completely encase the refrigerant line according to Code.
 - (A) If the refrigerant line insulation fails to meet the standard stated in paragraph (3) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall ensure that insulation on the refrigerant line is not damaged or cut due to Home maintenance or landscape work.
- (4) An exterior compressor unit shall be installed on a stable pad that supports the unit and is no more than one inch out of level. The bottom of the exterior compressor unit support shall not be below ground level.
 - (A) If an exterior compressor unit pad or support fails to meet the standards stated in paragraph (4) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall ensure that settlement of the exterior compressor unit pad does not occur due to Home maintenance, landscape work or excessive water from irrigation.

(b) Performance Standards for Venting.

- (1) An appliance shall be vented according to the manufacturer's specifications. If an appliance is not vented in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) Back draft dampers shall be installed and function according to the manufacturer's specifications. If back draft dampers fail to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (c) **Performance Standards for Ductwork. Ductwork shall not make excessive noise.**
- (1) If the ductwork fails to meet the standard stated in of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) The flow of air, including its velocity, or the expansion of ductwork from heating and cooling may cause "ticking" or "crackling" sounds.
 - (3) The Homeowner shall not place any object on the ductwork.

§2.24. Performance Standards for Electrical Systems and Fixtures.

- (a) Excessive air infiltration shall not occur around electrical system components or fixtures. If electrical system components or fixtures fail to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (b) A fixture or trim plate shall not be chipped, cracked, dented or scratched due to construction activities. If a fixture or trim plate fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (c) A fixture or trim plate finish shall not be tarnished, blemished or stained due to construction activities. If a fixture or trim fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (d) A fixture, electrical box or trim plate shall be installed in accordance with the Code and shall be plumb and level. If a fixture, electrical box or trim plate fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (e) Fixtures, such as lights, fans, and appliances shall operate properly when installed in accordance with the manufacturer's specifications. The Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection. The Contractor is not responsible for excessive vibration or excessive noise in fans not supplied by the Contractor.
- (f) A smoke detector shall operate according to the manufacturer's specifications and shall be installed in accordance with the Code. If a smoke detector fails to meet the standards stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (g) An exhaust fan shall operate within the manufacturer's specified noise level. If an exhaust fan fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (h) Exhaust fan discharges into the attic space. Contractor is responsible for fans to discharge according to applicable Code requirements.
- (i) Bath or kitchen exhaust fans allow for air infiltration. Bath and kitchen fans shall be installed in accordance with the manufacturer's directions and code requirements. The dampers in most fans do not close tightly and may allow for some air infiltration.
- (ii) Smoke detector chirps. Smoke detectors should not chirp at substantial completion. If a smoke detector chirps at substantial completion, Contractor shall check the battery, confirm that it is wired correctly, and replace if necessary.
- (j) Light fixtures tarnishing or failing to operate after move-in is a manufacturer warranty, not the responsibility of Contractor, if installed in accordance with the manufacturer's directions and Code requirements.

§2.25. Performance Standards for Interior Trim.

(a) Performance Standards for Trim.

- (1) An interior trim joint separation shall not equal or exceed 1/8 of an inch in width and all joints shall be caulked or puttied. If an interior trim joint fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (1) Interior trim corners are not coped or mitered. Interior trim corners shall be coped or mitered except that square-edged trim may be butted against moldings. If the corners do not meet this standard, Contractor shall correct.
- (2) Trim or molding mitered edges to not connect. Gaps between mitered edges of trim or molding shall not exceed 1/8th of an inch at the time of installation. Gaps in excess of this standard shall be filled or caulked, if less than 1/4th of an inch. After the Home is occupied, it is expected that materials will shrink.
- (5) The interior trim shall not have surface damage, such as scratches, chips, dents, gouges, splits, cracks, warping or cupping that is visible from a distance of six feet or more in normal light due to construction activities. If the interior trim fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (6) A hammer mark on trim shall not be visible from a distance of six feet or more when viewed in normal light. If the interior trim fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (7) A nail or nail hole in interior trim shall not be visible from a distance of six feet or more when viewed in normal light. If the interior trim fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard. Nail holes in trim in the Living Space shall be puttied.

(b) Performance Standards for Shelving and Cabinets.

- (1) Shelving, rods and end supports shall be installed in accordance with the measurements stated in this subsection. The length of a closet rod shall not be shorter than the actual distance between the end supports in an amount equal to or exceeding 1/4 of an inch and shall be supported by stud-mounted brackets no more than four feet apart.
- (2) The length of a shelf shall not be shorter than the actual distance between the supporting walls by an amount equal to or exceeding 1/4 of an inch and shall be supported by stud-mounted brackets no more than four feet apart. End supports shall be securely mounted.
- (3) If the closet rods, shelving or end supports fail to meet the standards stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) Cabinets are not flush with ceiling or walls. Gaps in excess of 1/4 inch are considered excessive. Gaps in excess of 1/4 inch will be caulked or covered with molding.
- (3) Cabinets do not line up with each other. Cabinet faces more than 1/8th of an inch out of line and corners more than 3/16th out of line are excessive. Contractor will make necessary adjustments to comply with the standard.
- (4) Cabinet is warped. Cabinet warpage shall not exceed 1/4 of an inch from the face frame to the furthest point of warpage, with the door or drawer in the closed position. Contractor will adjust or replace cabinet doors or drawers to meet this standard.
- (5) Cabinet door or drawers bind or will not stay closed. Cabinet doors and drawers should operate smoothly and should latch firmly. If cabinet doors or drawers fail to meet this standard, they should be adjusted or the hardware replaced.
- (6) Cabinet doors or drawers are cracked. If door or drawer is cracked and noted on the walk-through, they shall be replaced.
- (7) Cabinet doors are warped. Cabinet doors warpage shall not exceed 3/16th of an inch when measured diagonally. Contractor shall replace any cabinet doors not meeting this standard.

- (8) Cabinets are not level. Individual cabinets shall not be out of level by more than 3/16ths of an inch. Cabinets not meeting this standard shall be adjusted.
- (9) Cabinet doors do not align when closed. Gaps in cabinet doors, designed to align when closed shall not exceed 3/16ths of an inch. Cabinet doors not meeting this criteria shall be adjusted.

§2.26. Performance Standards for Mirrors, Interior Glass and Shower Doors.

- (a) A mirror, interior glass or shower door shall not be loose and shall be securely mounted or attached to the supporting surface. Fixtures, such as towel bars or door handles, shall be securely mounted. If a mirror, interior glass, shower door, fixture or component fails to meet the standards stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (b) A mirror, interior glass or shower door shall not be damaged due to construction activities. Scratches in mirrors that are observable at a distance of 6 feet under normal lighting conditions are deemed excessive. If a mirror, interior glass or shower door fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (c) A shower door shall not leak. If a shower door fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (d) Imperfections in a mirror or shower door shall not be visible from a distance of six feet or more when viewed in normal light. If a mirror or shower door fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (e) When opening and closing, a shower door shall operate easily and smoothly without requiring excessive pressure. If a shower door fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.

§2.27. Performance Standards for Hardware and Ironwork.

(a) Performance Standards for Hardware.

- (1) Hardware finishes shall not be tarnished, blemished, corroded or stained due to construction activities, unless the finish is installed as a specialty feature.
 - (A) If the hardware finish fails to meet the standard stated in paragraph (1) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Contractor is not responsible for tarnished, blemished, or stained hardware finishes that have been damaged by factors that are beyond the manufacturers or the Contractors control such as the Homeowner's use of abrasive pads or cleaners, harsh chemicals, alcohol, organic solvents or deterioration caused by exposure to outdoor elements such as salt air or humidity.
- (2) Hardware shall function properly, without catching binding or requiring excessive force to operate. If hardware fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) Hardware shall not be scratched, chipped, cracked or dented due to construction activities. If hardware fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) Hardware shall be installed securely and shall not be loose.
 - (A) If hardware fails to meet the standards stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) The Homeowner shall not exert excessive force on hardware.

(b) Performance Standards for Interior Ironwork.

- (1) Interior ironwork shall not rust.

- (2) If interior ironwork fails to meet the standard stated in paragraph (1) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) The Contractor is not responsible for ironwork finishes that rust due to factors that are beyond the manufacturers or the Contractors control such as the Homeowner's use of abrasive pads or cleaners, harsh chemicals, alcohol, organic solvents or deterioration caused by exposure to humidity.

§2.28. Performance Standards for Countertops and Backsplashes.

(a) Performance Standards for Countertops and Backsplashes Generally.

- (1) A countertop or backsplash shall be secured to substrate in accordance with manufacturer's specifications. If countertop or backsplash materials are not secured to the substrate in accordance with the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) For non-laminate countertops and backsplashes, the joints between countertop surfaces, between the countertop surface and the backsplash or side-splash and between adjoining backsplash panels may be visible but shall not separate. If joints between non-laminate surfaces fail to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) Countertops shall be level to within 1/4 of an inch in any six-foot measurement. If a countertop surface fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) A countertop surface or edge shall not be damaged, broken, scratched, chipped, or cracked due to construction activities. If a countertop surface or edge fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (5) A countertop shall not bow or warp in an amount equal to or exceeding 1/16 of an inch per lineal foot. If a countertop fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (6) Uneven grout lines. Grout lines should not vary in width by more than 1/8th of an inch from the widest to the narrowest point.
- (7) Grout is cracked. Grout is a cementitious material and is subject to cracking. Contractor will repair cracked grout on a one-time basis by caulking or regrouting.

(b) Performance Standards for Laminate Countertops and Backsplashes.

- (1) Laminate countertops and backsplashes shall not delaminate (including bubbles) and shall remain securely attached to the substrate. Delamination is the separation of the finish surface veneer from the substrate material. If a countertop fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (2) A seam in a laminate countertop or backsplash may be visible but shall not be separated or displaced. If a laminate countertop or backsplash fails to meet the standard stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (3) A surface imperfection in a laminate countertop or a backsplash shall not be visible from a distance of three feet or more when viewed in normal light due to construction activities. If a laminate surface fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

§2.29. Performance Standards for Fireplaces and chimneys.

- (a) A refractory panel shall not crack or separate.
- (1) If the fireplace refractory panel fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) The Homeowner shall not use synthetic logs or other materials not approved by the manufacturer.

- (b) A fireplace door shall operate properly. Fireplace doors shall meet evenly and shall not be out of alignment from one another in an amount equal to or exceeding 1/8 of an inch in any direction. If a fireplace door fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (c) A fireplace shall not have a gas leak. If a fireplace has a gas leak, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.
- (d) Gas logs shall be positioned in accordance with the manufacturer's specifications.
 - (1) If a gas log fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) The Homeowner shall not reposition or relocate the logs after the original placement. The Homeowner shall not place the logs in a manner that does not allow the flame to flow through the logs according to the manufacturer's specifications.
- (e) A crack in masonry hearth or facing shall not be equal to or exceed 1/4 of an inch in width. If the masonry hearth or facing of the fireplace fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (f) A fireplace or chimney shall draw properly. If a fireplace or chimney fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (g) A firebox shall not have excessive water infiltration under normal weather conditions. If a firebox fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (h) A fireplace fan shall not exceed the noise level established by the manufacturer's specifications. If a fireplace fan fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (i) Chimney cap leaks. If the chimney cap leaks under normal weather conditions, Contractor shall repair or seal the chimney cap to prevent leakage. Contractor is not responsible for leaks under Extreme Weather Conditions.
- (j) New chimney flashing leaks. New chimney flashing should not leak under normal weather conditions. If new flashing leaks under normal weather conditions, Contractor shall repair or replace to meet this standard. Contractor is not responsible for leaks under Extreme Weather Conditions.
- (k) The chimney is separated from the wall. Separations shall not exceed 1/2 of an inch. Separations in excess of 1/2 of an inch may be caulked unless the separation is the result of a structural failure.
- (l) A simulated firebrick panel has cracked. This is normal and no corrective action is required.

§2.30. Performance Standards for Irrigation Systems.

- (a) An irrigation system shall not leak, break or clog due to construction activities. If an irrigation system fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (b) An irrigation system shall be installed such that sprinkler coverage shall be complete and water shall not spray an unintended area due to construction activities. If an irrigation system fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (c) The irrigation system control shall operate in accordance with manufacturer's specifications.
 - (1) If an irrigation system fails to operate in accordance with manufacturer's specifications, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.
 - (2) The Contractor shall provide the Homeowner with instructions on the operation of the irrigation system at closing.

§2.31. Performance Standards for Fencing.

- (a) A fence shall not fall over and shall not lean in excess of two inches out of plumb due to construction activities. If the fencing fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (b) A wood fence board shall not be broken due to construction activities. Wood fence board shall not become detached from the fence due to construction activities of the Contractor. If the fencing fails to meet the standards stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (c) A masonry unit or mortar in a fence shall not be broken or loose. A crack in a masonry unit shall not occur. A crack in the mortar shall not equal or exceed 1/8 of an inch in width. If a masonry unit or mortar in a fence fails to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (d) A masonry wall shall have adequate weep holes in the lowest course as required by the Code to allow seepage to pass through the wall. If a masonry retaining wall fails to meet the standards of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.

§2.32. Performance Standards for Yard Grading and Landscaping.

- (a) Unless excluded in the contract, Yards shall have grades and swales that provide for proper drainage away from the Home in accordance with the Code or other governmental regulations. Water shall not stand within ten feet of the home for more than 24 hours, unless in a swale. After periods of extended rain (or sprinkling), water may be expected to stand for a longer period, when the ground is saturated.
 - (1) If the grades or swales fail to meet the standard stated in this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (2) The Homeowner shall maintain the drainage pattern and protect the grading contours from erosion, blockage, over-saturation or any other changes.
- (b) Settling or sinking of soil shall not interfere with the drainage patterns of the lot or have a vertical depth of six inches or more. If the Contractor established positive drainage and the soil settles six inches or more during the first year, the Contractor, on a one-time basis, shall add soil as is necessary to bring the variance within the standard.
- (c) Except as set forth in paragraph (a), Contractor is not responsible for water flowing on to the Homeowner's property from adjacent land.
- (d) Contractor shall take reasonable precautions during construction to not injure or damage existing trees and plants, unless the trees or plants are in or near the footprint of the Home or interfere with drainage. After the Effective Date, Owner shall be solely responsible for the maintenance and survival of all plant life.
- (e) Shrubs, bushes, trees and other plants installed by Contractor shall be alive at substantial completion. Plants that have died prior to substantial completion shall be replaced.

§2.33. Performance Standards for Decking

- (a) Wood deck is springy or shaky. All components of a wood deck shall be sized and fasters spaced according to Code. Contractor shall reinforce and portions of the deck that shake excessively.
- (b) Deck boards are not spaced evenly. The space between deck boards shall not differ in average width by more than ¼ of an inch at the time of substantial completion. Spacing will change over time due to expansion and shrinkage of materials.
- (c) Wood deck or railing contains splinters at substantial completion. Splinters shall be removed that appear at substantial completion if noted on the walk-through.
- (d) Wood decking boards are split, warped or cupped. At the time of substantial completion, wood decking boards shall not exceed the tolerances set forth by the official grading rules issued by the agency responsible for the lumber species.
- (e) Wood deck as stain color variations. Staining variations at substantial completion that result from improper preparation or application of stain, shall be repaired. Weathering will cause changes in staining over time.
- (f) Nails or screws protrude from the deck surface. Nails and screws shall not protrude from the deck surface at substantial completion. Contractor shall drive nails or screws so that they are flush or below the surface of the deck.

- (g) Railing lacks rigidity. Deck railings shall be rigid. Contractor will secure the railing to comply with this standard.

§2.34. Performance Standards for Pest Control.

Eave returns, truss blocks, attic vents and roof vent openings shall not allow rodents, birds, and other similar pests into Home or attic space. If an eave return, truss block, attic vent or roof vent opening that allows rodents, birds, and other similar pests into Home or attic space, the Contractor shall take such action as is necessary to bring the variance within the standard stated.

Performance Standards for Plumbing, Electrical, Heating and Air-conditioning Delivery Systems Subject to a Warranty Period of Two Years.

§3.10. Performance Standards for Electrical Delivery Systems.

(a) Performance Standards for Electrical Wiring.

- (1) Electrical wiring installed inside the Home shall be installed in accordance with the Code and any other applicable electrical standards and shall function properly from the point of demarcation, as determined by the respective utility.
 - (A) If electrical wiring inside the Home is not functioning properly or is not installed in accordance with the Code and any other applicable electrical standards, the Contractor shall take such action as is necessary to bring the wiring to the standard of performance required in paragraph (1) of this subsection.
 - (B) The Contractor shall not be responsible for utility improvements from the meter/demarcation point to the utility poles or the transformer.
- (2) Electrical wiring shall be capable of carrying the designated load as set forth in the Code.
 - (A) If the electrical wiring fails to carry design load, the Contractor shall take such action as is necessary to bring the variance within the standard set forth in paragraph (2) of this subsection.
 - (B) All electrical equipment shall be used for the purposes and/or capacities for which it was designed and in accordance with manufacturer's specifications.

(b) Performance Standards for the Electrical Panel, Breakers and Fuses.

- (1) The electrical panel and breakers shall have sufficient capacity to provide electrical service to the Home during normal residential usage.
 - (A) If the electrical panel or breakers do not have sufficient capacity to provide electrical service to the Home during normal residential usage, the Contractor shall take such action as is necessary to bring the variance within the standard set forth in paragraph (1) of this subsection.
 - (B) The Contractor is not responsible for electrical service interruptions caused by external conditions such as power surges, circuit overloads and electrical shorts or Homeowner-supplied fixtures or appliances.
- (2) The electrical panel and breakers shall have sufficient capacity to provide electrical service to the Home during normal residential usage such that a circuit breaker shall not trip and fuses shall not blow repeatedly under normal residential electric usage.
 - (A) If a circuit breaker repeatedly trips or fuses repeatedly blow under normal residential electric usage, the Contractor shall take such action as is necessary to bring the variance within the standard set forth in paragraph (2) of this subsection.
 - (B) The Contractor is not responsible for circuit breaker trips or blown fuses that have functioned as designed to protect the Home from external conditions such as power surges, circuit overloads and shorts or Homeowner-supplied fixtures or appliances.

(c) Performance Standards for Electric Outlets with Ground Fault Interrupters.

- (1) Electrical outlets with ground fault interrupters shall be installed and operate in accordance with the Code and manufacturer's specifications.
 - (A) If ground fault interrupters trip repeatedly under normal residential usage, the Contractor shall take such action as is necessary to ensure that the electrical outlets with ground fault interrupters are installed in accordance with the Code and manufacturer's instructions and specifications and that they operate properly during normal residential electrical usage.
 - (B) The Homeowner shall not plug appliances that require constant electrical flow, such as refrigerators and freezers, into an outlet with a ground fault interrupter.

(d) Performance Standards for Fixtures, Outlets, Doorbells and Switches.

- (1) An outlet, doorbell or switch shall be installed in accordance with the manufacturer's specifications and the Code and shall operate properly when installed in accordance with the manufacturer's specifications and the Code. If an outlet, doorbell or switch is not installed in accordance with the manufacturer's specifications and the Code or does not operate properly when so installed, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this subsection.
- (2) A fixture, electrical box or trim plate shall be installed in accordance with the Code and manufacturer's specifications and shall be properly secured to the supporting surface. If a fixture, electrical box or trim plate is not installed in accordance with the Code and manufacturer's specifications or is not properly secured to the supporting surface, Contractor shall take such action as is necessary to bring the variance within the standard state in this subsection.
- (3) Switch plate or outlet covers protrude from the wall. Switch plate and outlet covers should not extend beyond the surface of the adjacent wall by more than 1/16 of an inch. This standard does not apply to walls with heavy texture such as a Monterrey drag.
- (4) A light shall not dim, flicker or burn out repeatedly under normal circumstances. A lighting circuit shall meet the Code. If a light or a lighting circuit fails to meet the standards stated in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

(e) Performance Standards for Wiring or Outlets for Cable Television, Telephone, Ethernet or Other Services.

- (1) Wiring or outlets for cable television, telephone, Ethernet or other services shall be installed in accordance with the Code and any applicable manufacturer's specifications.
 - (A) If wiring or outlets for cable television, telephone, Ethernet or other services are not installed in accordance with the Code or any applicable manufacturer's specifications, the Contractor shall take such action as is necessary to bring the variance within the standard set forth in paragraph (1) of this subsection.
 - (B) A Contractor is not responsible for the failure of wiring or other utility service connectors or conduits that begin before the point at which the service enters the Home.
- (2) Wiring or outlets for cable television, telephone, Ethernet or other services inside the Home or on the Home side of the meter/demarcation point shall function properly when installed in accordance with the performance standard in paragraph (1) of this subsection.
 - (A) If wiring or outlets for cable television, telephone, Ethernet or other services are not functioning, the Contractor shall take such action as is necessary to bring the variance within the standard set forth in paragraph (2) of this subsection.
 - (B) A Contractor is not responsible for the failure of wiring or other utility service connectors or conduits that begin before the point at which the service enters the Home.

§3.20. Performance Standards for Plumbing Delivery Systems.

(a) Performance Standards for Pipes including Water and Gas Pipes, Sewer and Drain Lines, Fittings and Valves but not including pipes included in a Landscape Irrigation System.

- (1) Pipes shall be installed and insulated in accordance with the Code and manufacturer's specifications.

- (A) If a water pipe bursts, the Contractor shall take such action as is necessary to bring the variance within the standard stated in paragraph (1) of this subsection.
 - (B) The Homeowner is responsible for insulating and protecting exterior pipes and hose bibs from freezing weather and for maintaining a reasonable temperature in the Home during periods of extremely cold weather. The Homeowner is responsible for maintaining a reasonable internal temperature in a Home regardless of whether the Home is occupied or unoccupied and for periodically checking to ensure that a reasonable internal temperature is maintained.
- (2) A water pipe shall not leak.
- (A) If a water pipe is leaking, the Contractor shall take such action as is necessary to bring the variance within the performance standard stated in paragraph (2) of this subsection.
 - (B) The Homeowner shall shut off water supply immediately if such is required to prevent further damage to the Home.
- (3) A gas pipe shall not leak, including natural gas, propane or butane gas.
- (A) If a gas pipe is leaking, a Contractor shall take such action as is necessary to bring the variance within the standard stated in paragraph (3) of this subsection.
 - (B) If a gas pipe is leaking, the Homeowner shall shut off the source of the gas if the Homeowner can do so safely.
- (4) Water pressure shall not exceed 80 pounds per square inch in any part of the water supply system located inside the Home. Minimum static pressure at the building entrance for either public or private water service shall be 40 pounds per square inch in any part of the water supply system.
- (A) This standard assumes the public or community water supply reaches the Home side of the meter at 40 pounds per square inch. The Contractor is not responsible for water pressure variations originating from the water supply source.
 - (B) If the water pressure is excessively high, the Contractor shall take such action as is necessary to bring the variance within the standard stated in paragraph (4) of this subsection.
- (5) A sewer, drain, or waste pipe shall not become clogged or stopped up due to construction activities.
- (A) The Contractor shall take such action as is necessary to unclog a sewer, drain or waste pipe that is clogged or stopped up due to construction activities.
 - (B) The Homeowner shall shut off water supply immediately if such is required to prevent damage to the Home.

(b) Performance Standards for Individual Wastewater Treatment Systems.

A wastewater treatment system should be capable of properly handling normal flow of household effluent in accordance with the Texas Commission on Environmental Quality requirements.

- (1) The Contractor shall take such action as is necessary for the wastewater treatment system to perform within the standard stated in this subsection.
- (2) The Contractor is not responsible for:
 - (A) system malfunctions or damage due to the addition of a fixture, equipment, appliance or other source of waste or water into the septic system by a person other than the Contractor or a person working at the Contractors direction, or
 - (B) malfunctions or limitations in the operation of the system attributed to a design restriction imposed by state, county or local governing agencies; or
 - (C) malfunctions caused by freezing, soil saturation, soil conditions, changes in ground water table or any other acts of nature.

§3.30. Performance Standards for Heating, Air Conditioning and Ventilation Delivery Systems.

(a) A refrigerant line shall not leak.

- (1) If a refrigerant line leaks, the Contractor shall take such action as is necessary to bring the variance within the standard stated in subsection (a) of this section.
- (2) Condensation on a refrigerant line is not a leak.

(b) Performance Standards for Heating and Cooling Functions.

- (1) A heating system shall produce an inside temperature of at least 68-degrees Fahrenheit as measured two feet from the outside wall of a room at a height of three feet above the floor under local outdoor winter design conditions as specified in the Code.
 - (A) If a heating system fails to perform to the standard stated in paragraph (1) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) Temperatures may vary up to 4- degrees Fahrenheit between rooms but no less than the standard set forth above in paragraph (1) of this subsection. The Homeowners' changes made to the size or configuration of the Home, the heating system or the ductwork shall negate the Contractor's responsibility to take measures to meet this performance standard.
- (2) An air-conditioner system shall produce an inside temperature of at most 78-degrees Fahrenheit as measured in the center of a room at height of five feet above the floor, under local outdoor summer design conditions as specified in the Code.
 - (A) If the air-conditioner system fails to perform to the standard stated in paragraph (2) of this subsection, the Contractor shall take such action as is necessary to bring the variance within the standard.
 - (B) This standard does not apply to evaporative or other alternative cooling systems or if the Homeowner makes changes to the size or configuration of the Home, the air-conditioning system or the ductwork. Internal temperatures may vary up to 4-degrees Fahrenheit between rooms but no more than the standard set forth above in paragraph (2) of this subsection.
- (3) A thermostat reading shall not differ by more than 4-degrees Fahrenheit from the actual room temperature taken at a height of five feet above the floor in the center of the room where the thermostat is located. The stated performance standard is related to the accuracy of the thermostat and not to the performance standard of the room temperature. If the thermostat reading differs more than 4-degrees Fahrenheit from the actual room temperature taken at a height of five feet above the floor in, the center of the room where the thermostat is located, the Contractor shall take such action as is necessary to bring the variance within the standard.
- (4) Air handler or furnace vibrates. Heating and cooling equipment shall be installed and secured according to the manufacturer's instructions and specification and shall not move excessively. If the heating or cooling equipment is not installed and secured in accordance with manufacturer's instructions and specifications or moves excessively, the Contractor shall take such action as is necessary to properly install and secure the equipment.
- (5) A condensate line is clogged. Condensation lines must be free of construction debris. After occupancy it is the Homeowner's responsibility to keep the lines free from the build-up of algae and fungus by pouring warm water through the line on a periodic basis.

(c) Performance Standards for Vents, Grills or Registers.

- (1) A vent, grill or register shall operate easily and smoothly when applying normal operating pressure. If a vent, grill or register does not operate easily and smoothly when applying normal pressure when adjusting, the Contractor shall repair the vent, grill or register so that it operates with ease of use when applying normal operating pressure.
- (2) A vent, grill or register shall be installed in accordance with the Code and manufacturers instructions and specifications and shall be secured to the underlying surface. If a vent, grill or register is not installed and

secured in accordance with the performance standard in this paragraph, the Contractor shall take such action as is necessary to bring the variance within the standard.

- (3) Airflow is noisy at register. Registers shall be installed in accordance with manufacturer's recommendations. If installed correctly, Contractor is not responsible.
- (4) Vent and return air covers shall not protrude from the the surface of the adjacent wall or ceiling by more than 1/16 of an inch. This standard does not apply to walls or ceilings with heavy texture such as a Monterrey drag or "popcorn" texture.

(d) Performance Standards for Ductwork.

- (1) Ductwork shall be insulated in unconditioned areas according to Code. If ductwork is not insulated in unconditioned areas in accordance with the Code, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (2) Ductwork shall be secured according to the manufacturer's instructions and specifications and it shall not move excessively. If the ductwork is not secured according to the manufacturer's instructions and specifications or moves excessively, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (3) Ductwork shall be sealed and shall not separate or leak in excess of the standards set by the Code. If the ductwork is not sealed, is separated or leaks in excess of the standards set by the Code, the Contractor shall take such action as is necessary to bring the variance within the standard stated in this paragraph.
- (5) Metal ductwork makes excessive noise, sometimes referred to as "oil-canning." The stiffness of the ductwork and reinforcement shall be installed in a manner that avoids oil-canning.
- (6) Condensation forms on the outside of ducts. This is typically caused by conditions beyond the Contractor's control and is not warrantable unless it is the result of Contractor's failure to install the ducts in accordance with the manufacturer's directions.

C. MAKING A CLAIM

1. CLAIM FORM. If the Homeowner has identified a defect believed to be covered by this Limited Warranty, a claim must be given to Contractor in writing. Claims may not be made by telephone alone. Claims must be made no more than thirty (30) days after the Homeowner discovers a particular defect. Claims should be made by performing the following steps:

- (a) Step One: Determine the year of coverage for the Home. How old is the Home? If less than one year has passed since the Effective date then consult the applicable section of the *Performance Guidelines* to determine whether or not there appears to be coverage for the claim.
- (b) Step Two: Complete a copy of the request for inspection form at the back of this Limited Warranty and specifically reference the section of the *Residential Construction Performance Guidelines* which provides coverage for the claimed defect (refer to the specific warranty guideline that is in issue). Homeowner should be sure to fill out the form completely, including the address of the Home, Homeowner's telephone numbers, and the section of the warranty which provides coverage for the claimed defect. Contractor will furnish Homeowner with a copy of this form, upon request. Mail or deliver the completed form to Contractor at the address shown on the cover page of this Limited Warranty or at such other address as Contractor furnishes to Homeowner, in writing.
- (c) Step Three: Homeowner shall cooperate with Contractor to arrange an onsite inspection of the claimed defect so that Contractor can determine whether the defect is covered under the limited warranty and the nature

of repairs that will be required. Depending upon the nature of the defect, more than one inspection may be required before Contractor can determine what repairs are necessary.

(d) Step Four: In the event of a dispute with Contractor please proceed to Dispute Settlement procedures set forth below.

The benefits included in this Limited Warranty are only available when service is requested according to the procedures established by Contractor, which are set forth above. In addition, HOMEOWNER'S FAILURE TO REASONABLY PROVIDE ACCESS TO THE HOME DURING NORMAL WORKING HOURS FOR INSPECTIONS OR MAKING REPAIRS WILL RELIEVE CONTRACTOR FROM ITS OBLIGATIONS UNDER THIS LIMITED WARRANTY.

2. EMERGENCY CLAIMS. Loss of heat during the winter, stoppage in all commodes (if it occurs less than 14 days after the Effective date); failure of an outside door lock; major interior water leaks; or any other safety related defect in your Home, constitutes an emergency claim. In the event of an emergency claim only, contact may be made by telephone to a representative of the Contractor, Monday through Friday between the hours of 8:00am and 5:00pm. On the weekends and evenings, if a warranted emergency occurs, call the contractor listed on your Emergency Contact List. If the Emergency Contact is unavailable, and an emergency occurs for which you believe Contractor has responsibility, and action is necessary before the next morning, please call your own plumber, a/c heat service, etc. Then call Contractor the next morning. Reimbursement of expenses will be made if Contractor determines that a warrantable emergency existed that required nighttime response.

3. RESPONSE TO COVERED CLAIM. Upon receipt of a claim, Contractor will arrange for a representative to determine whether or not the claim is covered by the Limited Warranty. Homeowner recognizes that if the claim is covered, Contractor has the choice of repairing the defect, replacing the defective item or paying Homeowner the reasonable cost of repairing or replacing the defective item. The decision to replace or repair an item or to reimburse Homeowner will be made solely by Contractor. Homeowner shall execute a release in favor of Contractor, prior to any cash payment by Contractor to Homeowner.

(a) **Repair Materials/Subcontractors.** Contractor reserves the right to use its judgment in determining the most appropriate method of repairing warranty defects. All repairs will be made with materials or components of an equal or better grade or quality than the materials or components used in the original construction of the Home. **However, Contractor cannot guarantee, nor does it warrant, exact color matches in situations where materials are repaired or replaced, or where areas are repainted, or where original materials are discontinued.** Contractor has the right to choose the subcontractors used for repair or replacement work in its sole discretion.

(b) **No obligation for Reimbursement.** Contractor has no obligation to reimburse the Homeowner for work done by Homeowner or for amounts paid by Homeowner to a repairman or subcontractor which have not been pre-approved, in writing, by Contractor. However, in the event of an emergency caused by a defect covered by this Limited Warranty, in which the Homeowner can reasonably demonstrate that Contractor could not be contacted by the Homeowner despite Homeowner's diligent efforts, Contractor will reimburse Homeowner for the reasonable and actual costs of repairing or replacing the applicable defect.

(c) **Time for Corrective Work.** Contractor intends to fulfill its obligations for a particular warranty claim for defects covered by this Limited Warranty within thirty (30) days of its receipt of a completed Limited Warranty Claim Form so long as Contractor is given reasonable cooperation by Homeowner. However, Homeowner recognizes that the thirty (30) day period for certain covered repairs or replacements may be required to be extended for circumstances beyond the reasonable control of Contractor such as the unavailability of parts, strikes, labor material shortages, adverse weather condition, lack of cooperation by Homeowner or the magnitude of the repair required.

(d) **Limit on Repair Obligations.** Homeowner also understands that Contractor shall not be obligated to incur aggregate costs for the repair or replacement of defects in the Home in excess of the Purchase Price.

4. CLAIMS NOT COVERED BY LIMITED WARRANTY. If Contractor takes the position that a particular claim is not covered by this Limited Warranty, Contractor will provide Homeowner with a written notification describing why the Homeowner's claim is not covered. If Homeowner is not satisfied by Contractor's decision, Homeowner may take the steps described in Section E.

D. EXCLUSIONS

Notwithstanding other provisions of this Limited Warranty, certain defects or damages are explicitly excluded from the coverage of the Limited Warranty.

1. The Contractor is not responsible for repair, loss or damage to a component or that part of a component of a Home caused by or made worse by any of the following:

- (a) Work performed or material supplied incident to construction, modification or repair to the Home performed by anyone other than the Contractor or persons providing work or material at the direction of the Contractor.
- (b) The negligence, improper maintenance, misuse, abuse, failure to follow manufacturer's recommendation, failure to take reasonable action to mitigate damage, failure to take reasonable action to maintain the Home or other action or inaction of anyone other than the Contractor or persons providing work or material at the direction of the Contractor.
- (c) Failure of the Homeowner to:
 - i. Maintain the Home including without limitation failure to follow the New Home Maintenance Schedule appended to this limited Warranty;
 - ii. Maintain the lot surrounding the Home including without limitation, maintaining positive drainage away from the Home, maintaining drainage patterns around and within ten feet of the Home and keeping moisture levels around the Home relatively uniform;
 - iii. Follow instructions and specifications of manufactured products in the Home or failure to clean, care for, and maintain manufactured products and other components of the Home;
 - iv. Prevent excessive moisture accumulation in the Home by failure to properly use ventilation equipment, failure to prevent excessive temperature fluctuation, or failure to take any other action reasonably necessary to avoid excessive moisture, dampness or humidity in the Home;
 - v. Prevent landscaping materials or plants from contacting the exterior surface of the Home;
 - vi. Comply with any requirements of the International Residential Code or National Electrical Code; or
 - vii. Take reasonable action to mitigate or prevent damage to the Home.
- (d) Alterations to the grade of the soil that are not in compliance with the Code or applicable governmental regulations.
- (e) Normal wear and tear or normal deterioration to any component of the Home.
- (f) Extreme weather conditions, including but not limited to high winds, wind-driven rain, and freezing temperatures.
- (g) Riot, civil commotion, war, terrorism, vandalism, aircraft, vehicle or boat.
- (h) Fire, smoke, or water damage unless such loss or damage is a direct result of a construction defect.

- (i) Change in the underground water table that exerts pressure on, seeps, or leaks under the Home, sidewalk, driveway, foundation or other structure or causes subsidence or sinkholes.
- (j) Erosion or accretion of soils unless such loss or damage is a direct result of a construction defect.
- (k) Insects, birds, rodents, vermin or other wild or domestic animals unless such loss or damage is a direct result of a construction defect.
- (l) The quality and potability of water unless caused by a construction defect.
- (m) While the Home is being used primarily for non-residential purposes.
- (n) Use for which the Home or the component of the Home was not designed.
- (o) Use that exceeds the normal design loads prescribed by the Code or the engineer of record.
- (p) Homeowner delay in reporting a known construction defect or failing to take reasonable action necessary to prevent further damage to the Home.
- (q) For remodeling projects, improvements, alterations or additions to an existing Home where the *Performance Guidelines* cannot be achieved due to an existing condition.
- (r) Abuse or misuse of a Home component or manufactured product by anyone other than the Contractor or persons providing work or material at the direction of the Contractor.

2. No Actual Physical Damage. The Contractor shall not be responsible for any condition that does not result in actual physical damage to the Home, including, but not limited to the presence of radon gas, formaldehyde or other pollutants or contaminants, or the presence or effect of mold, mildew, toxic material, or volatile organic compound, unless such condition is a direct result of a construction defect.

3. Bodily injury, mental anguish or damage to personal property caused in whole or in part by a defect.

4. Loss or damage caused by or resulting from abnormal loading of structural elements by Homeowner which exceeds design loads as mandated by the Codes.

5. Violation of applicable Building Codes or ordinances unless such violation results in a Defect which is otherwise covered under this Limited Warranty. Under such circumstances, the obligation of the Contractor under this Limited Warranty shall only be to repair the defective warranted portion of the Home, but not to restore or bring the Home to conform to code.

6. A foreclosure of the Home shall terminate this Warranty.

From time to time, Contractor may perform a maintenance task for the benefit of Homeowner at no charge; however, performing a task on one occasion does not imply or require that Contractor will perform a similar task at a later date, nor shall such performance be deemed to extend the Limited Warranty time periods described herein.

E. LIMITED WARRANTY COVERAGE DISPUTES

1. INTENT OF PARTIES

Homeowner recognizes that the procedures described in this Limited Warranty are the only methods by which Homeowner may demand that Contractor correct alleged defects in the Home. Contractor and Homeowner

agree that all disputes in any way related to the coverage of this Limited Warranty (the “Disputes”) shall be resolved according to the “Negotiation” and “Arbitration of Disputes” provisions of Sections 2 and 3 of this Section E.

Homeowner must make a written claim and give Contractor an adequate opportunity to inspect any alleged defect and to fix such defect or pay the reasonable cost to repair such defect prior to initiating these dispute resolution procedures.

In the event that Homeowner is not satisfied with Contractor’s rejection or handling of a Limited Warranty claim, Homeowner understands and agrees that this Limited Warranty requires Homeowner to go through the entire process described in this Section E.

2. NEGOTIATION

(a) The Parties each agree to participate in a period of good faith negotiations (the “Negotiation”), as described in this Section 2 as the first step to resolving any Dispute.

(b) Homeowner recognizes that the Negotiation process described in this Section 2 must be completed before Homeowner can begin the Arbitration process described in Section 3 of the following page.

(c) If Homeowner disputes or is unsatisfied with Contractor’s handling or rejection of one or more Limited Warranty claims, Homeowner must first give written notice to Contractor of such Disputes. The notice must contain the following information:

- i. A description of the nature of the Dispute and a description of what the Homeowner believes Contractor is obligated to do under the Limited Warranty to resolve the Disputes.
- ii. A description of the facts upon which the Homeowner bases its belief that Contractor is obligated to provide Limited Warranty service.
- iii. At least two proposed dates and times for a Conference, which dates must fall on a business day between ten (10) and sixty (60) days after the date Homeowner sends the notice to Contractor (the “Conference”). The Conference shall be held at the Home, unless otherwise agreed.
- iv. The notice shall be addressed to Contractor at the address set forth in this Limited Warranty. The notice and all other notices described in this Limited Warranty must be sent either by (i) personal delivery, (ii) nationally-recognized overnight courier, prepaid with instruction for next business day delivery, or (iii) prepaid certified or registered mail, return receipt requested.

(d) Within (10) days of Homeowner sending the Conference notice, Contractor shall provide a follow-up notice to Homeowner confirming the date and time of the Conference and stating the name and title of Contractor’s representative who will attend the Conference.

(e) Prior to the Conference, Contractor and Homeowner agree that they will, in good faith, discuss and consider possible resolutions of the dispute. At the Conference, the Parties’ representatives shall confer together to resolve the dispute for a maximum period of two hours, although the parties may extend or adjourn the meeting by mutual agreement.

(f) If, after such Conference, the entire dispute has not been resolved then Homeowner may, proceed to Arbitration as described in Section 3 below. If, as a result of the Conference, certain issues in the Dispute have been resolved, the Parties, shall jointly state in writing the issues that have been resolved and the issues which remain unresolved and may require Arbitration. Although Arbitration is the next formal step in the procedures, the Parties shall have every right to continue to negotiate informally, or through mediation to resolve the Dispute following the mediation and prior to Arbitration.

(g) In order to increase the likelihood that the Dispute can be informally resolved and to promote the free flow of candid discussion between the Parties, the Parties agree that any offers of compromise or settlement shall be deemed to be in the interest of resolving the Dispute and therefore such offers of compromise or settlement are not admissible as evidence in the Arbitration.

3. ARBITRATION OF DISPUTES

BY INITIATING A CLAIM UNDER THIS LIMITED WARRANTY, HOMEOWNER WAIVES THE RIGHT TO A JURY TRIAL FOR ANY DISPUTE ARISING UNDER THIS LIMITED WARRANTY. This Limited Warranty is subject to arbitration under the Texas Arbitration Act. All unresolved claims, demands, disputes, controversies and differences that may arise between the parties to this Limited Warranty of whatever nature or kind, including, without limitation, disputes: (1) as to events, representations, or omissions, which predate this Limited Warranty; (2) arising out of this Limited Warranty; (3) relative to the construction warranted by this Limited Warranty; and/or (4) repairs or warranty claims arising after the construction is completed, shall upon the demand of either party, be submitted to mediation and if it is unsuccessful, to binding arbitration, which shall be governed by the provisions of the American Arbitration Association (AAA) Construction Industry Arbitration Rules (in effect at the time demand for arbitration is made, except as set forth herein) and the Texas Arbitration Act (Tex. Civ. Prac. & Rem. Code §171.001 et seq.). "Arbitration" is a forum for the resolution of disputes in which each party and counsel for the party, if any, present the position of the party before an impartial third party (the "Arbitrator") who renders a specific award. The parties shall attempt to agree to the selection of a mediator however, in the event the parties are unable to reach an agreement, the dispute shall be referred to the AAA. If the mediation is unsuccessful, the parties shall attempt to agree upon an arbitrator. Failing their ability to agree, the dispute shall be referred to the AAA. The cost of the arbitration will be shared equally by the parties; however, the Arbitrator may reallocate those costs as part of the award. In the event that Owner is unable to pay the cost of the arbitration, Owner will be afforded the opportunity to present evidence to the Arbitrator of Owner's inability to pay. If the Arbitrator agrees with Owner, then Contractor will pay the full cost of arbitration, subject to the Arbitrator's allocation of costs in the award. The arbitration shall take place in the county where the residence is located. Either party may, within one year after an arbitration award, apply to any Court of competent jurisdiction to confirm the award. The Arbitrator is bound to follow Texas law. The arbitrator does not have authority (i) to render a decision which contains a reversible error of state or federal law, or (ii) to apply a cause of action or remedy not provided for under existing state or federal law. Any such decision to the contrary shall be subject to judicial review. The Arbitrator is empowered to, and shall upon the request of either party, enter all orders that are reasonably necessary to maintain the private and confidential nature of the dispute resolution proceedings to the maximum extent legally possible. Either party may include by joinder or consolidation, persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder or is compelled to arbitrate. For purposes of this Contract, "parties" includes the officers, agents, and employees of each party. The forwarding of a written demand for arbitration shall toll the running of any applicable statute of limitations for the matter to be arbitrated. If this agreement to arbitrate should become unenforceable as a result of any decision of the courts or enactment of any state or federal law, the parties agree that all disputes will be tried to a court, having jurisdiction, without a jury. The filing of a lawsuit does not toll limitations. In the event either party files a lawsuit, the other party shall be entitled to recover its attorney's fees to compel arbitration.

4. STATUTE OF LIMITATIONS

A demand for Arbitration must be filed under the Construction Industry Arbitration Rules within the time periods prescribed by the applicable Texas statutes of limitations. The notice described in Section E-2 (c) shall not stop the running of any statute of limitations.