



**BUILDER LIMITED WARRANTY**  
**and**

**Performance Standards**

SAMPLE

Administered by American Construction & Education Services, Inc

**NOT A VALID WARRANTY**

**THIS IS A SAMPLE DOCUMENT FOR YOUR REVIEW.**

IT SHOULD NOT BE ACCEPTED AT ENROLLMENT AS AN  
ACTUAL WARRANTY DOCUMENT

AN ACTUAL ACES BUILDER LIMITED WARRANTY WILL BE  
PROVIDED AT CLOSING.

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BUILDER LIMITED WARRANTY

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THE WARRANTY PROVIDED BY THIS LIMITED WARRANTY IS LIMITED IN COVERAGE. THE PERFORMANCE STANDARDS PROVIDED IN THIS LIMITED WARRANTY ARE THE ONLY EXPRESS WARRANTIES COVERING THE HOME. TO THE EXTENT ALLOWED BY LAW, NO OTHER WARRANTIES ARE PROVIDED, AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY, MARKETABILITY, SUITABILITY, GOOD AND WORKMANLIKE QUALITY AND FITNESS FOR SPECIFIC OR PARTICULAR PURPOSE, ARE WAIVED AND DISCLAIMED. TO THE EXTENT ALLOWED BY LAW, BUILDER SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES RELATING TO, OR RESULTING FROM, ANY DAMAGE TO, OR DEFECT IN, THE HOME, OTHER IMPROVEMENTS OR THE LOT ON WHICH THE HOME IS LOCATED. BUILDER'S MAXIMUM LIABILITY UNDER THIS LIMITED WARRANTY IS PROVIDED FOR IN SECTION 2.01.

ALL DISPUTES relating to the interpretation and/or implementation of this Limited Warranty or otherwise arising in connection with the construction of the Home or other improvements WILL BE RESOLVED THROUGH THE ALTERNATIVE DISPUTE RESOLUTION PROCEDURES (WHICH INCLUDE BINDING ARBITRATION) set forth in this Limited Warranty.

Capitalized terms in this Limited Warranty shall have the meanings given to such terms in Article IV.

#### ARTICLE I - BUILDER, OWNER AND ACES

1.01 Warrantor. This Limited Warranty is provided solely by Builder. No other person or entity is responsible for fulfilling the obligations of Builder under this Limited Warranty.

1.02 Owner. This Limited Warranty is extended solely to Owner. Owner includes a subsequent owner or owners of the Home to the extent that such owner or owners agree in writing to be bound by the provisions of this Limited Warranty. However, no assignment or transfer of this Limited Warranty shall serve to extend the original term of this Limited Warranty.

1.03 ACES. Not a Warrantor. AMERICAN CONSTRUCTION & EDUCATION SERVICES, INC. ("ACES") IS NOT THE WARRANTOR UNDER THIS LIMITED WARRANTY, AND SHALL HAVE NO OBLIGATIONS OR LIABILITIES TO ENSURE THAT THE PERFORMANCE STANDARDS SET FORTH IN THIS LIMITED WARRANTY ARE MET, NOR IS ACES RESPONSIBLE FOR THE COMPLIANCE BY BUILDER OR THE OWNER WITH ANY OTHER PROVISIONS OF THIS LIMITED WARRANTY. ACES acts solely in an administrative capacity to facilitate the resolution of disputes arising under this Limited Warranty.

1.04 Relationship of Builder to ACES. ACES is a Texas corporation which has been organized (i) to

provide educational opportunities to improve builders' knowledge of industry practices and standards; and (ii) to foster the prompt, efficient and fair resolution of disputes between builders and homeowners that arise under this Limited Warranty. A builder becomes authorized to issue this Limited Warranty and to participate in the Resolution Procedures by its payment of an enrollment fee established by ACES, accompanied by Builder's certification that Builder has complied with specified construction procedures and inspections. ACES does not independently verify a builder's statements in the builder's application for membership to the ACES Builder Program. ACES does not conduct inspections of homes.

#### ARTICLE II - SCOPE OF WARRANTY

2.01 Builder's Maximum Liability. NOTWITHSTANDING ANY CONTRARY PROVISION IN THIS LIMITED WARRANTY, TO THE EXTENT ALLOWED BY LAW, BUILDER'S MAXIMUM LIABILITY FOR ALL OF ITS OBLIGATIONS UNDER OR RELATING TO THIS LIMITED WARRANTY IS LIMITED TO THE ORIGINAL PURCHASE PRICE OF THE HOME AND THE LOT ON WHICH IT IS LOCATED OR ITS FAIR MARKET VALUE, WHICHEVER IS GREATER.

2.02 Term and Coverage of this Limited Warranty. Subject to the express exclusions and limitations set forth in this Limited Warranty, Builder provides to Owner the following coverage under this Limited Warranty. References in this Limited Warranty to a year, a year period, a year of coverage, or the like, shall refer to a calendar year period consisting of 365 days (or 366 days, if an applicable year period includes an additional day for a leap year).

A. Warranty - One Year

Commencing with the Warranty Commencement Date, and continuing for one year, the construction of the Home will conform to the First Year Performance Standards for year one as provided in Article IX, including the warranted tolerances for Major Structural Failures also specified in Article IX. This portion of the one year period commencing on the Warranty Commencement Date. Written notice of an alleged Defect (other than a Defect regarding Systems or Major Structural Failure, which are provided for below) occurring in year one of this Limited Warranty must be mailed to Builder in accordance with Section 6.01 and postmarked, or received by Builder, NO LATER THAN THIRTY (30) DAYS AFTER THE EXPIRATION OF THE FIRST YEAR in order to be eligible for such first year coverage.

B. Warranty - Years One

through ten  
Commencing with the Warranty Commencement Date and continuing through the date which is ten years after the Warranty

Commencement Date, the construction, of the Home will conform to the Performance Standards and- warranted tolerances for- Major Structural Failures for the first through the tenth years, as provided in Article IX. Warranty coverage for Warranty-Year One no longer exist during this time period. This portion of this Limited Warranty terminates ten years after the Warranty Commencement Date. Written notice of a Major Structural Failure occurring in years one through ten of this Limited Warranty must be mailed to Builder in accordance with Section 6.01 and postmarked, or received by Builder, NO LATER THAN THIRTY (30) DAYS AFTER THE EXPIRATION OF THE TEN YEAR COVERAGE IN ORDER TO BE ELIGIBLE FOR SUCH TEN YEAR COVERAGE. PROVIDED, THE NOTICE FROM OWNER TO BUILDER MUST BE PROVIDED WITHIN A REASONABLE TIME AFTER OWNER IS AWARE OF ANY MAJOR STRUCTURAL FAILURE WHICH OCCURS DURING THE TEN YEAR PERIOD BEGINNING ON THE WARRANTY COMMENCEMENT DATE.

2.03 No Warranty Responsibility if No Timely Notice. BUILDER SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY DEFECTS NOR ANY OTHER OBLIGATIONS IMPOSED ON BUILDER UNDER THIS LIMITED WARRANTY WHATSOEVER, IF BUILDER HAS NOT RECEIVED ACTUAL WRITTEN NOTICE STRICTLY WITHIN THE TIME SPECIFIED IN SECTION 2.02 OF THIS LIMITED WARRANTY.

2.04 Repair, Replacement or Payment of Reasonable Costs. For any Defect covered by this Limited Warranty, Builder may repair, replace or pay Owner the reasonable cost of repairing or replacing the defective item, as Builder chooses. Builder's right to pay Owner the reasonable cost of repair or replacement shall be available, at Builder's option, in lieu of Builder's responsibility to repair or replace a defective item otherwise provided for in Article IX. Repair of a Major Structural Failure is limited to (i) the repair of damage to the load-bearing portion of the Home itself which is necessary to restore its load-bearing function, and (ii) the repair of those components of the Home damaged by the Major Structural Failure.

**ARTICLE III - HOME MAINTENANCE**

3.01 Owners's Responsibilities Generally. Maintenance of the Home and the lot on which it is located are essential to the proper functioning and enjoyment of the Home. Ongoing maintenance is the responsibility of Owner, and Builder will not be responsible for maintaining, or advising Owner with respect to the maintenance of, the Home. Some maintenance items are described in this Limited Warranty, but there are ongoing maintenance responsibilities which are not outlined in this Limited Warranty. Owners maintenance must include, for example, such items as repainting and resealing

finished surfaces as necessary, maintenance of caulking for the life of the Home, regular maintenance of mechanical systems, cleaning and proper preservation of grading around the Home and drainage systems to allow for the proper drainage of water from the Home and the lot on which it is located.

**3.02**

Soil Maintenance.

A. Soils containing a high clay content will expand and contract when the moisture content of the soil changes. In areas where there are moisture changes in subsurface soil, Owner must maintain the soils near the foundation of the Home in a manner which will assure a uniform (but not saturated) moisture level in the subsurface soil. Areas of soil with no landscaping may be more susceptible to evaporation and may require more moisture. Close observations of the foundation are especially required during hot and dry periods to verify that soil is not separating from the foundation. Although foundations are designed for soils conditions in the general area in which the Home is located, specific conditions may be encountered that may not be evident in general soils testing.

B. Owner should be aware that the placement of landscaping requiring heavy watering will generally cause a higher moisture content in the area of that portion of landscaping. Such landscaping may create an imbalance with respect to less watered areas not containing landscaping requiring heavy watering. Reasonably balanced moisture content around the entire foundation must be maintained. Owner is advised that the watering of trees located within twenty feet of the foundation requires special care, in order to maintain uniform moisture around the Home's foundation.

C. If gutters and downspouts are used, Owner must assure that water does not pool near the foundation of the Home.

**ARTICLE IV - DEFINITIONS**

4.01 "ACES". American Construction & Education Services, Inc., acting as administrator to facilitate the resolution of disputes arising in connection with this Limited Warranty.

4.02 "ACES Builder Program". The program administered by ACES to facilitate the resolution of disputes between owners and builders who are participating in the ACES Builder Program and to provide ongoing educational opportunities to builders.

4.03 "Applicable Code". The version of the following codes or building practices in effect at the time of commencement of construction of the Home, applicable in the order listed:

(a) The International Residential Code (I.R.C.) for One- and Two-Family Dwellings that is in effect at the time of construction where the home is built.

(b) In areas where the I.R.C. is not required or, if a defect (as defined in the Limited Warranty) is not covered by the I.R.C., then locally accepted building practices.

4.04 "Builder": The builder named at the beginning of this Limited Warranty. The Builder is also a Contractor, meaning a person contracting with an owner for the construction or sale of a new residence constructed by that person or of an alteration of or addition to an existing residence, repair of a new or existing residence, or construction, sale, alteration, addition, or repair of an appurtenance to a new or existing residence.

4.05 "Defect": A component of the Home which does not comply with the Performance Standards expressly set forth in Article IX, and which, is not otherwise excluded from coverage by this Limited Warranty. A defect for purposes of this warranty is the same as a "construction defect" which means a matter concerning the design, construction, or repair of a new residence, or of an alteration of or repair or addition to an existing residence, or of an appurtenance to a residence, or which a person has a complaint against a contractor. The term may include any physical damage to the residence, any appurtenance, or the real property on which the residence and appurtenance are affixed proximately caused by a construction defect.

4.06 "Dispute": A dispute as defined in Section 7.01.

4.07 "Fixtures, Appliances and Equipment": Fixtures, appliances, and equipment, including, without limitation, water heaters, pumps, stoves, refrigerators, stoves and ranges, compactors, garbage disposals, dishwashers, washers and dryers, bathtubs, sinks, commodes, faucets and valves, lights and fixtures, thermostats, switches, outlets, circuit breakers, automatic door openers, oil tanks and fittings, humidifiers, oil and air purifiers, ventilating fans, air conditioning material and equipment and air handling equipment, and similar items, and includes consumer products as defined in the Magnuson-Moss Warranty Act (15 U.S.C. §2301, et seq.).

4.08 "Foundation Failure": A Foundation Failure as such term is defined in Subsection III of Section 9.03.

4.09 "Home": The single family house located at the address provided at the beginning of this Limited Warranty. Such term also includes a condominium unit conveyed as a single unit, and the common elements in the building in which the condominium unit is situated and which are shared in

common with other units in the building. Unless otherwise expressly provided, the term "Home" does not include a detached garage or the lot on which the Home is located, nor does such term include any other outbuilding or other improvements referred to in subparagraph P of Section 5.03.

4.10 "Limited Warranty": All provisions of this Limited Warranty, including, without limitation, Article IX containing the Performance Standards.

4.11 "Major Structural Failure": A Foundation Failure or a Major Structural Non-Foundation Failure consisting of actual damage to the load-bearing portion of a residence caused by the failure of the load-bearing portion.

4.12 "Major Structural Non-Foundation Failure": A Major Structural Non-Foundation Failure, as such term is defined in subsection III of Section 9.03.

4.13 "Owner": The owner or owners named at the beginning of this Limited Warranty, and such owner's or owners' successors in title who agree in writing to be bound by the provisions of this Limited Warranty. With respect to condominium common elements, the condominium association is deemed to be the owner. See Section 8.13 for provisions regarding Owner's notification to Builder and ACES of Owner's sale of the Home.

4.14 "Performance Standards": The Performance Standards expressly set forth in Subsections 1, 11 and III of Section 9.03, subject to certain tolerances and limitations of coverage as further set forth in this Limited Warranty.

4.15 "Request for Warranty Performance": A written request by Owner for correction of an alleged Defect, as further provided in Section 6.01.

4.16 "Resolution Procedures": The administrative intervention, mediation and binding arbitration procedures set forth in Article VII.

4.17 "Systems": The following systems, exclusive of Fixtures, Appliances, and Equipment:

- (a) electrical system, consisting of electrical boxes, wiring and connections up to the public utility connection;
- (b) plumbing system, consisting of water supply, waste and vent pipes and their fittings, gas supply lines and fittings, water, gas and sewer services piping, and their extensions to the tie-in of a public utility connection in a designated utility easement

- (c) heating, cooling and ventilation systems, consisting of duct work, water, steam and refrigerant lines, convectors, registers, radiation elements and dampers.

4.18 "Warranty Commencement Date": The date specified by Builder as the Warranty Commencement Date at the beginning of this Limited Warranty, or if Builder has not specified such date, (i) if there is a sale and conveyance of the substantially completed Home from Builder to Owner, such date shall be the date of the closing of such sale and conveyance from Builder to the initial Owner, or (ii) if construction occurs on Owner's property, then such date shall be the earlier of the date of substantial completion of the Home or the date of the initial Owner's first occupancy of the Home. First occupancy of the Home shall be the first date upon which Owner begins moving furniture and personal effects into the Home. In certain situations, Builder may offer (for the first time) this Limited Warranty to Owner after Owner's first occupancy; in this situation, refer to Section 8.15 regarding Warranty Commencement Date.

4.19 "Warranty Transfer Form": The Warranty Transfer Form providing for the transfer of this Warranty to a subsequent Owner, as further provided in Section 8.13. A form of the Warranty Transfer Form is included in this Limited Warranty.

**ARTICLE V - MATTERS WHICH ARE NOT WARRANTED**

5.01 Warranty Limited to Items Specified in this Limited Warranty. THE WARRANTY PROVIDED BY THIS LIMITED WARRANTY IS LIMITED IN COVERAGE. THE PERFORMANCE STANDARDS PROVIDED IN THIS LIMITED WARRANTY ARE THE ONLY EXPRESS WARRANTIES COVERED BY THIS LIMITED WARRANTY. NO OTHER WARRANTIES ARE PROVIDED, AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY, MARKETABILITY, SUITABILITY, GOOD AND WORKMANLIKE QUALITY AND FITNESS FOR SPECIFIC OR PARTICULAR PURPOSE, ARE WAIVED AND DISCLAIMED. TO THE EXTENT ALLOWED BY LAW, BUILDER SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, RELATING TO, OR RESULTING FROM, ANY DAMAGE TO, OR DEFECT IN, THE HOME, OTHER IMPROVEMENTS OR THE LOT ON WHICH THE HOME IS LOCATED.

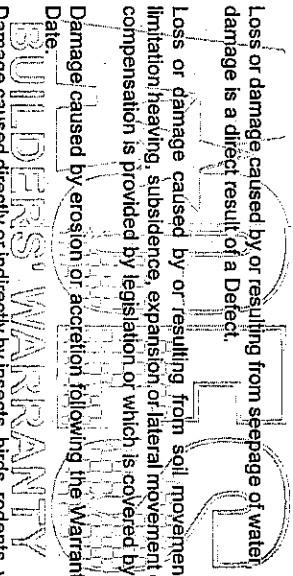
5.02 Manufacturer's Warranties. Certain appliances, equipment and other items may be covered by warranties of manufacturers. Builder hereby assigns, without recourse, all manufacturer warranties to Owner. Any rights of Owner under those warranties are provided by the manufacturers, and BUILDER DOES NOT ASSUME ANY OF THE OBLIGATIONS UNDER THOSE MANUFACTURER WARRANTIES.

AND DOES NOT PROVIDE ANY WARRANTY COVERAGE OF ITEMS COVERED BY MANUFACTURER WARRANTIES. The items which may be covered by manufacturers' warranties include any dishwasher, cooktop, oven, microwave, kitchen vent fan, central air conditioning coil and compressor, furnace heat exchanger, water heater, carpet and any other items for which the manufacturer offers a warranty.

5.03 Additional Exclusions. Builder does not warrant and shall not be responsible for, and this Limited Warranty shall not extend to or include, or be applicable to, any of the following:

- A. Any work performed or material supplied incident to construction, modification or repairs to the Home performed by Owner, or by anyone on behalf of Owner, other than Builder or Builder's employees, agents, subcontractors or contractors providing work or materials at the direction of Builder.
- B. Any component or damage to the extent caused or made worse by the negligence, improper maintenance, failure to take reasonable action to mitigate damages, failure to take reasonable action to maintain the residence, or on other action or inaction of Owner or others, except Builder or Builder's employees, agents, subcontractors and contractors providing work or materials at the direction of Builder.
- C. To the extent allowed by law, bodily injury or other consequential or incidental damages, including, without limitation, loss of consortium, mental anguish damages or punitive damages, loss of damage to any personal property, including Fixtures, Appliances and Equipment, or to any real property, whether or not included in the original purchase price of the Home.
- D. Any damage to the Home, to the extent it is caused or made worse by the failure of Owner or by anyone other than Builder, its employees, agents, subcontractors or contractors providing work or materials at the direction of Builder, to comply with the warranty requirements of the manufacturers of any Fixtures, Appliances and Equipment.
- E. Alterations to the grade of the soils, except alterations done by Builder, its employees, agents, subcontractors or contractors providing work or materials at the direction of Builder.
- F. Dampness or condensation due to the failure of Owner to maintain adequate ventilation, or the effects of such failure on the Home or any other Defect to the

- H. Home caused by moisture, rot, mildew or rust.
- G. Normal wear and tear or normal deterioration.
- H. Normal shrinkage resulting from drying or settlement of construction components within the tolerance of building standards.
- I. Loss or damage caused by or resulting from or in connection with accidents, riot and civil commotion, fire, explosion, smoke, water escape, falling objects, aircraft, vehicles, lightning, windstorm, hail, flood, hurricane, tropical storms, gale force winds, mudslide, earthquake, volcanic eruption, or other Acts of God, wind-driven rain or other water, subsidence or sinkholes, changes in the underground water table, or below ground water that exerts pressure on, seeps, or leaks into the Home, sidewalk, driveway, foundation, swimming pool or other structure.
- J. Loss or damage caused by or resulting from seepage of water, unless such loss or damage is a direct result of a Defect.
- K. Loss or damage caused by or resulting from soil movement including without limitation heaving, subsidence, expansion or lateral movement of the soil for which compensation is provided by legislation or which is covered by insurance.
- L. Damage caused by erosion or accretion following the Warranty Commencement Date.
- M. Damage caused directly or indirectly by insects, birds, rodents, vermin or other wild or domestic animals.
- N. Damage dealing with the quality and potability of water.
- O. Loss or damage which arises while the Home is being used primarily for nonresidential purposes or for purposes for which the Home was not designed; loss or damage caused by or resulting from abnormal loads placed on floors by Owner or which otherwise exceed normal design load as prescribed by Applicable Code; loss or damage caused by or resulting from unusual or abnormal demand on the electrical system or which otherwise exceeds the normal design electrical capacity as prescribed by Applicable Code or other damage that results if the Home has not been maintained, or has been negligently damaged or abused.



- P. Cost of or responsibility for moving pianos, pool tables, antiques, fine furniture or other items which would generally require special handling; costs of shelter, transportation, food, moving, storage, or other expenses related to inconvenience or relocation during repairs.
- Q. Any condition which does not result in actual physical damage to the Home, including, but not limited to, uninhabitability or health risk due to the presence or consequence of radon gas, formaldehyde or other pollutants or contaminants, or the presence or effect of hazardous or toxic materials.
- R. Violations of Applicable Code, unless the violation results in a Defect which is otherwise covered by this Limited Warranty. Should a violation cause a Defect covered under this Limited Warranty, the obligation of the Builder shall be limited to repair of the defective warranted portion of the Home; Builder shall not be required to make the Home conform to code unless required to do so by a governmental authority having jurisdiction over that issue.
- S. Builder's reliance on written information relating to the residence, appurtenance or real property on which the residence and appurtenance are affixed that was obtained from official government records, if such written information was false or inaccurate and Builder did not know and could not have reasonably known of the written information's falsity or inaccuracy.
- T. Deficiencies in or damage to outbuildings, including detached garages and detached carports (other than to the extent that a detached garage is expressly covered in Article IX), swimming pools and other recreational facilities, driveways, decks, porch stoops, fences, walkways, patios, retaining walls, bulkheads, boundary walls, fences, landscaping (including sodding, seeding, trees, shrubs, and other plants and planting). Owner understands that Builder cannot guarantee that some or all of the trees, shrubs or other plants may not die prior to or following purchase of the Home. Owner releases Builder from any claims for damages to or loss of trees, shrubs or other plants resulting from the work necessary to construct the Home.
- U. After the first year of coverage, concrete floors of basements.
- V. Any Request for Warranty Performance not mailed to Builder, or received by Builder,

by the time required in this Limited Warranty.

W. Any component of the Home which Owner and Builder have agreed in writing to exclude from coverage under this Limited Warranty.

X. Any Defect(s) covered by this Limited Warranty which Owner repairs, causes to be repaired, or has already repaired without prior written authorization of Builder.

The foregoing list of exclusions shall not be construed to impose liabilities on Builder which are not expressly undertaken by Builder under this Limited Warranty.

#### ARTICLE VI - PROCEDURES FOR WARRANTY PERFORMANCE; OWNER'S COOPERATION

6.01 Request for Warranty Performance. Any Request for Warranty Performance must be in writing and must be mailed and postmarked in the U.S. Mail system, and properly addressed to Builder at the address specified on the front of this Limited Warranty (or such other address as Builder has notified Owner), or received by Builder, strictly within the time for notification specified in Section 2.02. Such written request for service is called a "Request for Warranty Performance." The Request for Warranty Performance shall describe the alleged Defect, in reasonable detail, and otherwise meet Builder's requirements regarding requests for service.

6.02 Time for Repairs or Replacements. If Builder is required under this Limited Warranty to repair or replace a Defect, the appropriate repair (or replacement) will be completed within sixty (60) days after Builder's receipt of the Request for Warranty Performance, or if the matter is disputed, then within sixty (60) days after resolution of the Dispute. However, such sixty-day period will be extended to the extent that Builder's delay is due to inclement weather, unavailability of materials or labor, or other causes beyond Builder's reasonable control. In the event that a repair or replacement would reasonably take more than sixty days in the exercise of Builder's reasonable diligence, the sixty-day period will be extended by a reasonable number of additional days. Builder is not required to incur overtime or weekend expenses.

6.03 Owner's Cooperation and Access. Owner shall cooperate with Builder in connection with Builder's inspection of alleged Defects and in connection with repairs or replacements made by Builder in connection with this Limited Warranty, including the providing of reasonable access to the Home so that Builder may perform the services required under this Limited Warranty. Reasonable access includes, without limitation, access to the Home during the time between the hours of 8:00 a.m. and 5:00 p.m. during weekdays. Failure of Owner to cooperate and to provide reasonable access to Builder will result

in the extension of the repair/replacement time period provided in Section 6.02, and may relieve Builder of certain of Builder's obligations under this Limited Warranty.

#### ARTICLE VII - ADMINISTRATIVE INTERVENTION, MEDIATION AND ARBITRATION PROCEDURES

7.01 Administrative Intervention. If any dispute or claim arises between Owner and Builder relating to the interpretation and/or implementation of this Limited Warranty or otherwise in connection with the construction of the Home, other improvements or the lot on which the Home is located, including any repairs made under this Limited Warranty (any such dispute or claim, and right or remedy therefor, collectively called a "Dispute"), Owner and Builder agree that they will each make every reasonable effort to settle the Dispute through prompt communication and participation in an Administrative Intervention. "Administrative Intervention" means a meeting of Owner and Builder with an ACES representative, called at the request of, either Owner or Builder, at which Owner and Builder will make every reasonable effort to settle the Dispute. If the Administrative Intervention meeting with an ACES representative is requested by Owner or Builder, Owner and Builder will submit to ACES and the other party, a description of the alleged Defect or Defects and proposed resolution, of the Dispute at least five (5) days prior to the Administrative Intervention meeting.

#### 7.02 Mediation.

A. If Owner and Builder are unable to resolve a Dispute through the Administrative Intervention provided for in Section 7.01, Owner and Builder agree to submit the Dispute to non-binding mediation. Prior to the commencement of the mediation, however, Owner and Builder agree that they will implement the notice, inspection and settlement offer procedures pursuant to the provisions of the Residential Construction Liability Act, Chapter 27 of the Texas Property Code (such Act, as amended from time to time, called the "RCLA"). Accordingly, promptly after the Administrative Intervention, Owner shall give Builder notice of Owner's claim as required under RCLA, Owner shall provide Builder with all reports, bids, studies, photographs or other documentation which Owner believes substantiates the claim. Owner and Builder shall proceed to carry out the inspection and settlement offer procedures set forth in RCLA. At the conclusion of the inspection and settlement offer procedures set forth in RCLA, to the extent that Owner rejects or is deemed to have rejected Builder's offer of settlement or Builder fails to make a settlement offer, Owner and Builder shall proceed with the mediation procedures set forth below to resolve any remaining Dispute.

B. Following completion of the RCLA notice, inspection and settlement offer

procedures, either Owner or Builder shall notify ACES to assist in arranging the mediation. The mediation will be conducted by a mediator chosen by Owner and Builder from ACES list of construction mediators. Each mediator on the list provided by ACES shall be an impartial third party meeting the requirements of Section 154.052 of the Texas Civil Practice and Remedies Code and shall have construction mediation experience. Owner and Builder will negotiate in good faith to select the mediator from the ACES construction mediator list. Selection of the mediator will be made within seven (7) days after ACES has provided the construction mediator list to Builder and Owner. The mediation shall occur promptly after the selection of the mediator, but in no event more than 30 days after the selection of the mediator, unless extended by the consent of Owner and Builder. The costs of such mediation shall be shared equally by Owner and Builder. In the event the parties cannot agree on a mutually acceptable mediator, either party shall have the right to request that AAA (as defined below), acting through its regional vice president, having jurisdiction, appoint a qualified mediator. Owner and Builder, by mutual agreement, may establish an alternative procedure to select a mediator.

C. Each party agrees to make a reasonable effort to resolve any Dispute at the mediation. Each party shall attend, the mediation or be represented by a person with authority and discretion to negotiate a complete resolution of the Dispute. The mediator shall determine the format and rules (which shall be consistent with this mediator provision) for the mediation, and the mediation session shall be private. The mediator will keep confidential all information learned in private caucus with any party, unless specifically authorized by such party to make disclosure of the information to the other party. The mediator shall be disqualified as a witness, consultant, expert or counsel for any party with respect to the Dispute. Mediation is a compromise negotiation, and the entire mediation process will be confidential. The conduct, statements, promises offers, views and opinions shall not be discoverable or admissible in any legal proceeding for any purpose; provided, however, evidence otherwise discoverable or admissible is not excluded from discovery or admission as a result of its use in the mediation.

D. The cost of mediation is to be borne equally by Owner and Builder.

**7.03 Binding Arbitration.**

A. If a Dispute remains unresolved upon completion of the mediation provided for in Section 7.02, such Dispute shall then be resolved by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American

Arbitration Association (the "AAA"), SUCH ARBITRATION WILL BE BINDING AND FINAL ON BOTH PARTIES PURSUANT TO BOTH STATE AND FEDERAL LAW, TO THE EXTENT ALLOWED BY LAW, OWNER AND BUILDER WAIVE THE RIGHT TO PURSUE ANY OTHER RESOLUTION OF A DISPUTE (INCLUDING A PROCEEDING IN ANY JUDICIAL FORUM) ARISING UNDER OR IN CONNECTION WITH THIS LIMITED WARRANTY, OR OTHERWISE RELATING TO THE CONSTRUCTION OF THE HOME, OTHER IMPROVEMENTS OR THE LOT ON WHICH THE HOME IS LOCATED. The award or decision rendered by the arbitrator may, however, be enforced in any court of competent jurisdiction.

B. The arbitration hearing shall occur in the Home, unless the arbitrator determines that another location is more appropriate, or unless Builder and Owner agree on another location. The substantive laws of the State of Texas, and applicable federal law, shall apply with respect to the subject matter of the arbitration, with full effect given to the provisions of this Limited Warranty, including without limitation, Section 7.05 below. The arbitrator shall have broad discretion to determine what matters and issues are properly included within the Disputes to be resolved by arbitration. This arbitration provision shall survive closing, breach or termination of this Limited Warranty.

C. Under this arbitration provision, neither Owner nor Builder will have the right to litigate any claim in Court or to have a jury trial on that claim, or to engage in pre-arbitration discovery except as provided for in the arbitration rules. Further, Owner will not have the right to participate as a representative or member of any class of claimants pertaining to any claim subject to arbitration. The arbitrator's decision will generally be final and binding. Other rights that Owner would have if Owner went to Court may also not be available in arbitration. The arbitration provision applies to any claim, dispute or controversy (whether in contract, regulatory, tort, or otherwise, whether pre-existing, present or future and including constitutional, statutory, common law, intentional tort, equitable claims, and claims for additional or punitive damages) arising from or relating to the contract between Owner and Builder and this Limited Warranty as well as any oral or written statements related to same.

D. The cost of arbitration is to be borne equally by Owner and Builder.

7.04 General Provisions Regarding Dispute Resolution. The provisions in this Limited Warranty requiring administrative intervention, mediation, and arbitration of Disputes shall be specifically enforceable by any court of competent jurisdiction. The dispute resolution provisions contained in this Limited Warranty shall apply with respect to all disputes, claims, rights and obligations which arise out of or in connection with this Limited Warranty or in connection with the construction of the Home, other

improvements or the lot on which the Home is located. Owner and Builder acknowledge that they have carefully read the dispute resolution provisions provided in this, Limited Warranty. The parties have agreed to be bound by these provisions in order to minimize the time and costs which would otherwise be the likely result if Disputes were submitted to a judicial forum. If either Owner or Builder shall seek a judicial forum in contravention of this Limited Warranty, such party shall, to the extent allowed by law, reimburse the other party or parties for their costs and expenses, including attorney's fees, incurred in seeking dismissal of such litigation, and the venue shall be in any court of competent jurisdiction in which Builder's principal office is located.

7.05 Residential Construction Liability Act. Owner and Builder acknowledge that the RCLA applies to construction defects and that the RCLA applies with respect to this Limited Warranty and any disputes or claims regarding or in any way related to construction defects in connection with the Home, other improvements, the contract between Owner and Builder, and this Limited Warranty. Owner and Builder understand that the RCLA contains provisions to expedite the resolution of claims. OWNER AND BUILDER ALSO ACKNOWLEDGE AND AGREE THAT A REQUEST FOR WARRANTY PERFORMANCE SHALL NOT BE CONSTRUED AS A NOTICE OF CONSTRUCTION DEFECT UNDER RCLA, AND THAT ANY NOTICE UNDER RCLA SHALL BE SEPARATELY SENT TO BUILDER IN THE MANNER REQUIRED BY RCLA. Owner and Builder acknowledge that RCLA CONTROLS TO THE EXTENT OF ANY CONFLICT BETWEEN RCLA AND ANY OTHER LAW, INCLUDING THE DECEPTIVE TRADE PRACTICES CONSUMER PROTECTION ACT, SUBCHAPTER E, CHAPTER 17, TEXAS BUSINESS & COMMERCE CODE (the "DIPA"), as provided by the RCLA and DTPA.

THE CONTRACT BETWEEN THE PARTIES AND THIS LIMITED WARRANTY ARE SUBJECT TO CHAPTER 27, PROPERTY CODE. THE PROVISIONS OF THAT CHAPTER MAY AFFECT YOUR RIGHT TO RECOVER DAMAGES ARISING FROM THE PERFORMANCE OF THE CONTRACT BETWEEN THE PARTIES AND THIS WARRANTY. IF YOU HAVE A COMPLAINT CONCERNING A CONSTRUCTION DEFECT ARISING FROM THE PERFORMANCE OF THIS WARRANTY AND THE CONTRACT BETWEEN THE PARTIES AND THAT DEFECT HAS NOT BEEN CORRECTED THROUGH NORMAL WARRANTY SERVICE, YOU MUST PROVIDE NOTICE REGARDING THE DEFECT TO THE CONTRACTOR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, NO LATER THAN THE 60<sup>TH</sup> DAY BEFORE THE DATE YOU FILE SUIT TO RECOVER DAMAGES IN A COURT OF LAW. THE NOTICE MUST REFER TO CHAPTER 27, PROPERTY CODE, AND MUST DESCRIBE THE CONSTRUCTION DEFECT. IF REQUESTED BY THE CONTRACTOR, YOU MUST PROVIDE THE CONTRACTOR AN OPPORTUNITY TO INSPECT AND CURE THE DEFECT AS PROVIDED IN CHAPTER 27, PROPERTY CODE.

7.06 Additional Documents. Owner and Builder shall execute such documents as may reasonably be required by the mediator or the arbitrator, including documents regarding the confidentiality of information and documents exchanged or produced.

7.07 Claim Limitation. THE PERIOD DURING WHICH OWNER SHALL HAVE THE RIGHT TO COMMENCE THE RESOLUTION PROCEDURES FOR ANY DISPUTE UNDER OR IN CONNECTION WITH THIS LIMITED WARRANTY SHALL BE ON OR BEFORE TWO YEARS AFTER OWNER HAS DISCOVERED OR WITH THE EXERCISE OF REASONABLE DILIGENCE, SHOULD HAVE DISCOVERED THE CONSTRUCTION DEFECT OR OTHER CONDITION FORMING THE BASIS OF THE DISPUTE. This Section shall not be construed to modify Owner's obligation to submit a Request for Warranty Performance by the time specified in this Limited Warranty, nor to extend the express term of any warranty specified in Section 2.02.

#### ARTICLE VIII - MISCELLANEOUS

8.01 Method of Repair. Repairs required under this Limited Warranty shall be performed in the manner, and using such materials and methods, as are considered advisable by Builder and consistent with any Applicable Code or the Performance Standards of this Limited Warranty. In connection with the repair of a Defect, Builder will cosmetically repair, if necessary, components of the Home which have to be removed or altered in order to repair a Defect. However, repairs will be to the condition, not necessarily new, existing immediately prior to the Defect. See Section 8.02 below for additional provisions regarding repairs.

8.02 Finishing and Touch Up. Exterior surfaces altered incident to required repairs will be finished or touched up to match surrounding areas as closely as practicable. However, an exact match is not required and cannot be guaranteed. In connection with the required repair of finish materials (such as paint and wallpaper), Builder will match the standard and grade, as closely as reasonably possible. Builder will attempt to match finishes, but will not be responsible for discontinued patterns or materials, or color or shade variations.

8.03 No Extension of Warranty. Steps taken to correct Defects shall not act to extend any term of warranty coverage under this Limited Warranty. Generally, any repairs or corrective actions by Builder will, however, be subject to the Performance Standards applicable to the repaired or corrected item. A CLAIM FOR A DEFECTIVE REPAIR SHALL BE MADE BY OWNER ON OR BEFORE TWO YEARS AFTER OWNER HAS DISCOVERED OR WITH THE EXERCISE OF REASONABLE DILIGENCE, SHOULD HAVE DISCOVERED A DEFECT IN SUCH REPAIR. SUCH CLAIM WILL BE SUBJECT TO THE DISPUTE RESOLUTION PROVISIONS SET FORTH IN ARTICLE VII.

8.04 Assignment of Insurance Proceeds. If Builder repairs or replaces, or pays the, reasonable cost of repairing or replacing, any Defect covered by this Limited Warranty which is covered by any other insurance or warranty, Owner will, upon request by Builder, assign the proceeds of such insurance or the rights under such warranties to Builder to the extent of the cost to Builder of the repair, replacement or payment in connection with such Defect. Nothing in this paragraph, however, shall require the Owner to

file any claim with an insurance carrier.

8.05 Invald Provisions. Should any provision of this Limited Warranty be deemed unenforceable, that determination will not affect the enforceability of the remaining provisions.

8.06 Applicable Law. This Limited Warranty shall be governed by the laws of the State of Texas, and as further provided in this Limited Warranty.

8.07 No Modification. This Limited Warranty may not be modified or amended in any manner except upon written amendment signed by both Builder and Owner.

8.08 Owner's Release of Builder. When Builder finishes repairing or replacing a Defect, or pays Owner the reasonable cost of repairing or replacing a Defect, and if requested by Builder, Owner agrees to sign a release of Builder's obligations with respect to the Defect. However, this section shall not prejudice Owner's rights for warranty service on the item repaired to the extent expressly provided in this Limited Warranty.

8.09 Parties Bound. This Limited Warranty shall be binding on Builder and any successor or assigns who expressly assumes Builder's obligations under this Limited Warranty, and Owner and Owner's heirs and personal representatives.

8.10 Certain Terms. Use of one gender in this Limited Warranty includes the other gender, and the use of the plural includes the singular, as may be appropriate.

8.11 No Other Agreements or Representations. This Limited Warranty contains the entire warranty obligations of Builder to Owner with respect to the matters referred to in this Limited Warranty, and supersedes any previous agreements, representations or communications relating to this Limited Warranty, express or implied, whether oral or written to the extent allowed by law. OWNER ACKNOWLEDGES THAT BUILDER HAS MADE NO REPRESENTATIONS, PROMISES, WARRANTIES OR AGREEMENTS, ORAL OR WRITTEN, WITH RESPECT TO THIS LIMITED WARRANTY OR ANY COMPONENT OF THE HOME OR OTHER IMPROVEMENTS, EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THIS LIMITED WARRANTY (INCLUDING ANY WRITTEN AMENDMENT OF THIS LIMITED WARRANTY, EXECUTED BY OWNER AND BUILDER AT THE TIME THIS LIMITED WARRANTY IS EXECUTED BY OWNER AND BUILDER, AND ATTACHED TO THIS LIMITED WARRANTY).

8.12 Notices. All notices required under this Limited Warranty must be in writing and be sent by the U.S. mail, postage prepaid, to the recipient's address shown in this Limited Warranty, or to any other

address of which the recipient has previously notified the other party in writing.

8.13 Notification Regarding Subsequent Owner. To assign this Limited Warranty to a subsequent Owner, the selling Owner and the purchasing Owner at the time of the sale shall execute the Warranty Transfer Form (i) containing the identification and signatures of the selling Owner and of the purchasing Owner, and (ii) containing a statement that the purchasing Owner wishes to be subject to the benefits and obligations of this Limited Warranty. Such acknowledgment, shall be sent to both ACES and to Builder, promptly after such sale, and shall be accompanied by a copy of the recorded Deed evidencing the conveyance of the Home to the purchasing Owner.

8.14 Builder's Failure to Meet Requirements of the ACES Builder Program. This Limited Warranty shall have no effect unless Builder is properly enrolled in the ACES Builder Program on the Warranty Commencement Date (or, if Section 8.15 is applicable, the date upon which Owner and Builder execute this Limited Warranty).

8.15 Limited Warranty Given in Connection with Existing Home. This Limited Warranty may be given by Builder in the situation in which this specific Limited Warranty is not referred to in the construction or purchase and sale agreement between Owner, and Builder. If this situation applies to Owner and the Home referred to in this Limited Warranty, the Warranty Commencement Date is (i) if there was a sale and conveyance of the substantially completed Home from Builder to Owner, such date shall be the date of the closing of such sale and conveyance from Builder to the initial Owner, or (ii) if construction occurred on Owner's property, then such date shall be the earlier of the date of substantial completion of the Home or the date of the initial Owner's first occupancy of the Home. The purpose of this provision is to cause the Warranty Commencement Date to generally be the same date at which the Warranty Commencement Date would have occurred, had Owner and Builder provided for this specific Limited Warranty in the original construction or purchase and sale agreement.

8.16 Breach of this Limited Warranty. Failure of Builder to correct or to pay the reasonable cost to correct a Defect required under the provisions of this Limited Warranty shall be deemed to be a violation of this Limited Warranty; the mere occurrence of a Defect shall not be deemed to be a violation of this Limited Warranty.

8.17 No Modification Because of Builder's Action. No action by Builder to repair, replace or pay for an alleged deficiency in a component of the Home or other improvements which is not covered by this Limited Warranty, will operate to enlarge or modify Builder's obligations under this Limited Warranty.

If the residence warranted is a Townhome under the jurisdiction of a Homeowner's Association, the exterior of the residence (roofing, siding, paint, flashing, attic ventilation, etc) is maintained by the Homeowner's Association. Concerns regarding these items should be directed to the local Homeowner's Association.

ARTICLE IX - PERFORMANCE STANDARDS

9.01 Introduction. The Performance Standards and other provisions in this Article IX are an integral part of this Limited Warranty. This Article IX provides for certain responsibilities of Builder and Owner under this Limited Warranty. Builder does not have a responsibility of repair, replacement or payment in connection with some of the Performance Standards, as further provided in specific provisions of this Article IX.

9.02 Owner Maintenance Responsibilities. NOTE THAT VARIOUS COMPONENTS OF THE HOME AND THE LOT ON WHICH IT IS LOCATED REQUIRE PROPER AND CONTINUING MAINTENANCE BY OWNER. SOME SPECIFIC RESPONSIBILITIES OF OWNER ARE INCLUDED UNDER SPECIFIC TOPICS IN THIS ARTICLE IX. EXAMPLES OF OTHER OBLIGATIONS OF OWNER ARE SET FORTH ELSEWHERE IN THIS LIMITED WARRANTY.

9.03 Performance Standards and Description of Possible Deficiencies. The Performance Standards list specific items within separate areas of coverage. The Performance Standards are expressed in terms of performance criteria. For easy comprehension, the format is designed as follows:

- A. Possible Deficiency - a brief statement of a problem that may be encountered.
- B. Performance Standard - a Performance Standard relating to a possible deficiency.
- C. Responsibility - a statement of the corrective action required of Builder to repair the deficiency and/or a statement of Owner's maintenance responsibilities. Provisions regarding maintenance responsibilities of Owner with regard to possible deficiencies shall not be construed to limit or modify other responsibilities of Owner referred to elsewhere in this Limited Warranty.

Subsections I and II below describe those items which are warranted (subject to the limitations specified in the Responsibility sections and other parts of this Limited Warranty) during the first year warranty period, and the ten year warranty period, respectively. The commencement of warranty coverage for each warranty period is the Warranty Commencement Date.

1. ITEMS WARRANTED DURING THE FIRST YEAR ONLY, RELATED PERFORMANCE STANDARDS AND RESPONSIBILITY.

1. SITE WORK

A. Drainage/Grading.

1.A.1 Possible Deficiency - Improper drainage of the area near the foundation of the Home.

Performance Standard - Prior to the Warranty Commencement Date, the necessary grades and swales shall have been established by Builder to insure proper drainage away from the Home. Standing or ponding water should not remain for extended periods in the immediate area of the foundation after a rain (generally no more than 24 hours). However, in swales which drain other areas, or in areas where sump pumps discharge, a longer period can be anticipated (generally no more than 48 hours). The possibility of standing water after an unusually heavy rainfall should be anticipated. No grading determination will be made while there is frost or snow on the ground, or while the ground is saturated.

Responsibility - Builder is responsible only for initially establishing the proper grades and swales. Owner is responsible for maintaining such grades and swales once they have been properly established.

B. Ground Settlement at the Foundation.

1.B.1 Possible Deficiency - Settling of ground around foundation.

Performance Standard - Settling of ground around Home's foundation should not interfere with water drainage away from the Home.

Responsibility - Upon request by Owner during the first year warranty period, Builder will fill settled areas affecting proper drainage away from Home. However, such repair will be done by Builder one time only during this warranty period. Owner is responsible for removal and replacement of shrubs or other landscaping affected by placement of such fill if not originally installed by Builder.

2. CONCRETE

A. Concrete Slab-on-Grade (Home and Attached Garage Foundations).

2.A.1 Possible Deficiency - Concrete foundation cracks.

Performance Standard - Shrinkage and curing cracks are cosmetic and are not unusual in concrete foundations, and can be expected, due to normal drying and settling. Foundation cracks should not exceed 1/8 inch in width or 1/8 inch in vertical displacement. This Performance Standard is not intended to mean, nor shall it be construed to mean, that a foundation crack exceeding 1/8 inch in width or 1/8 inch in vertical displacement is necessarily a Major Structural Failure.

Responsibility - Owner is responsible for maintaining yard grading so surface water drains away from the foundation of the Home. Owner must keep the soil uniformly moist around the foundation's perimeter, but not saturated, and Owner will take precautions in adding plants or trees near the foundation that may have an adverse effect due to excessive watering or drying of one portion of the foundation's perimeter. Failure to maintain uniform moisture content around the foundation may relieve Builder of responsibility. If not due to an act or omission of Owner, Builder is responsible for repairing cracks exceeding 1/8 inch in width or 1/8 inch in vertical displacement, by patching or other methods as determined by Builder.

2.A.2 Possible Deficiency - Cracks in concrete slab-on-grade floors under finish flooring. Performance Standard - Cracks should not rupture the finish flooring material.

Responsibility - Owner's responsibilities regarding grading and soil moisture are addressed in subsection 2.A.1 above. If not due to an Owner act or omission, Builder is responsible for repairing cracks that rupture the finish flooring so that they are not readily apparent when the finish flooring is in place. See also subsection 7 below regarding Finishes.

2.A.3 Possible Deficiency - Uneven concrete floors/slabs.

Performance Standard - Concrete floors in rooms designed for habitation should not have pits, depressions or areas of unevenness exceeding 1/4 inch in 32 inches, except where a floor or a portion of a floor has been designed for specific drainage purposes, such as, for example, a garage floor, a basement floor or a covered patio.

Responsibility - Owner's responsibilities regarding grading and soil moisture are addressed in subsection 2.A.1 above. Builder will correct or repair to meet the Performance Standard.

2.A.4 Possible Deficiency - Varying or unsatisfactory finish texture, pitting, scaling or spalling of concrete work.

Performance Standard - None; cosmetic appearance of concrete surfaces that do not constitute a Major Structural Failure are specifically not warranted.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

2.A.5 Possible Deficiency - Cracking of basement floor

Performance Standard - Minor cracks in concrete basement floors are normal. Cracks should not exceed 3/16 inch in width or 1/8 inch in vertical displacement.

Responsibility - Builder will repair cracks exceeding the Performance Standard by surface patching or other methods as determined by Builder.

2.A.6 Possible Deficiency - Separation or movement of concrete slabs within the structure at expansion and contraction joints. Performance Standards - Concrete slabs within the structure are designed to move at expansion and contraction joints.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

B. Concrete Flatwork - Includes Driveways, Walkways, Steps, Stoops and Patios that are Installed by Builder and are Not Part of the Home's Foundation.

2.B.1 Possible Deficiency - Flatwork cracks and/or heaving of flatwork.

Performance Standard - Shrinkage and curing cracks and/or heaving are not unusual in concrete flatwork and can be expected.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

2.B2. Possible Deficiency - Deterioration of wooden flatwork expansion joints.

Performance Standard - None.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

2.B.3 Possible Deficiency - Varying or unsatisfactory finish texture, pitting, scaling or spalling of concrete flatwork.

Performance Standard - None; cosmetic appearance of concrete flatwork surfaces are specifically excluded from coverage under this Limited Warranty.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

2.B.4 Possible Deficiency - Standing water on concrete flatwork.

Performance Standard - Water may drain across concrete flatwork. The possibility of water ponding on flatwork after a rain can be anticipated. Water should not pond more than 1/4 inch deep when measured 24 hours after rain. Determination shall not be made when the ground is saturated.

Responsibility - Owner is responsible for maintaining the drainage pattern as established by Builder, and not causing flatwork to hold water by altering drainage by the addition of soil, sod, landscaping, or other improvements. Failure to maintain established drainage may relieve Builder of responsibility. If not due to an Owner act or omission, Builder will take corrective action to assure drainage of flatwork to meet the Performance Standard.

C. Slab (Detached Garage).

2.C.1 Possible Deficiency - Concrete foundation cracks.

Performance Standard - Shrinkage and curing cracks are not unusual and can be expected within certain tolerances. Cracks in detached garage slab should not be in excess of 1/4

inch in width or 1/4 inch in vertical displacement.

Responsibility - Owner is responsible for maintaining yard grading so surface water drains away from the foundation of the detached garage. Owner must keep the soil uniformly moist around the foundation's perimeter, but not saturated, and Owner will take precautions in adding plants or trees near the foundation that may have an adverse effect due to excessive watering or drying of one portion of the foundation's perimeter. Failure to maintain uniform moisture content around the foundation may relieve Builder of responsibility. Builder will repair cracks exceeding the Performance Standard by surface patching or other methods as determined by Builder.

D. Above Grade Concrete Walls

2.D.1 Possible Deficiency - Bowed walls

Performance Standard - All exterior load bearing walls may have slight variances on their finished surfaces. Bowing of walls should not detract from or blemish the finish surface of the walls. Walls should not bow more than 1/4 inch out of line within any 32 inch horizontal or vertical measurement or more than 1/2 inch within any 96 inch measurement.

Responsibility - Builder will repair to meet Performance Standard by a method determined by the Builder.

2.D.2 Possible Deficiency - Walls out of plumb

Performance Standard - Walls should not exceed more than 1/4 inch out of plumb within any 96 inch vertical measurement.

Responsibility - Builder will repair to meet Performance Standard by a method determined by the Builder.

3. MASONRY

3.1 Possible Deficiency - Cracks in masonry walls or masonry veneer walls.

Performance Standard - Cracks due to shrinkage are common in mortar joints or brick in masonry construction. Cracks should not exceed 1/4 inch in width.

Responsibility - Builder will repair cracks in excess of Performance Standard by pointing or patching. Builder will not be responsible for color variations between the old and new

mortar.

3.2 Possible Deficiency - Masonry basement or foundation wall cracks.

Performance Standard - Cracks due to shrinkage are not unusual in mortar joints of masonry foundation walls. Cracks should not be greater than 1/8 inch in width.

Responsibility - Builder will repair cracks in excess of 1/8 inch in width by pointing or patching. Builder will not be responsible for color variations between the old and new mortar.

3.3 Possible Deficiency - Rust stains develop on door or window lintel areas.

Performance Standard - Lintels are manufactured from steel products, which develop rust over time due to exposure to air and/or moisture.

Responsibility - Owner is responsible for maintaining paint on lintels. Builder has no responsibility; such conditions are not covered by this Limited Warranty.

4. CARPENTRY

A. Framing.

4.A.1 Possible Deficiency - Subfloor appears loose or squeaks.

Performance Standard - Floor, squares of loose subfloor, are common to new construction, and a squeak-proof floor cannot be guaranteed.

Responsibility - Builder will correct the condition only if caused by an improperly nailed subfloor, but Builder will only be obligated to repair such condition one time during the first year warranty period. Further, Builder has no obligation to repair a floor squeak unless Owner identifies the specific location of the condition.

4.A.2 Possible Deficiency - Bowed walls.

Performance Standard - All interior and exterior walls have slight variances on their finished surfaces. Bowing of walls should not detract from or blemish the finish surface of the walls. Walls should not bow more than 1/4 inch out of line within any 32 inch horizontal or vertical measurement.

Responsibility - Builder will repair to meet Performance Standard by a method determined by Builder.

4.A.3 Possible Deficiency - Walls out of plumb.

Performance Standard - Walls should not be more than 1/4 inch out of plumb for any 32 inch vertical measurement.

Responsibility - Builder will repair to meet the Performance Standard by a method or methods determined by Builder.

B. Finish Carpentry (Interior)

4.B.1 Possible Deficiency - Open joints in interior trim.

Performance Standard - Joints in moldings or joints between moldings and adjacent surfaces should not result in open joints exceeding 1/8 -inch in width.

Responsibility - Builder will repair open joints not meeting the Performance Standard. However, Builder will repair a defective joint one-time only during the first year warranty period. Caulking is an acceptable method of repair.

C. Finish Carpentry (Exterior)

4.C.1 Possible Deficiency - Open joints between exterior trim elements, including siding and masonry.

Performance Standard - Joints between exterior or trim elements, including siding and masonry, should not result in open joints in excess of 3/8 inch. In all cases the exterior trim, including siding and masonry, should be capable of performing its function to exclude the elements.

Responsibility - Builder will repair open joints not meeting the Performance Standard. However, Builder will repair a defective joint one time only during the first year warranty period. Caulking is an acceptable method of repair.

5. PROTECTION FROM MOISTURE AND TEMPERATURE CHANGES

A. Insulation.

5.A.1 Possible Deficiency - Insufficient insulation.

Performance Standard - Prior to the Warranty Commencement Date, Builder will have installed insulation in accordance with Applicable Code requirements and to the specifications in the purchase and sale contract between Owner and Builder.

Responsibility - Builder will install insulation to meet the Performance Standard.

B. Louvers and Vents.

5.B.1 Possible Deficiency - Leaks due to rain or snow driven into the attic through louvers or vents.

Performance Standard - Attic vents and/or louvers may be provided for ventilation of the attic space of the Home. Wind-driven rain or snow can cause entry of moisture into the attic through louvers or vents.

Responsibility - Builder has no responsibility, such condition is not covered by this Limited Warranty.

C. Roofing, Siding and Windows.

5.C.1 Possible Deficiency - Roof or flashing leaks.

Performance Standard - Roofs or flashing should not leak under normally anticipated conditions. Leaks caused by ice or snow build-up, or wind driven rain, are not covered by this Limited Warranty.

Responsibility - Owner must, from time to time, replace caulk/mastic that is used to seal flashing to other materials. Owner will keep leaves and debris off of the roof and out of gutters and downspouts. Builder will repair verified roof or flashing leaks caused by normally anticipated conditions. Normally anticipated conditions do not include tropical storms, hurricanes, tornadoes and other similar severe weather. Leaks due to wind driven rain or caused by ice or snow build-up or Owner action or negligence, are not covered by this Limited Warranty. In the event of a leak which is not the Builder's responsibility, Owners, homeowner insurance policy may cover such claim.

5.C.2 Possible Deficiency - Roofing appearance conditions, including, without limitation, shingles not laying flat, roof wood panel outlines visible and mildew on shingles.

Performance Standard - The cosmetic appearance of applied roofing materials is not a warranted condition under this Limited Warranty. Roofing materials in a humid climate may mildew.

Responsibility - Builder is responsible for installing roofing according to manufacturer guidelines. Builder has no responsibility for the cosmetic appearance of roofing; such condition is not covered by this Limited Warranty.

5.C.3 Possible Deficiency - Standing water on flat roof.

Performance Standard - Water should drain from flat roof, except for minor ponding following rainfall or where the roof is specifically designed for water retention.

Responsibility - Builder will take corrective action to assure proper drainage of roof, in accordance with the Performance Standard.

5.C.4 Possible Deficiency - Delamination of veneer siding or joint separation.

Performance Standard - All siding will be installed according to manufacturer specifications.

Responsibility - Owner must protect siding from damage, including water from sprinklers, and will maintain caulking during the life of the Home. Builder will repair or replace siding to meet the Performance Standard unless caused by Owner's failure to maintain siding properly. Repaired area may not match in color and/or texture. For surfaces of the new materials requiring paint, Builder will paint the new materials only. Newly painted surface may not match original surface in color.

5.C.5 Possible Deficiency - Window leaks.

Performance Standard - Window leaks should not occur under normally anticipated conditions. Normally anticipated conditions do not include tropical storms, hurricanes, tornadoes or other similar severe weather. Leaks caused by wind driven rain are excluded from coverage under this Limited Warranty.

Responsibility - Owner will maintain weather-stripping and caulking, as caulking materials expand and contract due to temperature variations and difference in materials. Builder will repair any verified window leaks caused by normally anticipated conditions (which do not

include tropical storms, hurricanes, tornadoes or other similar severe weather). Leaks due to wind driven rain or caused by ice build-up or Owner action or negligence are excluded from coverage under this Limited Warranty. In the event of a leak which is not the Builder's responsibility, Owner's homeowner insurance policy may cover such claim.

5.C.6 Possible Deficiency - Ice build-up on roof.

Performance Standard - Ice build-up is likely to occur at the eaves of a roof during prolonged cold spells. Build-up occurs when snow and ice accumulate and gutters and downspouts freeze.

Responsibility - Prevention of ice build-up on the roof is an Owner maintenance item. Builder has no responsibility; such condition is not covered by this Limited Warranty.

D. Gutters and Downspouts.

5.D.1 Possible Deficiency - Gutters and/or downspouts/leak.

Performance Standard - Gutters and downspouts should not leak but gutters may overflow during heavy rain.

Responsibility - Owner must keep gutters and downspouts free of leaves and debris, which could cause overflow and damage to the gutters. Builder will repair leaks, if not due to Owner failure to keep gutters and downspouts free of leaves and debris or due to Owner negligence, such as placing ladders against gutters or downspouts.

5.D.2 Possible Deficiency - Water standing in gutters.

Performance Standard - When gutter is unobstructed by leaves and debris, the water should not exceed one (1) inch in depth. Small amounts of water may stand in certain sections of gutters, and should not be a cause of concern. Gutters are installed with a very slight angle to facilitate draining; "out-of-level" is not a condition covered under this Limited Warranty.

Responsibility - Builder will correct to meet Performance Standard.

E. Sealants.

5.E.1 Possible Deficiency - Leaks due to inadequate caulking.

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F. Water Leaks in Basement.

5.F.1 Possible Deficiency - Leaks in basement.

Performance Standard - Joints and cracks should be properly caulked to prevent the entry of water. Ceramic tile, cultured marble and similar materials should be caulked to adjoining surfaces to prevent water penetration. This Performance Standard does not apply to, and Builder has no responsibility for leaks caused by, wind driven rain, or water which is forcibly applied to the Home.

Responsibility - Caulk, even though properly installed, will shrink. Owner must maintain caulking during the life of the Home. Builder will repair and/or caulk joints or cracks to meet the Performance Standard one time only during the first year warranty period.

Performance Standard - Leaks should not result in actual trickling of water. However, leaks caused by improper landscaping or failure to maintain proper grades are not covered by this Limited Warranty. Dampness of the walls or floors in the basement may occur in new construction and is not a deficiency.

Responsibility - Owner will maintain proper grades, and will landscape in such a manner as to prevent uneven watering. Builder will take such action as necessary to correct basement leaks causing trickling water except where the cause is determined to result from Owner action or negligence.

6. DOORS AND WINDOWS/BUILDERS' WARRANTY

6.A.1 Possible Deficiency - Warpage of exterior doors.

Performance Standard - Exterior doors will warp to some degree due to moisture and temperature differential on inside and outside surfaces. However, they should not, if properly maintained, warp to the extent that they become inoperative or cease to be weather resistant or exceed National Woodwork Manufacturers Association Standards (1/4 inch, measured diagonally from corner to corner.)

Responsibility - Owner is responsible for regular, necessary maintenance of exterior door finishes. Builder is responsible for replacement of a door that fails to meet National Woodwork Manufacturers Association Standards. (For maintenance information, see provisions in subsection 7.G.3 below.)

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6.A.2 Possible Deficiency - Warpage of interior and closet doors.

Performance Standard - Interior doors (full openings) should not warp in excess of National Woodwork Manufacturers Association Standards (1/4 inch, measured diagonally from corner to corner).

Responsibility - Builder will correct, refinish or replace, at Builder's option, doors not meeting the Performance Standard, to match existing doors as, nearly as reasonably possible.

6.A.3 Possible Deficiency - Shrinkage of door insert panels shows raw wood edges.

Performance Standard - Panels will shrink and expand and may expose unpainted surface.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

6.A.4 Possible Deficiency - Split in door panel

Performance Standard - Split panels should not allow light to be visible through the door.

Responsibility - Builder will, if light is visible, fill split and match paint or stain as closely as reasonably possible, but one time only during the first year warranty period.

B. Glass  
**BUILDER'S WARRANTY**

6.B.1 Possible Deficiency - Broken or scratched glass.

Performance Standard - None.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

Garage Doors

6.C.1 Possible Deficiency - Garage doors fail to operate properly, under normal use.

Performance Standard - Under normal use, garage doors should operate properly.

Responsibility - Builder will correct or adjust garage doors not operating properly under normal use, except where the cause is determined to result from Owner action or negligence. However, Builder is not responsible if Owner installs a garage door opener system.

6.C.2 Possible Deficiency - Garage doors allow water entry.

Performance Standard - Garage doors will be installed as recommended by the manufacturer. Some entrance of water and snow can be expected.

Responsibility - Builder will adjust or correct garage doors to meet the Performance Standard.

Wood, Plastic and Metal Windows

6.D.1 Possible Deficiency - Malfunction of windows.

Performance Standard - Windows should operate with reasonable ease, as designed.

Responsibility - Owner will keep tracks and rollers lubricated, adjusted, and clean. Builder will correct or repair to the Performance Standard.

6.D.2 Possible Deficiency - Condensation and/or frost on windows.

Performance Standard - Windows will collect condensation on interior surfaces when extreme temperature differences and high humidity levels are present. Condensation is usually the result of climatic/humidity conditions, and Owner should take care to avoid damage to finishes such as, for example, windowsills or gypsum wallboard, for which Builder will not be responsible.

Responsibility - Unless directly attributed to faulty installation, window condensation and frost conditions are not the responsibility of Builder.

E. Weatherstripping and Seals

6.E.1 Possible Deficiency - Air and water infiltration around doors and windows.

Performance Standard - Some infiltration is normally noticeable around doors and windows, especially during high winds. While not a Builder obligation, Owner may wish to have storm doors and storm windows installed at Owner's expense to reduce air and water infiltration.

Responsibility - Builder will adjust or correct poorly fitted doors, windows and poorly fitted weatherstripping one time only during the first year warranty period.

7. FINISHES

A. Lath and Plaster

7.A.1 Possible Deficiency - Cracks in interior wall and ceiling surfaces.

Performance Standard - As the Home "dries in", cracks are not unusual in interior wall and ceiling surfaces. Cracks should not exceed 1/8 inch in width.

Responsibility - Builder will repair cracks exceeding 1/8 inch in width to meet Performance Standard, one time only during the first year warranty period. (See also subsection 7.13 below, regarding Painting, Varnish, Stains and Caulking.)

B. Gypsum Wallboard

7.B.1 Possible Deficiency - Nail pops, blisters in tape, blemishes, seam lines or cracks in gypsum wallboard on ceilings and walls.

Performance Standard - Nail pops, blisters in tape, blemishes, seam lines or cracks not exceeding 1/8 inch in width are common in gypsum wallboard installations.

Responsibility - Builder will repair only cracks exceeding 1/8 inch in width, one time only during the first year warranty period. (See also subsection 7.G below, regarding Painting, Varnish, Stains and Caulking.)

C. Tile ("Tile" includes ceramic, marble, granite, and other types of tile)

7.C.1 Possible Deficiency - Cracks in tile, or the tile becomes loose or is scratched.

Performance Standard - Tile should not crack or become loose.

Responsibility - Builder will replace cracked tiles and resecure loose tiles, unless conditions

are caused by Owner action or negligence. Builder will attempt to match, but will not be responsible for discontinued patterns or color variations in tile or grout. Builder has no responsibility for scratches.

7.C.2 Possible Deficiency - Color and surface finish do not match.

Performance Standard - Color and surface variations are inherent in tile products, and are to be expected, along with other natural conditions such as veining, lustre and texture variations.

Responsibility - Owner is responsible for the special maintenance requirements of ceramic and natural surface tile products and should be aware that many common cleaning materials will damage them. Color and surface variations are not a Builder, responsibility and are not a condition covered by this Limited Warranty.

7.C.3 Possible Deficiency - Cracks appear in grouting of tile joints or at junctions with other materials (such as a bathtub).

Performance Standard - Cracks in grouting of tile joints are commonly due to normal shrinking.

Responsibility - Regrouting of cracks is a maintenance responsibility of Owner during the life of the Home, and is necessary to protect the Home from damage due to moisture entry. Builder will repair cracked grouting, if necessary, one time only during the first year warranty period. Builder will not be responsible for color variations between old and new grout, or discontinued grout.

D. Finished Wood Floors.

7.D.1 Possible Deficiency - Cracks develop between flooring boards or scratches.

Performance Standard - Cracks should not exceed 1/8 inch in width.

Responsibility - Owner is responsible for maintaining the flooring as specified by the manufacturer. Builder will repair cracks in excess of 1/8 inch by filling or replacing, at Builder's option; Builder has no responsibility for scratches.

7.D.2 Possible Deficiency - Indentations in finished wood floor.

Performance Standard - Finished wood floor will show indentations, especially high-heel marks.

Responsibility - Owner should be aware that finished wood flooring may be easily damaged. For example, high-heels exert high pressure on a very small area and can cause indentations. Builder has no responsibility; this condition is not covered by this Limited Warranty.

7.D.3 Possible Deficiency - Deficiency in the finished coat on wood flooring, including, without limitation, peeling, wear, cloudiness and foreign matter.

Performance Standard - The finished coat should not peel off of the wood flooring.

Responsibility - Owner's responsibility is set forth in subsection 7.D.1 above. Builder will refinish or replace wood floor that is peeling. Builder is not responsible for color variations of boards that are replaced. Wear, cloudiness and/or foreign materials (such as dust) that affect the finished coat are specifically not warranted and Builder has no responsibility.

7.D.4 Possible Deficiency - Uneven planks or boards in finished wood flooring.

Performance Standard - There should be no more than a 1/8th of an inch of variation in height at any joint between two boards.

Responsibility - Owner's responsibility is set forth in 7.D.1. Builder is responsible for repairing or replacing boards that do not meet the Performance Standard. Builder is not responsible for color variations.

7.D.5 Possible Deficiency - Finished wood flooring becomes loose from foundation or subfloor. (Note: this Performance Standard does not apply to floating wood floors.)

Performance Standard - Nailed down or glued down finished wood flooring should not release from the foundation or subfloor to which it has been attached.

Responsibility - Owner's responsibility is set forth in 7.D.1. Builder is responsible for either nailing or gluing to correct the condition. Injecting glue by drilling a small hole in the finished wood flooring is an acceptable method of repair.

7.D.6 Possible Deficiency - Squeaks or popping noises from finished wood flooring when walked on.

E.

Vinyl Flooring.

Performance Standard - Finished wood flooring is a natural product that contracts and expands with temperature and humidity changes. A noise-free finished wood floor cannot be guaranteed.

Responsibility - Owner is responsible for maintaining consistent temperature and humidity levels, and for maintaining the floor according to manufacturer specifications. Builder will correct condition, only if caused by improper nailing or gluing, one time only during the first year warranty period. Further, Builder has no obligation to repair a floor squeak unless Owner identifies the specific location of the condition.

7.E.1 Possible Deficiency - Nail pops appear on the surface of vinyl flooring.

Performance Standard - Nail pops/breaking the surface should not appear.

Responsibility - Builder will correct nail pops, which have broken the surface. Builder will repair or replace, at Builder's sole option, vinyl floor covering in the affected area with similar material. Builder is not responsible for color variations in the floor covering. Patching of vinyl flooring is an acceptable method of repair. If the pattern has been discontinued, Owner will select a comparable pattern and material of the same grade as the original.

7.E.2 Possible Deficiency - Depressions or ridges appear in the vinyl flooring due to subfloor irregularities.

Performance Standard - Readily apparent depressions or ridges should not exceed 1/8 inch. The ridge or depression measurement is taken as the gap created at one end of a six-inch straightedge placed over the depression or ridge with three inches of the straightedge on one side of the deficiency, held tightly to the floor.

Responsibility - Builder will take corrective action as necessary, to bring the deficiency within the Performance Standard so that the affected area is not readily visible. Builder is not responsible for color variations in floor covering. Patching of vinyl flooring is an acceptable method of repair. If the pattern has been discontinued, Owner will select a comparable pattern and material of the same grade as the original.

7.E.3 Possible Deficiency - Tears, cuts, gouges and scratches in vinyl.

Performance Standard - A vinyl floor can be torn, cut, gouged or scratched, especially when furniture or appliances are moved.

Responsibility - Owner is responsible for insuring that a vinyl floor is not damaged. Builder has no responsibility; such condition is not covered by this Limited Warranty.

7.E.4 Possible Deficiency - Vinyl floor loses adhesion.

Performance Standard - A vinyl floor should not lift, bubble or become unglued.

Responsibility - Bubbles are not uncommon in a newly laid floor and may work themselves out. Builder will repair or replace, at Builder's sole option, the affected vinyl flooring to meet the Performance Standard. Builder is not responsible for color variation of floor covering, or for conditions caused by Owner neglect or abuse. Patching of vinyl flooring is an acceptable method of repair. If the pattern has been discontinued, Owner will select a comparable pattern and material of the same grade as the original.

7.E.5 Possible Deficiency - Seams or strike gaps show at vinyl flooring joints.

Performance Standard - Gaps should not exceed 1/16 inch in width in vinyl floor covering joints. Where dissimilar materials abut, a gap not to exceed 1/8 inch is permissible.

Responsibility - Builder will repair or replace, at Builder's sole option, the affected vinyl flooring to meet the Performance Standard. Builder is not responsible for color variation of floor covering, or for conditions caused by Owner neglect or abuse. Patching of vinyl flooring is an acceptable method of repair. If the pattern has been discontinued, Owner will select a comparable pattern and material of the same grade as the original.

7.E.6 Possible Deficiency - Vinyl flooring shows stains.

Performance Standard - Different grades of vinyl flooring have various stain inhibitors in them, but no vinyl flooring is stain-proof. On all vinyl flooring, rubberbacked mats will cause stains to appear.

Responsibility - Owner will obtain best possible results from vinyl flooring if manufacturer specifications are followed and floor is maintained. Builder has no responsibility; such condition is not covered by this Limited Warranty.

7.E.7 Possible Deficiency - Vinyl floor is mildewing.

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F. Carpeting

Performance Standard - Vinyl flooring that has been maintained according to manufacturer specifications should not discolor.

Responsibility - Builder will repair or replace, at Builder's sole option, the affected vinyl flooring to meet the Performance Standard. Builder is not responsible for discontinued patterns or color variations of floor covering, or for conditions caused by Owner neglect or abuse. Builder will attempt to match, but will not be responsible for discontinued patterns or color variations.

7.F.1 Possible Deficiency - Open carpet seams.

Performance Standard - Carpet seams will show. However, there should be no open carpet seam.

Responsibility - Builder will correct to meet the Performance Standard.

7.F.2 Possible Deficiency - Carpet becomes loose or wrinkled.

Performance Standard - Carpet should not become loose or wrinkled.

Responsibility - Builder will re-stretch or resecure carpeting to meet the Performance Standard, if original installation was performed by Builder, one time only during the first year warranty period.

7.F.3 Possible Deficiency - Stains and spots on carpet, or fading.

Performance Standard - Carpets are not warranted against fading, stains or spots.

Responsibility - Owner is responsible for maintaining carpet in accordance with manufacturer specifications. Builder is not responsible for spots or stains on carpeting or fading of carpet. If spots are caused by a manufacturing defect, the manufacturer is responsible for repairing or replacing the carpet. (See Article V, Section 5.02, "Manufacturer's Warranties".)

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7.F.4 Possible Deficiency - Carpet wear.

Performance Standard - Carpet will wear, especially in high traffic areas.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

G. Painting, Varnish, Stains and Caulking

7.G.1 Possible Deficiency - Exterior paint or stain peels, deteriorates or fades.

Performance Standard - Exterior paints or stains should perform as specified by the manufacturer during the first year warranty period; paint will have been applied according to manufacturer specifications. However, fading is normal and the degree of fading is dependent on climatic conditions.

Responsibility - Maintaining an adequate cover of paint during the life of the Home is an Owner maintenance responsibility. Owner should be aware of the effects of climatic conditions on the Home. For example, excessive heat and moisture as experienced in the Texas Gulf Coast area are detrimental to paint; homeowners in that area may need to repaint more frequently than those in other regions. If paint or stain does not meet the Performance Standard, Builder will properly prepare and refinish affected areas, matching color as closely as reasonably possible. Where finish deterioration affects the majority of a wall area, the whole area will be refinished.

7.G.2 Possible Deficiency - Painting made necessary because of other repair work.

Performance Standard - Repairs required under this Limited Warranty should be finished to match surrounding areas as closely as reasonably possible.

Responsibility - Builder will finish repair areas as described, but is not responsible for color variations.

7.G.3 Possible Deficiency - Fading or peeling of varnish or lacquer finishes an exterior doors.

Performance Standard - Varnish type finishes used on the exterior will deteriorate rapidly, and are not covered by this Limited Warranty.

Responsibility - Owner is responsible for normal maintenance of exterior varnished or lacquered doors, which require refinishing and resealing every six (6) months. Builder has no responsibility; such conditions are not covered by this Limited Warranty.

7.G.4 Possible Deficiency - Fading or peeling of varnish or lacquer finishes on interior woodwork, including doors.

Performance Standard - Under normal use, natural finishes on interior woodwork, including doors, should not fade or peel.

Responsibility - Builder will retouch affected areas to meet the Performance Standard, matching color as closely as reasonably possible.

7.G.5 Possible Deficiency - Scratches, dents, nicks and gouges on painted, varnished or lacquered finishes.

Performance Standard - None.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

7.G.6 Possible Deficiency - Mildew or fungus on painted surfaces.

Performance Standard - Mildew or fungus will form on a painted surface and can be aggravated by climatic conditions.

Responsibility - Builder cannot practically control mildew and fungus formation. Owner must clean mildew, and fungus as a regular Owner maintenance item. Builder has no responsibility; such condition is not covered by this Limited Warranty.

7.G.7 Possible Deficiency - Caulk shrinks or cracks appear on interior surfaces, especially at wood moldings.

Performance Standard - Caulk should be properly installed. However, Caulk, even though properly installed, will shrink.

Responsibility - Owner is responsible for maintenance of caulking during the life of the Home. Builder will repair one time only during the first year warranty period, and only those areas designed to prevent water penetration (i.e. ceramic tile around sinks, tubs or showers and cultured marble).

H. Wall Covering

7.H.1 Possible Deficiency - Peeling of wall covering.

Performance Standard - Peeling of wall covering should not occur.

Responsibility - Builder will repair or replace peeling wall covering. Builder has no responsibility for discontinued patterns or variations in colors.

7.H.2 Possible Deficiency - Open seams, edge mismatch or pattern mismatch of wall covering.

Performance Standard - None.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

1. Stucco

7.1.1 Possible Deficiency - Cracks in exterior stucco wall surfaces.

Performance Standard - Cracks are not unusual in exterior stucco wall surfaces. Cracks should not be greater than 1/8 inch in width.

Responsibility - Builder will repair cracks exceeding 1/8 inch in width one time only during the first year warranty period.

7.1.2 Possible Deficiency - Mildew or fungus on stucco surfaces.

Performance Standard - Mildew or fungus will form on a stucco surface and can be aggravated by climatic conditions.

Responsibility - Builder cannot practically control mildew and fungus formation. Owner must clean mildew and fungus as a regular Owner maintenance item. Builder has no responsibility; such condition is not covered by this Limited Warranty.

J. Brass Finished Hardware and Fixtures

7.J.1 Possible Deficiency - Scratches and tarnish on brass finish.

Performance Standard - None.

Responsibility - Owner is responsible for the special maintenance requirements of brass

finished products and should be aware that many common cleaning products will damage them. Builder has no responsibility; such condition is not covered by this Limited Warranty.

8. LOUVERS, VENTS, FIREPLACES AND CHIMNEYS

A. Louvers and Vents

8.A.1 Possible Deficiency - Inadequate ventilation of attics and crawl spaces.

Performance Standard - Attic and crawl spaces will be ventilated as required by Applicable Code.

Responsibility - Builder will provide for adequate ventilation according to Applicable Code. Builder will not be responsible for alterations to the original system made by Owner.

B. Fireplaces and Chimneys

8.B.1 Possible Deficiency - Fireplace or chimney does not draw properly.

Performance Standard - Fireplace and chimney should function properly. It is normal to expect that high winds can cause temporary, negative draft situations. Similar negative draft situations can also be caused by obstructions such as large branches of trees too close to the chimney. Some homes may need to have a window opened slightly to create an effective draft. If they have been insulated and weatherproofed to meet high energy conservation criteria.

Responsibility - Builder will determine the cause of malfunction and correct if the condition is one of design or improper installation of the fireplace.

8.B.2 Possible Deficiency - Brick chimney separation from structure to which it is attached.

Performance Standard - Brick chimneys will often incur slight amounts of separation from adjoining walls. Separation should not exceed 1/4 inch from the main structure in any 10 foot vertical measurement.

Responsibility - Builder will determine the cause of separation and correct if Performance Standard is not met. Caulking is an acceptable method of repair.

8.B.3 Possible Deficiency - Firebox paint changed by fire.

Performance Standard - None. Heat from fires will alter finish.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

8.B.4 Possible Deficiency - Cracked firebrick and mortar joints.

Performance Standard - None. Heat from fires will cause cracking.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

8.B.5 Possible Deficiency - Water infiltration of the firebox.

Performance Standard - None. Water infiltration of the firebox can be expected during periods of heavy rain.

Responsibility - Builder has no responsibility; such condition is not covered by this Limited Warranty.

## 9. CABINETS AND COUNTERTOPS

9.1 Possible Deficiency - Surface cracks, joint delaminations, and chips in high pressure laminates on vanity and kitchen cabinet countertops.

Performance Standard - Countertops fabricated with high pressure laminate coverings should not delaminate.

Responsibility - Builder will replace delaminated coverings. Builder is not responsible for chips and cracks. Builder is not responsible for color variations in any replaced countertop.

9.2 Possible Deficiency - Kitchen cabinet doors or drawer fronts warp.

Performance Standard - Warpage should not exceed - 1/4 inch as measured from face frame to point of furthestmost warpage, with door or drawer front in closed position.

Responsibility - Builder will correct or replace doors or drawer fronts not meeting the Performance Standard. Builder is not responsible for exact matching of cabinet door and drawer front finishes.

9.3 Possible Deficiency - Separation of cabinet moldings from adjacent ceiling or walls.

Performance Standard - Separation of cabinet moldings from adjacent ceiling or walls should not exceed 1/4 inch in width, if not subject to abnormal loads placed by Owner.

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Responsibility - Builder will correct to meet Performance Standard. Caulking is an acceptable method of repair.

## 10. PLUMBING

### A. Water Supply System

10.A.1 Possible Deficiency - Plumbing pipes freeze and burst.

Performance Standard - Drain, waste, vent, and water pipes should be adequately protected, as required by Applicable Code.

Responsibility - Owner is responsible for draining or otherwise protecting lines and exterior faucets exposed to freezing temperatures. Builder will correct situations not meeting Applicable Code.

10.A.2 Possible Deficiency - Noisy water pipes.

Performance Standard - There will be some noise from the water pipe system due to the flow of water and from the expansion of pipes. However, there should be no "water hammer".

Responsibility - Builder cannot remove all noises due to water flow and pipe expansion. However, Builder will correct to eliminate "water hammer".

### B. Plumbing Fixtures

10.B.1 Possible Deficiency - Faucet or valve leaks.

Performance Standard - No valve or faucet should leak due to a defect in workmanship or materials.

Responsibility - Builder will repair or replace a leaking faucet or valve if due to a defect in workmanship or materials.

10.B.2 Possible Deficiency - Deficient plumbing fixtures or trim fittings.

Performance Standard - Plumbing fixtures or fittings should comply with standards of the manufacturer.

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Responsibility - Builder will repair or replace any deficient plumbing fixture or fitting which does not meet the Performance Standard.

10.B.3 Possible Deficiency - Cracking or chipping of porcelain or fiberglass surfaces.

Performance Standard - None.

Responsibility - Chips and cracks on surfaces of bathtubs and kitchen sinks can occur when surface is hit with sharp or heavy objects. Builder has no responsibility; such condition is not covered by this Limited Warranty.

10.B.4 Possible Deficiency - Rusting, pitting, staining or denting of stainless steel sink.

Performance Standard - None.

Responsibility - Owner is responsible for the special maintenance requirements of stainless steel, and should be aware that many common cleaning materials will damage stainless steel. Builder has no responsibility; such condition is not covered by this Limited Warranty.



11. HEATING AND COOLING

A. Heating

11.A.1 Possible Deficiency - Inadequate heating.

Performance Standard - Heating system should be capable of producing an inside temperature of 70°F, as measured in the center of each room at a height of 6 feet above the floor, under local outdoor winter design conditions as specified in ASHRAE handbook. A room-to-room temperature variation of up to 4 degrees is acceptable.

Responsibility - Owner is responsible for obtaining, installing and maintaining adequate window coverings, which are an integral factor in maintaining proper indoor temperatures. If Owner adjusts dampers and registers, it could affect the resulting room temperatures. Owner must maintain unit according to manufacturer specifications. Builder will correct heating system to provide the required temperatures. (Also see 11.13.1, "Cooling".)

B. Cooling

11.B.1 Possible Deficiency - Inadequate cooling.

Performance Standard - Where air-conditioning is provided, the cooling system should be capable of maintaining a temperature of 78°F, as measured in the center of each room at a height of 5 feet above the floor, under local outdoor summer design conditions as specified in ASHRAE handbook. In the case of outside temperatures exceeding 95°F, a differential of 15 degrees F from the outside temperature should be maintained. A room-to-room temperature variation of up to 4 degrees is acceptable.

Responsibility - Owner is responsible for obtaining, installing and maintaining adequate window coverings, which are an integral factor in maintaining proper indoor temperatures. The heating and cooling system is designed and created for the specific size and configuration of the home; any changes should be made only in consultation with an HVAC professional, including closing off of rooms, closing and opening dampers and vents, and thermostat set-backs, in excess of 800. Such alterations may subject the home to conditions such as high humidity and mildew growth, which are not conditions Builder can control or will be responsible for. Owner must maintain equipment according to manufacturer specifications. Builder will correct cooling system to provide the required temperatures.



C. Condensation Lines

11.C.1 Possible Deficiency - Condensation lines clog up.

Performance Standard - None, other than to provide unobstructed condensation lines prior to Warranty Commencement Date.

Responsibility - Unless routinely cleaned, condensation lines will clog eventually under normal use. Owner must properly maintain the condensation lines. Builder will provide unobstructed condensation lines at the the Warranty Commencement Date; otherwise, Builder has no responsibility.

D. Evaporative Cooling

11.D.1 Possible Deficiency - Improper mechanical operation.

Performance Standard - Mechanical equipment should function properly at temperature standard set according to manufacturer specifications.

Responsibility - Builder will correct or adjust so that blower and water system operate as designed.

12. VENTILATION - AIR DISTRIBUTION

12.1 Possible Deficiency - Noisy ductwork.

Performance Standard - When metal is heated it expands, and when cooled it contracts. The result is "ticking" or "crackling" which is generally to be expected.

Responsibility - Builder has no responsibility, such condition is not covered by this Limited Warranty.

12.2 Possible Deficiency - Oilcanning

Performance Standard - The stiffening of the ductwork and the gauge of the metal used should be such that ducts do not "oilcan." The booming noise caused by "oilcaning" is not acceptable.

Responsibility - Builder will correct to eliminate "oilcaning."  
**BUILDER'S WARRANTY**

13. ELECTRICAL

A. Electrical Conductors, Fuses and Circuit Breakers

13.A.1 Possible Deficiency - Fuses blow or circuit breakers (excluding ground fault interrupters) "kick out."

Performance Standard - Fuses and circuit breakers should not activate under normal usage.

Responsibility - Owner is responsible for assuring that a load exceeding that which is normal is not placed on the electrical system. In instances where extraordinary electrical loads are necessary (as, for example, with respect to computer systems, major appliances in the garage, etc.) Owner is responsible for assuring that designated circuits or special wiring is properly installed. Builder will check wiring circuits for conformity with Applicable Code. For

normal load and use conditions, Builder will correct circuitry not conforming to Applicable Code.

B. Outlets, Switches and Fixtures

13.B.1 Possible Deficiency - Air drafts from electrical outlets.

Performance Standard - Electrical junction boxes on exterior walls may produce air flow whereby the cold air can be drawn through the outlet into a room. The condition is not unusual in new home construction.

Responsibility - Builder has no responsibility, such condition is not covered by this Limited Warranty.

13.B.2 Possible Deficiency - Malfunction of electrical outlets, switches or fixtures.

Performance Standard - Outlets, switches and fixtures should operate as designed.

Responsibility - Builder will repair or replace outlets, switches and fixtures not meeting the Performance Standard.

C. Service and Distribution

13.C.1 Possible Deficiency - Ground fault interrupter trips frequently.

Performance Standard - Ground fault interrupters are sensitive safety devices installed into the electrical system to provide protection against electrical shock. These sensitive devices can be tripped easily, and may indicate that a circuit is overloaded, that the connected appliance contains a faulty ground, or other problem.

Responsibility - Builder will install ground fault interrupter in accordance with Applicable Code. Tripping is to be expected and is not covered by this Limited Warranty, unless due to a violation of Applicable Code. For Owner responsibilities, see subsection 13.A.1 above.

**SYSTEMS WARRANTED DURING YEARS ONE AND TWO ONLY  
RELATED PERFORMANCE STANDARDS AND RESPONSIBILITY**

**14. PLUMBING SYSTEM**

**A. Water Supply**

**14.A.1 Possible Deficiency -** Water supply system fails to deliver water.

**Performance Standard -** All on-site service connections to municipal water main and private water supply are Builder's responsibility. Private systems will be designed and installed in accordance with Applicable Code.

**Responsibility -** Builder will repair if failure is the result of defective workmanship or materials or installation not in accordance with Applicable Code. If conditions beyond Builder's control disrupt or eliminate the sources of the supply, Builder has no responsibility.

**B. Septic Tank System**

**14.B.1 Possible Deficiency -** Septic system fails to operate properly.

**Performance Standard -** Septic system should function adequately during all seasons, under climatic conditions normally or reasonably anticipated (based on local records) for the location of the Home. Septic system will be designed and installed to comply with Applicable Code.

**Responsibility -** Builder will repair, or otherwise correct, a malfunctioning or nonoperating system if failure is caused by inadequate design, faulty installation or other cause relating to actions of Builder or contractors or subcontractors under Builder's control. Builder will not be responsible for system malfunction or damage which is caused by Owner negligence, lack of system maintenance or other causes attributable to actions of the Owner or Owner's contractors not under the control of Builder, including, but not limited to, the addition of fixtures, items of equipment, appliances or other sources of waste or water to the plumbing system served by the septic system, and damage, or changes, to the septic system installation or surrounding soil conditions critical to the system's functioning.

**C. Pipes**

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**14.C.1 Possible Deficiency -** Leakage in pipes.

**Performance Standard -** No leaks should exist in any drain, waste, vent or water pipe. Condensation on pipes does not constitute leakage, and is not covered by this Limited Warranty.

**Responsibility -** Builder will make repairs which are necessary to eliminate leakage, according to the Performance Standard.

**14.C.2 Possible Deficiency -** Stopped up sewers, fixtures and drains.

**Performance Standard -** Sewers, fixtures and drains should operate properly.

**Responsibility -** Owner is responsible for assuring that no foreign objects are introduced sewers, fixtures and drains. Builder will not be responsible for sewers, fixtures and drains which are clogged through Owner's negligence. Builder will be responsible for any stoppage resulting from Builder's construction materials or workmanship defects.

**14.C.3 Possible Deficiency -** Refrigerant lines leak.

**Performance Standard -** Refrigerant lines should not develop leaks during normal operation.

**Responsibility -** Builder will repair leaking refrigerant lines and re-charge unit, unless damage was caused by Owner.

**15. VENTILATION SYSTEM**

**15.1 Possible Deficiency -** Ductwork separates or becomes unattached.

**Performance Standard -** Ductwork should remain intact and securely fastened.

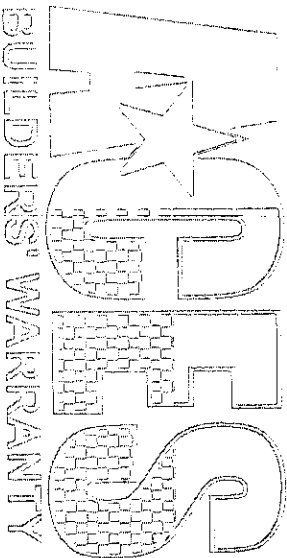
**Responsibility -** Owner must not put any load on ductwork. Builder will re-attach and re-secure all separated or unattached ductwork, if not due to Owner negligence, either by act or omission.

**16. WIRING SYSTEM**

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16.1 Possible Deficiency - Failure of wiring to carry its designed load.  
Performance Standard - Wiring should be capable of carrying the designed load for normal residential use.

Responsibility - Use of some appliances may cause a dimming of lights, even though the system is operating correctly. Builder will check wiring for conformity with Applicable Code. Builder will repair wiring not installed according to Applicable Code. See subsection 13.A.1 above, for Owner responsibilities.



II. MAJOR STRUCTURAL FAILURES,  
WHICH ARE COVERED BY THIS LIMITED WARRANTY DURING YEAR ONE THROUGH TEN  
1. GENERAL

A. The term "Major Structural Non-Foundation Failure" means actual physical damage to a load-bearing component of the Home specifically listed below, if meeting all of the following requirements:

- (i) actual physical damage to any of the load-bearing portions of the Home listed below;
- (ii) which is caused by failure of a load-bearing component listed below;
- (iii) which affects its load-bearing function; and
- (iv) the reasonable and customary cost to repair such component listed below exceeds \$250, if the Request for Warranty Performance is submitted by Owner during years three through ten of coverage.

Such load-bearing components of the Home which may be Major Structural Non-Foundation Failures, if meeting all of the above conditions, are:

- (a) load-bearing walls;
- (b) floor framing systems (joists and trusses);
- (c) roof framing systems;
- (d) structural girders;
- (e) lintels (other than lintels supporting veneers);
- (f) load-bearing beams; and
- (g) structural columns.

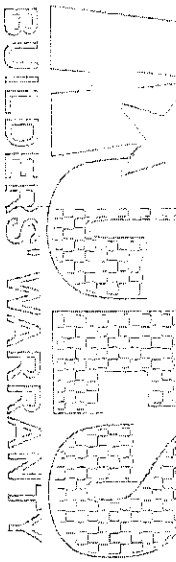
Examples of components which are not load-bearing components are:

- (a) electrical, plumbing, heating, cooling ventilation systems and mechanical systems;
- (b) Fixtures, Appliances and Equipment;
- (c) paints and stains;
- (d) doors and windows, trim, cabinets, insulation and hardware;
- (e) roofing and sheathing;

- (f) dry wall and plaster;
- (g) exterior siding;
- (h) brick, stone, stucco, or veneer;
- (i) floor covering and subflooring materials;
- (j) wall tile and other wall coverings;
- (k) non-load bearing walls and partitions; and
- (l) concrete floors of attached garage and basements that are built separately from foundation walls or other structural elements of the Home.

B. The term "Foundation Failure" means a failure of the foundation of the Home, as determined by the calculations made pursuant to the "Foundation Stability Guide." Such calculations are discussed below.

C. Subject to the provisions of this Limited Warranty, builder will repair or replace a Major Structural Failure occurring during the ten year warranty period. However, repair of a Major Structural Failure is limited to (i) the repair of damage to the load-bearing portion of the Home itself which is necessary to restore its load-bearing function; and (ii) the repair of those items or components of the Home damaged by the Major Structural Failure.



## 2. DETERMINATION OF FOUNDATION FAILURE

A. Introduction. The main purpose of a slab-on-grade foundation is to provide a floor surface and a support for the structure above it. To support the structure above, the foundation must provide sufficient stiffness, or rigidity, so that undue distress does not occur in the frame structure above. When a foundation bends or flexes excessively, distress will show in various forms, including, without limitation, interior wallboard or plaster cracks, doors out of square, doors that do not open or close properly, cracks in exterior cladding materials, cracks in brick veneer and/or separation of adjacent components such as door or window frames, or building frames and trim elements. Some of these signs of distress may be unequal shrinkage of dissimilar materials such as concrete and wood or wood and brick. Some are due to normal seasonal changes in foundation supporting soil volumes because of changes in natural moisture contents.

Engineers, homeowners, architects, code enforcers, legal bodies or others, may define a foundation failure in different ways, depending upon the subjective opinion of the inspecting party. A foundation failure is defined by some engineers as the point at which the foundation no longer provides stable support to the load-bearing elements of the structure, while to some homeowners a sticking door signifies failure of the foundation. In either case, it would appear that stability or how stable the structure is constitutes its measure of performance.

An alternative method of determination reduces differing inspection results. This alternative method is the quantification of the instability of a structure supported by the foundation by inspection of appropriate loads and analysis of the individual structural components in accordance with their original and affected capacities. Instability of a ground supported foundation slab depends on many variables and, therefore, may be determined by a quantitative analysis of the performance of the foundation and a prediction of the future performance of the original design intent.

As a means of using a more objective standard for whether or not a foundation has failed, this Limited Warranty incorporates a quantitative analysis of foundation performance. Whether or not a "Foundation Failure", as used in this Limited Warranty, has occurred, will be calculated pursuant to the point system referred to below. This method involves the tabulation of points for various foundation and non-foundation components to determine a total overall score. Points are accumulated, for example, based on matters such as levelness of the foundation, and number and severity of cracks in the foundation, and in interior gypsum wallboard, in cabinets, and in exterior brick, stone veneer or stucco. If the total points of all measurements exceed a certain number of points, then a "Foundation Failure" will be deemed to have occurred. The point system is contained in the document entitled "Foundation Stability Guide" in effect at the Warranty Commencement Date, and is available upon request from ACES.

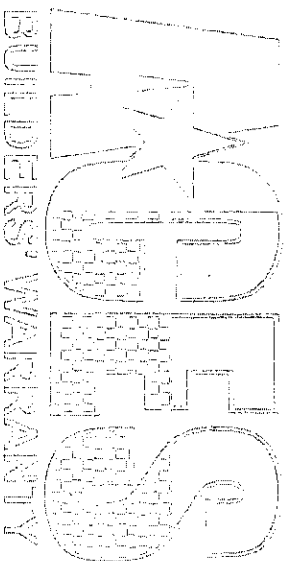
B. Foundation Failure Resolution Provisions. In the event that Owner believes that there is a Foundation Failure with respect to the Home, the parties agree that the following provisions will apply:

1. Owner shall notify Builder of the alleged Foundation Failure within the time period set forth in Section 2.02 of this Limited Warranty. Builder will inspect the alleged Foundation Failure and notify Owner of Builder's determination of whether a Foundation Failure has occurred.

2. If Owner disagrees with Builder's determination of whether a Foundation Failure has occurred, Owner will choose an Inspector from ACES' list of foundation inspectors. The Inspector chosen by Owner will inspect the Home and make a preliminary determination of whether or not a Foundation Failure has occurred, pursuant to the Foundation Stability Guide. Builder will pay such inspector's fee, up to the reasonable and customary amount established by ACES. If the Inspector finds there is a Foundation Failure, and Builder agrees with such determination, Builder will repair the Foundation Failure. Owner and Builder shall require that any inspection report prepared pursuant to this subparagraph 2 (or subparagraph 3 below), will be in writing, and will accurately set forth the evaluation and calculations of the inspector, consistent with the Foundation Stability Guide. Each inspection report shall contain measurements, photographs and any other back up documentation necessary to make the report complete, and will contain a general resolution for the Foundation Failure. In the event that ACES has developed a format for inspection reports, Owner and Builder will require that any inspection report comply with that format.

3. If the foundation inspector report issued under subparagraph 2 above indicates that there is not a Foundation Failure, then Owner shall have the right to select an engineer from ACES' foundation engineer list, to perform an additional inspection. If the foundation inspector report issued under subparagraph 2 above indicates that there is a Foundation Failure, then Builder shall have the right to select an engineer from ACES' foundation engineer list, to perform an additional inspection. If Builder selects the engineer, as provided in this subparagraph, Builder will pay the cost of the engineer's inspection. If Owner selects the engineer, as provided in this subparagraph, Owner will pay for the engineer inspection; however, if the engineer selected by Owner determines that there is a Foundation Failure as calculated pursuant to the Foundation Stability Guide, Builder will reimburse Owner for the cost of the engineer's inspection. Owner and Builder may obtain the cost of the engineer's proposed inspection and report from ACES

(which cost will not exceed a reasonable and customary amount for such inspection) at the time the engineer is selected. If after the issuance of the engineer's inspection report, Builder and Owner do not agree on whether a Foundation Failure has occurred, then the alternative resolution procedures in Article VII of this Limited Warranty shall apply.



No insurance is provided by ACES in connection with this Limited Warranty. No provision in this Limited Warranty shall be deemed to imply that Builder's obligations in this Limited Warranty are insured or that any insurance is otherwise furnished in favor of Owner.

# ACES

BUILDERS' WARRANTY

## WARRANTY TRANSFER FORM

Upon execution of this document, any remaining coverage under the Builders Limited Warranty applicable to the Home is transferred to the succeeding Homeowner. Any obligations under the Builder's Limited Warranty to any succeeding Homeowner shall not exceed the limit of liability remaining at the time of transfer, if any.

The undersigned home purchaser(s) hereby acknowledges and agrees as follows:

- I/We acknowledge that we have been given the opportunity to request, review and understand the Builder's Limited Warranty and Performance Standards.
- I/We acknowledge that American Construction & Education Services, Inc. (ACES) is not the warrantor of the Builder's Limited Warranty, and that the Builder is not an agent of the ACES Program.
- I/We understand that I/we am responsible for the maintenance of the home and the maintenance of the grade of the land surrounding the home and that the Builder shall not be responsible for any damage to the home which is the result of my/our or any previous Homeowner's failure to maintain the home.
- I/We acknowledge and agree that all disputes under or in any way relating to the Builder's Limited Warranty and otherwise in connection with the construction of any improvements shall be submitted to the ACES Three-Step Dispute Resolution Process, which culminates in binding arbitration before an independent third party arbitration organization. The decision of the arbitrator(s) in all such cases shall be final and binding upon the parties to the arbitration.
- THIS CONTRACT AND WARRANTY BETWEEN THE PARTIES IS SUBJECT TO CHAPTER 27, PROPERTY CODE. THE PROVISIONS OF THAT CHAPTER MAY AFFECT YOUR RIGHT TO RECOVER DAMAGES ARISING FROM THE PERFORMANCE OF THIS CONTRACT BETWEEN THE PARTIES AND THIS WARRANTY. IF YOU HAVE A COMPLAINT CONCERNING A CONSTRUCTION DEFECT ARISING FROM THE PERFORMANCE OF THIS WARRANTY AND THE CONTRACT BETWEEN THE PARTIES AND THAT DEFECT HAS NOT BEEN CORRECTED THROUGH NORMAL WARRANTY SERVICE, YOU MUST PROVIDE NOTICE REGARDING THE DEFECT TO THE CONTRACTOR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, NO LATER THAN THE 60<sup>TH</sup> DAY BEFORE THE DATE YOU FILE SUIT TO RECOVER DAMAGES IN A COURT OF LAW. THE NOTICE MUST REFER TO CHAPTER 27, PROPERTY CODE, AND MUST DESCRIBE THE CONSTRUCTION DEFECT. IF REQUESTED BY THE CONTRACTOR, YOU MUST PROVIDE THE CONTRACTOR AN OPPORTUNITY TO INSPECT AND CURE THE DEFECT AS PROVIDED IN CHAPTER 27, PROPERTY CODE.

Signature of succeeding Home Buyer(s) \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

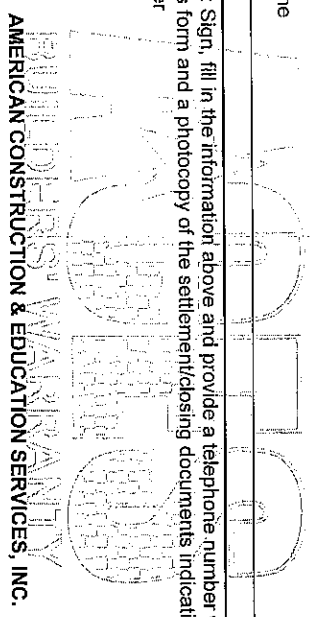
Address of Home \_\_\_\_\_

(Include legal description) \_\_\_\_\_

\_\_\_\_\_

Home/Work Phone \_\_\_\_\_

**INSTRUCTIONS:** Sign, fill in the information above and provide a telephone number where you can be reached. Mail this form and a photocopy of the settlement/closing documents indicating transfer of title to both the Builder and to:



ACES Builders' Warranty  
9511 W Sam Houston Pwy N  
Houston, TX 77064  
Phone: 281-970-2900  
Toll free: 1-866-231-2237