

VI. COMPLAINT AND CLAIMS PROCEDURE

YEARS ONE AND TWO

A. **Step One.** Upon discovery of some fault or defect, which you believe is covered by this agreement, you should first send a clear and specific written notice to your Builder. You must make your home available for inspection and repairs during normal working hours. Notice to your Builder does not constitute notice to QBW.

B. **Step Two.** If, after receiving notice, your Builder does not respond within a reasonable time, you should then give written notice of your complaint to QBW by certified mail, return receipt requested. QBW must receive written notice of your complaint no more than thirty (30) days after the expiration of the applicable warranty period. If your complaint is received by QBW after 30 days from the expiration of the limited warranty on the item, it will not be honored. Notice to your Builder does not constitute notice to QBW. The notice to QBW must include: Your warranty number and effective date, your name, address and telephone number, Builder name and address, as well as a description of the defect and the warranty standard which applies specifying the page and section of the limited warranty, as well as all previous written correspondence to the Builder pertaining to the defect. Telephone complaints will not be honored as notice. Photographs, if supplied, will not be returned.

C. **Step Three.** QBW will review the information submitted and contact your Builder to attempt to resolve any outstanding warranty claims. If necessary, QBW reserves the right to view the site conditions claimed to exist by the homeowner at any time so long as it does not delay the Complaint and Claims Procedure process. QBW will report to the homeowner and the Builder as to the Builder's obligations under the Limited Warranty Agreement.

Where a claimed defect is filed that cannot be observed or determined under normal conditions, it is the homeowner's responsibility to substantiate that the condition does exist upon request of the Builder or QBW. Any cost involved shall be paid by the owner, and if properly substantiated, reimbursement shall be made by your Builder or QBW, whichever is liable for the claim.

D. **Step Four.** Unresolved disputes on warranty items shall be submitted for arbitration by QBW to Construction Arbitration Program, administered by DeMars & Associates Limited (CAP-Home), or such other arbitration service as may be designated by QBW, for the resolution in accordance with the rules and regulations for home warranty disputes of CAP-Home or such other service. The Builder will pay the cost of the arbitration. If the Arbitrator determines that the claim, filed by the homeowner was frivolous, the Arbitrator has the authority to assess the cost of the arbitration against the homeowner. Examples of frivolous claims are ones involving excluded items under the warranty, or where warranty coverage has clearly expired.

Arbitration Awards will be prepared in narrative form and will fully describe the matter claimed, referencing and quote the applicable standard, explain the application of the standard to the matter

claimed and specify that the corrective work must address the underlying cause of the defect such that a lasting repair is effectuated. The standard of repair will be that the Builders address the underlying cause of the defect. The method of repair is in the discretion of the Builder, subject to code compliance, warranty standard compliance and good-workmanship. The Award will specify the date by which corrective work will be completed. The Arbitration Award and other guidance provided to Builders should make it clear that submissions for building permits to effect repairs will require, when called for by either the arbitrator, the code official and/or the nature of the repair, preparation of design drawings by a licensed design professional. Those plans are not subject to review or approval by the homeowner. Judgment upon the final award rendered in arbitration may be entered in any court having jurisdiction.

Arbitration is binding and any request for Arbitration constitutes an election of remedy under New Jersey law as detailed in § VII of the Limited Warranty Agreement. The decision of the Arbitrator is subject to clarification, revision and rescission based on mistakes, omissions or ethical conflicts, but is not appealable to another level of Arbitration. Any party making such requests should submit such requests to the Arbitration Service together with the applicable fee charged by the Arbitration Service for such request. When timely performance is called for hereunder, the homeowner must comply with all applicable time periods. Failure to comply in a timely manner will limit the rights of the homeowner or relieve the Builder or QBW of its obligations under this agreement.

ARBITRATION AWARD, PERFORMANCE & DISPUTE

Award. If the Arbitrator decides items exceed warranty standards, your Builder will then perform as required by the decision. The time allowed for performance will be measured from the date QBW receives a copy of the Award. Sixty (60) days will be the standard time for compliance, weather conditions permitting. Periods may be extended if exigent circumstances arise such as unavailability of materials, seasonal sensitive repairs, delays caused by any permitting process... etc.

Right of Access. You must provide the Builder, or if applicable, QBW, with reasonable weekday access during normal business hours in order to perform its obligations under this Agreement. Failure by you to provide or restrict such access to the Builder or QBW may relieve the Builder or QBW of its obligations under this Agreement.

Conclusion of Repairs. Upon the conclusion of repairs by the Builder or QBW, the homeowner may request a Compliance Arbitration if they contend that the Builder's repair efforts do not bring the defect within warranty standards. The homeowner must pay the cost of the Compliance Arbitration. The same person performing the initial arbitration should conduct the Compliance Arbitration unless it is not possible or feasible. The Compliance Arbitrator will be authorized to make a finding of default or to make a finding that the Builder has made a good-faith effort to comply and may be granted a one-time only extension to repair the items. The homeowner shall be reimbursed the cost of the compliance arbitration fee if the arbitrator finds in any part in favor of the homeowner.