

**FEASIBILITY STUDY
OF
A WARRANTY SYSTEM FOR
RESIDENTIAL RENOVATION
FEBRUARY 1985**

A study conducted for the
National Warranty Council of the
Canadian Home Builders' Association and
Canada Mortgage and Housing Corporation by

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Sommaire-Recommandation en français ci-joint

THIS FEASIBILITY STUDY WAS CONDUCTED BY MH FINANCIAL CONSULTANTS LTD. AND WILLIAM A. JOHNSON FOR CANADA MORTGAGE AND HOUSING CORPORATION AND THE NATIONAL WARRANTY COUNCIL OF THE CANADIAN HOME BUILDERS' ASSOCIATION. IT WAS FUNDED UNDER PART V OF THE NATIONAL HOUSING ACT. THE FEASIBILITY CONCLUSIONS, RECOMMENDATIONS, AND WARRANTY MODEL ARE THOSE OF MH FINANCIAL CONSULTANTS LTD. AND WILLIAM A. JOHNSON AND DO NOT NECESSARILY REFLECT THE VIEWS OF THE NATIONAL WARRANTY COUNCIL OF THE CANADIAN HOME BUILDERS' ASSOCIATION OR CANADA MORTGAGE AND HOUSING CORPORATION AND THOSE DIVISIONS OF THE CORPORATION WHICH ASSISTED IN THE STUDY AND IN ITS PUBLICATION.

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RENOVATION WARRANTY
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CHAPTER ONE

EXECUTIVE SUMMARY

1.1 BACKGROUND

In 1983 the president of the Canadian Home Builders' Association (CHBA, formerly the Housing and Urban Development Association of Canada) agreed to provide the Federal Minister responsible for housing with a preliminary report investigating the feasibility of establishing a warranty to cover residential renovation.

The preliminary report, released in October 1983, indicated that a renovation warranty was both possible and practical under specified conditions and that further study was necessary in order to resolve a number of outstanding items.

Canada Mortgage and Housing Corporation subsequently agreed to fund the National Warranty Council of the Canadian Home Builders' Association to complete the feasibility analysis and to prepare a model that could be used to implement a renovation warranty.

A steering committee composed of representatives from the Renovators' Committee of the CHBA, the National Warranty Council of the CHBA, and Canada Mortgage and Housing Corporation was established to work with the selected consultants.

There are a number of elements which must be assessed to determine feasibility. They are addressed in detail in the main report and are outlined below:

- The requirements of the public for protection. The objective is to identify the problems which consumers have experienced in undertaking renovation projects, including, if possible, the cause of problems encountered and types of financial loss which result. This element is designed to establish the coverage requirements for protection and to determine if the public requirements are capable of being met by a warranty.
- The willingness of consumers and/or renovation contractors to purchase protection. This area deals with the perception of need by consumers planning renovations, the volumes of complaints regarding renovation being received by various agencies, and an examination of the experience of the New Home Warranty Programs in Canada and the Home Owners Warranty Remodeler Program in the United States. This step is designed to evaluate the need, if any, for support by lenders, mortgage insurers, and/or Governments of a warranty program to protect consumers who will not voluntarily protect themselves.
- The number and value of renovation projects undertaken and projected for the near future in Canada. This involves the measurement of the activity in this sector and a correlation of the activity to the requirements and demands of the public in order to determine the potential amount of business a renovation warranty program could expect and the minimum market required for financial viability.

- The extent of losses which a warranty program for renovations could expect. This involves projecting losses using available data from New Home Warranty Programs and estimating the cost of obtaining insurance to cover the risk of a program. These steps yield a unit cost for risk management that can be used in the feasibility analysis.
- Projection of the viability of operating a renovation warranty. Using a number of operating scenarios and various levels of activity the cost per project of a warranty can be determined. This step will indicate the circumstances, if any, under which a warranty is feasible. The Steering Committee selected a \$50 average enrollment fee for analysis purposes, because they felt this level would stimulate demand.

In addition to the financial aspects of feasibility the structural aspects were also examined. A review of the legal structures of the New Home Warranty Programs was conducted and the Income Tax effects of a number of alternative structures were also examined.

The terms of reference for the study also included the preparation of a set of model documents that could be used as the basis for starting a renovation warranty program. The documents were based upon those in use by the New Home Warranty Programs, modified by those in use by the Home Owners Warranty Remodeler Program in the United States and the non-insured, voluntary program being implemented in Nova Scotia by the Renovators Committee of the Nova Scotia Home Builders' Association. In most instances actual sample documents have been produced, in other instances the particular clauses which relate specifically to the renovation warranty have been detailed so that they could be included in existing contract forms. These documents are not intended to be definitive. They are presented as a guide and a starting point for design of a documentation package to meet the needs of a specific program.

The limited data obtained by the Steering Committee regarding the exact nature of consumer complaints and losses should be expanded in order to establish the specific protection required by the public in any area.

In preparing the Financial Projections a number of broad assumptions were made. They do not address the different logistical and structural circumstances of the industry which would require different overhead structures in the various regions of Canada. These considerations would have to be dealt with specifically by any Provincial or regional group prior to the implementation of a program.

Since the Steering Committee first met in April of 1984 a Renovation Warranty Program in Quebec has commenced operations (January 1, 1985). The implementation of this Program will set the initial parameters for coverage and create a model which any subsequent programs can follow. The Quebec Program differs from the concept of the "stand alone" type of program dealt with in this study in that it is operated as a division of the Home Builders' Association in conjunction with the New Home Warranty Program and shares overhead with both existing organizations.

The study did not undertake any original research but was confined to the search for relevant data from a variety of recognized sources. The sources of data and the limitations resulting from lack of data are outlined in each chapter of the report. All of the data collected was reviewed and discussed in detail by the steering committee. The recommendations and conclusions were made by the committee based on a consensus reached after four meetings held during 1984.

1.2 RECOMMENDATIONS AND CONCLUSIONS REGARDING FEASIBILITY

The committee has concluded that at the present time voluntary, provincially or regionally based renovation warranty programs are not feasible for the following reasons:

1. Based on current indications of market demand it could not be reasonably expected that administrative and claim costs of such a program could be recovered from enrollment income.
2. Insurance underwriters are reluctant to offer coverage to a separate, voluntary program without assurances that the program is able to meet its financial obligations.
3. There is insufficient documented evidence of consumer need for protection.

1.3 PROPOSED RENOVATION WARRANTY MODEL

Should future evidence indicate that a warranty would be desirable, the Steering Committee has identified several possible types of coverage.

The following coverage outline was derived from incomplete data (see part 4 of Chapter 3). It is designed to permit adjustment to meet needs that would be more clearly identified after specific experience in consumer complaints and claims has been documented.

The need for protection differs across the country. Specific limits and types of protection offered by any renovation warranty program should be designed to meet those specific requirements.

Based upon the experience of the New Home Warranty Programs and the limited data available, the following types of coverage could be offered by a renovation warranty program.

1. Deposit coverage

In order to encourage consumers to act responsibly in advancing funds to renovators limited deposit coverage should be offered. Limitation could be accomplished by restricting coverage to a percentage of the value of the renovation contract to a maximum amount.

2. Workmanship and Materials Warranty

This coverage could be for one year and would stand behind the renovator, i.e., only taking effect if the renovator fails to honour his warranty.

Performance guidelines that renovators will be required to meet must be established.

In designing warranty coverage consideration should be given to the possible effects of the new workmanship and materials on the existing structure. One method that could be used to clarify coverage is to limit it to the new workmanship and materials specified in the contract between the renovator and his client.

3. Major Structural Defects

This coverage would follow the one year workmanship and materials warranty for a further one year period. It could be subject to the same financial coverage limits as the first year of warranty. The major structural defects warranty would provide protection in the event that a failure occurs in the load bearing elements of the home as a result of alterations or additions specified in the renovation contract.

Specific guidelines relating to the nature of major structural defects and the renovators obligations must be developed.

The warranty would be the responsibility of the warranty program except in circumstances of negligence on the part of the renovator. For this purpose negligence refers to actions by a renovator that he could reasonably have expected would lead to defects and which he took no steps to correct.

4. Complaint Resolution

The warranty would also include a conciliation service which either the homeowner or the renovator could institute by paying a fee. The fee would be refundable in the event the dispute was not frivolous.

5. Renovator Membership Requirements

Procedures should be developed to establish the qualifications of renovators for membership in a warranty program, giving consideration to technical and financial capacity and other relevant data.

The size and diversity of this complex industry will make the screening process difficult.

The following points should be considered prior to the implementation of a renovation warranty program:

1. Detailed operating and loss projections should be carried out for each program established so that the amount necessary to fund administration, losses, and insurance premiums can be set aside out of each enrollment fee collected.

2. To the extent possible renovation warranty programs should negotiate an umbrella insuring agreement to reduce the amount of premiums paid by each program by offering an insurer a larger total premium. Since it is likely that separate legal entities would come into existence at different times in the various areas of the country this concept could only be pursued after at least two renovation warranty programs have started. The amount of the total premium and the increased spread of risk that would result from a number of programs participating in one insuring agreement should yield considerable savings to the participants while still being attractive to the insurer.
3. The preferred type of insuring agreement is one which stipulates that only the cost of the insurance and not the amount of the losses be paid to the insurers. This will result in the renovation warranty program being able to earn interest on funds which are set aside for future losses.
4. Any renovation warranty program should endeavour to ensure a minimum of at least 5,000 enrollments annually so that it could offer an acceptable fee scale.

Total industry support may be necessary in order to achieve this minimum level of activity.

5. Federally incorporated companies should be used to provide consistency in structure across the country.

Since Part 2 of the Canada Corporations Act is consistent with the wording of the Income Tax Act regarding non-profit companies, the potential for problems in connection with income tax status should be reduced.

The committee recognizes the difficulties that were encountered in attempting to create a national new home warranty system and therefore recommends that a system employing regional Federally incorporated companies would be the most workable alternative.

1.4 OTHER RECOMMENDATIONS AND COMMENTS

The efforts to educate the public as evidenced by the publication of the booklets "How to hire a contractor" by Canada Mortgage and Housing Corporation and "Plans, Permits & Payments - Home Renovations and Improvements" by the Ontario Ministry of Municipal Affairs and Housing should be expanded and coordinated to make maximum use of the available resources throughout the country.

Consideration should be given by agencies which receive consumer complaints in the renovation area to classifying the complaints in a way which would indicate the need for consumer protection in specific areas. With this evidence the need for a warranty system could be evaluated more specifically in the future.

The series of training courses produced by Canada Mortgage and Housing Corporation which are now being offered by numerous community colleges throughout Canada should be made available to as many renovation contractors as possible and be coordinated with any other courses available to maximize the use of resources.

Consideration should be given by any warranty program established to using the courses as part of the criteria for membership in a way that would encourage members of the industry to take advantage of the courses.

The committee is of the opinion that industry self-regulation with Government support and cooperation is preferable to a legislated warranty program that may not have full industry support.

In designing any sales contract for use by renovators, consideration must be given to applicable Provincial legislation regarding sales made in consumers homes as opposed to the renovator's place of business. Different rules apply in many Provinces and they must be recognized in contract forms.

The documents included in this report have been reviewed by Mr. W. A. Johnson, the legal consultant to the project, but are not intended for use in any jurisdiction without detailed review by legal counsel to insure conformity with applicable statutes.

CHAPTER TWO

STUDY OUTLINE

2.1 OBJECTIVES OF STUDY

The primary objective of this study is to complete the examination of the feasibility of a renovation warranty based on the following assumptions which were outlined in the Preliminary Report to the HUDAC National Warranty Council of October 1983:

- A. The renovation warranty will be administered by the existing New Home Warranty Programs in each of their current areas of operation.
- B. Separate insuring agreements will be negotiated for each area of the country and contact will be made with insurers only to establish that insurance will be available and to outline a format that would be acceptable to insurers. (It was subsequently agreed that the concept of one insuring agreement for the whole country with separate loss pools would also be examined.)
- C. For warranty purposes a renovation will be defined by dollar value rather than by a technical definition. It will, therefore, be assumed that the renovation warranty program(s) will seek membership from a broad group of businesses involved in renovations.
- D. The two-tier system for renovation and sub trade warranty outlined in the October 1983 preliminary report will not be examined as part of this study.
- E. The discussions regarding support from mortgage insurers and lenders will be carried out by the HUDAC National Warranty Council. (The consultants engaged in discussions with the mortgage insurers who operate nationally and the council dealt with the lenders.)

The other objectives of the study are:

- A. To make recommendations on the type of legal structure best suited to operating a renovation warranty in Canada.
- B. To produce a documentation package which may be used as a model in the actual establishment of renovation warranty programs subject to resolution of existing copyrights.
- C. To make any other recommendations regarding either the feasibility of a renovation warranty or other matters that come to the attention of the steering committee during the conduct of the research necessary to complete this report.

2.2 DEFINITION OF RENOVATION

In order to examine the feasibility of a warranty system to provide consumer protection combined with industry self-regulation it is necessary to identify what is to be warranted.

There are a number of approaches that can be used in attempting to define renovation. One is to attempt to identify the nature of the work being carried out by means of a technical description. A second is to approach the problem by trying to define a renovation contractor. The third method is to simply ignore any technical or process definition and use an arbitrary definition which deals with the value of the work carried out.

There are two possible approaches to a technical definition. The first is to apply a broad simplistic definition and then list the specific technical functions which are excluded. The second is to attempt to list both the functions which are included and those which are excluded. Both approaches create confusion by being extremely difficult to express in simple language and are deficient as a result of not dealing with all possible inclusions and/or exclusions. This approach also would require constant modification to deal with changing circumstances and technology in the marketplace.

Defining the process by defining the person who does the work suffers from the weaknesses outlined for the technical definition and simply add one further possibility for confusion.

After reviewing the above alternatives and the definition in use by the Home Owners Warranty Remodeler Program in the United States the committee agreed that for warranty purposes the best definition was one that included all work done on an existing residential unit under a contract with a third party. It was further agreed that it would be necessary to establish a minimum contract value that would be subject to warranty. This would ensure that only contracts of a reasonable size would be warranted and that best trade off of value for money (the amount of the fee per renovation relative to the value of the contract) and economies of scale (making coverage available to a sufficient number of units to allow as low a fee as possible to be charged) could be obtained.

2.3 STEERING COMMITTEE

The steering committee was comprised as follows:

Representing the National Warranty Council of the Canadian Home Builders' Association

Mr. Bill Briggs, Chairman, National Warranty Council
Mr. Larry Kelly, Chairman, Renovation Warranty Steering Committee
Mr. David Verge
Mr. Bruno Nantel
Mr. Rod McKenzie

2.4 STUDY METHOD

The study generally followed the following steps in relation to each element of the study outlined in Chapter One:

Identify the sources of information available and obtain as much data as possible without undertaking any original research to generate raw data.

Review the data with the Steering Committee in order to form opinions as to the effect of the data on the feasibility of a renovation warranty.

Make recommendations regarding feasibility and any other appropriate matters indicated by the data or deficiencies in the available data.

Prepare the report for review by the committee prior to release.

The above methodology applied specifically to Chapters Three through Five of the report and the following comments relate to Chapters Six through Nine:

Chapters Six and Seven were prepared by the consultants based on their experience in the field of New Home Warranty using the coverage outline agreed upon by the Steering Committee.

Chapter Eight consists of recommendations made by the committee after the legal consultant presented the alternatives taking into account the structure of the industry and the New Home Warranty Programs in Canada.

Chapter Nine was prepared by the consultants to give effect to the coverage outline recommended in Chapter Three using the New Home Warranty model adjusted to reflect the legal and other differences in the renovation sector.

2.5 FEASIBILITY CRITERIA

The Steering Committee felt that in order to be feasible a renovation warranty program:

1. would have to be sure of sufficient enrollment revenue that it could offer coverage for a fee in the range of \$50 per project for smaller projects. This was considered the fee which would be acceptable to both consumers and renovation contractors,
2. would have to fill a need for consumer protection that could be best filled by warranty,
3. would have to have evidence that consumers and/or renovation contractors are willing to purchase protection, and
4. would have to be able to attract an insurance underwriter to provide the necessary coverage.

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CHAPTER THREE

CONSUMER REQUIREMENT FOR PROTECTION

3.1 INFORMATION SOURCES

The Steering Committee concluded that useful data could be obtained from the following sources:

The Provincial Departments of Consumer Affairs

Canada Mortgage and Housing Corporation

The Better Business Bureau

The Consumers Association of Canada

The New Home Warranty Program of Quebec

The Nova Scotia Home Builders' Association

The committee felt that the first four agencies would have some specific data regarding consumer complaints that would indicate the type and magnitude of the need for a renovation warranty program. The Quebec New Home Warranty Program has been investigating the establishment of a renovation warranty in their province since early 1984 and have done considerable research in that regard. The Nova Scotia Home Builders' Association is in the process of implementing a voluntary, non-insured, warranty system and have also researched the area in detail.

The two primary reasons for collecting this data were:

To confirm that there were sufficient losses or other problems being suffered by consumers to indicate a need for protection.

To identify the types of losses which consumers were experiencing in order to design the forms of protection to be offered. The attempt to categorize complaints in the questionnaire on the next page is directed at the identification of specific types of consumer problems.

3.2 SUMMARY OF DATA COLLECTED

In order to obtain data from the Provincial Departments of Consumer Affairs, a meeting was held with officials of the Alberta Department to design a questionnaire that would provide sufficient information and be reasonably compatible with the statistics gathered by each of the Provinces. The questionnaire was then forwarded to the chief executive officer of each of the New Home Warranty Programs for circulation to the Provincial Departments of Consumer Affairs, Canada Mortgage and Housing Corporation, the Better Business Bureau, the Consumers Association of Canada, and a number of municipalities in their area.

The questionnaire is reproduced on the following page.

HOME RENOVATION QUESTIONNAIRE

Respondent _____ . Date _____ 1984

Do you maintain statistics regarding consumer complaints ___yes, ___no?

If you receive complaints in areas other than home renovation (automotive, etc.) please indicate the ranking of renovation problems relative to other complaint categories in terms of number of complaints.

1983
Ranking 1 2 3 4 5 6 7 8 9 10 (circle one)
Percentage of total number of complaints received ____%.

1982
Ranking 1 2 3 4 5 6 7 8 9 10 (circle one)
Percentage of total number of complaints received ____%.

1981
Ranking 1 2 3 4 5 6 7 8 9 10 (circle one)
Percentage of total number of complaints received ____%.

If the data is available please categorize the complaints regarding renovations according to the following list indicating the percentage in each category.

	1983	1982	1981
Contractual disputes (details of work to be done, disagreements over specifications etc.) .	%	%	%
Failure to deliver according to contract by:			
Not commencing work after contract signed and deposit taken.	%	%	%
Not completing work after work started.	%	%	%
Poor quality of workmanship and materials.	%	%	%
Failure of contractor to pay his trades and suppliers	%	%	%
Cost overruns.	____%	____%	____%
TOTAL	<u>100%</u>	<u>100%</u>	<u>100%</u>

Comments regarding any specific points you feel need to be addressed in designing a warranty which will provide reasonable protection to the public.

The questionnaire was designed to indicate both the ranking of renovation relative to other complaint areas and to identify the specific nature of the complaints. The purpose was to indicate potential demand by consumers based on the frequency of complaints and to identify particular types of problems in order to assist in the design of specific types of coverage.

Unfortunately most of the agencies replies indicated that they were unable to reply in the format of the questionnaire.

The following table summarises the replies from those Provinces which were able to respond and compares the Provinces' data with that received from the Better Business Bureau.

	<u>1983</u>		<u>1982</u>		<u>1981</u>	
	Rank	%	Rank	%	Rank	%
Newfoundland	3	10	3	9	3	8
P.E.I.	10	2	10	2	10	2
Manitoba	1	23	2	15	2	15
Alberta	5	9	8	10	2	10
British Columbia	10	*	10	*	10	* insignificant
Average	5.8	8.8	6.6	7.2	5.4	7
Better Business Bureau	4	4	6	3	10	2

Only two provinces were able to respond to the second part of the questionnaire. Both replies indicate that there are problems in the areas of poor quality of workmanship and materials, failure to complete work after work started, and cost overruns. Only one Province indicates problems in contractual disputes, and in not commencing work after contract signed and funds taken. Neither Province indicated that there were any problems resulting from the failure of contractors to pay trades and suppliers.

While the data available indicates that there are problems in the renovation field it does not pinpoint their specific nature. It also tends to suggest that different problems may exist in different parts of the country. The relative volume of complaints has been steady except in Manitoba where there was a significant increase in 1983. The priority of renovation complaints has been consistent except in Alberta where it has fluctuated.

The Better Business Bureau receives inquiries and complaints at its offices throughout the country. The inquiries can take the form of requests for general information regarding members or can be preliminary to formal written complaints. Because of the broad nature of inquiries and the specific nature of complaints there is no direct relationship between the two categories of data. The following chart summarizes the complaint and inquiry data in the categories that relate to renovation on a national basis for the years 1981 to 1983.

BETTER BUSINESS BUREAU
INQUIRY AND COMPLAINT STATISTICS

	1983				1982				1981			
	<u>Inquiries</u>	<u>Complaints</u>		Percent of Total Complaints	<u>Inquiries</u>	<u>Complaints</u>		Percent of Total Complaints	<u>Inquiries</u>	<u>Complaints</u>		Percent of Total Complaints
		Total Number	Percent Settled			Total Number	Percent Settled			Total Number	Percent Settled	
Electrical contractors	4,165	50	72.0	.3	4,440	50	56.0	.3	4,984	57	54.4	.3
Heating and air conditioning contractors	9,186	187	62.0	1.0	11,572	226	71.0	1.2	8,545	153	70.6	.9
Home remodeling contractors	26,458	781	64.2	4.1	20,141	586	60.0	3.0	8,635	385	63.4	2.2
Insulation contractors	15,866	117	66.6	.6	26,210	179	68.0	.9	17,857	173	59.5	1.0
Plumbing contractors	4,726	110	56.3	.6	4,608	144	59.0	.7	4,846	118	54.4	.7
Roofing contractors	16,176	322	40.3	1.7	14,723	256	52.0	1.3	12,558	213	47.4	1.2
Siding contractors	11,593	321	75.3	1.7	10,634	234	71.0	1.2	8,387	150	71.3	.8
Other home remodeling/ construction/maintenance contractors	<u>33,353</u>	<u>1,255</u>	<u>56.8</u>	<u>6.6</u>	<u>29,791</u>	<u>761</u>	<u>50.0</u>	<u>4.0</u>	<u>14,174</u>	<u>381</u>	<u>61.6</u>	<u>1.8</u>
RENOVATION TOTAL	<u>121,523</u>	<u>3,143</u>	<u>59.8</u>	<u>16.5</u>	<u>92,328</u>	<u>2,436</u>	<u>58.6</u>	<u>12.6</u>	<u>79,986</u>	<u>1,567</u>	<u>60.9</u>	<u>8.8</u>
% of Total Inquiries	21.6%				16.4%				15.3%			
New home contractors	<u>10,253</u>	<u>128</u>	<u>63.2</u>	<u>.7</u>	<u>6,516</u>	<u>98</u>	<u>73.0</u>	<u>.5</u>	<u>5,317</u>	<u>176</u>	<u>73.9</u>	<u>1.0</u>
% of Total Inquiries	1.8%				1.2%				1.0%			
Total all Categories of Inquiries and of Complaints	<u>561,387</u>	<u>19,072</u>			<u>563,744</u>	<u>19,259</u>			<u>522,026</u>	<u>17,716</u>		

The Better Business Bureau statistics do not identify the specific nature of the complaint. For example, cost overruns, failure to complete, or taking a deposit and not doing any work could all be the reasons for a complaint.

There are, however, several significant facts demonstrated by the statistics:

The large number of inquiries would indicate a significant demand for information regarding renovation by the public. There is no detail in the statistics to indicate the nature of the information requests. However, an interview with the manager of one Better Business Bureau office indicated that a large number of the inquiries were related to efforts to locate contractors or to qualify ones already located.

There has been a significant increase in inquiries in both renovation and new home categories but only renovations have shown an increase in complaints in the 1981 to 1983 period. Renovation complaints have almost doubled.

The large number of complaints in the renovation area relative to new home contractors would suggest that there is a potential of approximately 1000 claims for a renovation warranty program per year and only 50 claims for the new home warranty programs. (Based on an average of the number of unresolved complaints over the years 1981 to 1983)

The Better Business Bureau has slightly less success in settling renovation complaints than new home complaints.

In summary, the Better Business Bureau data indicates a need for consumer education and information plus a need to resolve complaints whose nature is not specifically identified.

A further source of information in this area is the Canada Mortgage and Housing Corporation which has been involved in the renovation market since 1974 with the Residential Rehabilitation Assistance Program(RRAP).

The following information taken from a 1979 evaluation of RRAP indicates some of the problems encountered by homeowners who participated in the program:

20% of the homeowners surveyed experienced at least "some difficulty" in locating a general contractor. Difficulties in locating contractors in specific trades were considerably less.

"29% reported major or minor problems with the contractor or with getting repairs done to their satisfaction."

"Poor quality work was by far the problem most often encountered Sometimes the contractor left the job before completion, in which case the homeowner would have the trouble of trying to find another contractor willing to carry on for the same money. Or, in some cases the contractor may have already been paid fully by the homeowner, and the homeowner then had to pay additional money to get the original job completed." (Approximately 10% of homeowners surveyed had "major problems with their contractor or with getting repairs done to their satisfaction".)

"A full 24% experienced higher costs than anticipated, usually paying these costs "out of pocket"."

One homeowner commented: "Taking the cheapest estimate is foolish. Need help in ascertaining which contractor will do the job well, rather than simply do the job."

As few as 40% of the homeowners had written contracts with the renovator in Quebec while 77% had written contracts in British Columbia. There is a higher degree of dissatisfaction in regions where contracts are less common.

The following recommendations made in the 1979 RRAP evaluation are relevant to this study:

RRAP guidelines should require that agents supply clients with more information about contractors and more guidelines about how to deal with contractors. Clients should also receive written information outlining their responsibilities in dealing with contractors.

New materials developed for RRAP should place greater emphasis on client rights and responsibilities, and legitimate expectations of inspectors. (Some clients were pressured into paying for work they did not feel satisfied with, but that they paid, under pressure from contractors or inspectors, or because they didn't feel certain about their rights not to pay for a poor job.)

Some more recent surveys conducted by the Canada Mortgage and Housing Corporation for a subsequent evaluation (not available at the time of writing) show that there were workmanship and material problems in 479 of 2,725 dwellings inspected. The survey indicated that of 18,291 elements dealt with under the RRAP program in those dwellings 639 demonstrated substandard workmanship and materials. (RRAP elements are specific components dealt with in a rehabilitation such as plumbing, heating, roofing, etc. - usually items affecting health and safety) This indicates that 18% of the dwellings and 3% of the items dealt with were subject to substandard workmanship and materials.

The Quebec Home Builders' Association recently conducted a survey of homeowners who had completed renovation or rehabilitation work on their homes with assistance from the Canadian Home Renovation Program. They found that 55.6% of respondents were familiar with New Home Warranty. Of the respondents that were familiar with the concept of warranty, 78% could see merit in a renovation warranty. The survey also found that 51% of consumers who undertook projects under \$5,000 were aware of warranty while 80% of those doing work from \$20,000 to \$50,000 were aware of it. 60% of those in the last group were in favour of a warranty.

It should be pointed out that those respondents who supported the renovation warranty concept had already completed a renovation. The survey did not address the same question to persons who have not done a renovation.

The Renovators Committee of the Nova Scotia Home Builders' Association is currently in the process of implementing a non insured, voluntary, warranty system to cover renovations. The coverage proposed is similar to New Home Warranty coverage, excluding deposit protection. The reasons for the introduction of the warranty are to improve the credibility of the members in the eyes of the public and to provide the members with a marketing tool.

The Quebec Home Builders' Association introduced a renovation warranty on January 1, 1985. The reasons are the same as in Nova Scotia plus some indications from the Provincial Government that this form of protection is required to protect Quebec consumers. The warranty will provide limited deposit and completion protection as well as warranty covering workmanship and materials for one year and major structural defects for a further two years.

3.3 NEW HOME WARRANTY COVERAGE SUMMARY

The coverage offered by the New Home Warranty Programs consists primarily of three types of protection and one service. It is summarized here in order that elements which may be transferrable to a renovation warranty can be identified.

The three types of protection are as follows:

Deposit. This coverage offers protection against loss of deposits paid to builders in the event the purchaser is unable to obtain title to the property purchased due to bankruptcy, insolvency, or fraud on the part of the builder. The coverage limit is \$5,000 in some provinces and \$20,000 in others. There is also special coverage available with higher limits on a limited basis to purchasers of condominium units in some provinces. Generally a deposit is defined as earnest money paid to bind a contract but in some areas the definition is expanded slightly to cover some monies paid after the signing of the purchase contract. In some provinces and in some cases, such as homes built under a contract, the coverage will be extended to complete an unfinished unit.

First year warranty. The warranty covers all workmanship and materials supplied by the builder for a period of one year after the date of possession of the home by the purchaser. It excludes items such as items supplied by the purchaser, defects arising from improper maintenance by the purchaser, defects caused by alterations made by the purchaser, surface defects apparent and accepted by the purchaser at the date of completion, normal cracks in plaster, paint, masonry, drywall, stucco, and concrete, normal soil subsidence of the land around the building or around utility lines. This warranty is offered by the builder and the program acts only in the event of a failure by the builder to honor the warranty. The limits of this coverage vary from \$20,000 in most provinces to an amount equal to the original amount of the contract in Quebec.

Major structural defects. This warranty is in effect from the start of the second year after possession until the end of the fifth year. It covers the load bearing portions of the structure and excludes items such as driveways, basement floors and other concrete elements which are not load bearing. Some of the programs accept all of the risk for this type of coverage except in cases of builder negligence others only act only after the builder fails to honor the warranty. The limit ranges from \$20,000 to the amount of the original contract.

The service offered is a conciliation or dispute settlement service. In the event of a disagreement over the warranty obligations of a builder either the homeowner or the builder may request that the warranty program provide a conciliator to complete a physical inspection and rule on the disputed items. A failure of a builder to perform work required by a conciliation report will lead to a claim against the program and usually an action to recover the cost of the remedial work against the builder. Most programs charge a fee to the party instigating the procedure which is refundable if the items under dispute are not frivolous in nature.

Most of the changes in coverage that have taken place since the inception of the first new home warranty program in Alberta in 1975 have been to clarify the intent of the original coverage. The two primary exceptions are changes to alter the terms of the deposit coverage in respect of condominium units in Ontario and to reduce the limit on single family deposit coverage in Alberta. Both changes were made to eliminate or reduce the opportunities for abuse in the system. It was recognized that the coverage must be designed to provide legitimate protection while eliminating abuse resulting from either dishonest or irresponsible parties to purchase transactions.

All of these forms of protection and the dispute settlement service could be transferred to the renovation context.

There are a number of features present in the renovation process which may present problems in the the administration of a warranty. In addition, there may be other forms of protection required which are not relevant in the new home context.

While the contracting process for renovation is similar to that used for a contracted new home there are complications in the renovation process which could cause difficulty in designing a warranty. The first complication is that resulting from combining existing components with the new materials added by the renovation. A warranty can only apply to the new work but it must deal with the effects the new work may have on the existing structure. A further problem is that certain aspects of a renovation project may not become clear until a certain amount of demolition is carried out. This presents problems in specifying the work to be done under the contract and can often result in increased project costs. Another factor is that the building permit and inspection procedures differ across the country. It may, therefore, be necessary for a renovation warranty program to engage in inspections of projects during construction where no local procedures exist.

3.4 LIMITATIONS IN DATA AVAILABLE

It was noted in a number of areas in part 2 of this chapter that the process of collecting data in the area of consumer complaints in Canada is somewhat fragmented and, unfortunately not consistent from one province to another.

This presents two problems in attempting to define the types of coverage that should be offered by a renovation warranty program:

The lack of data dealing with specific types of complaints makes the measurement of the quantity of demand for each of the possible types of coverage difficult.

The lack of data also presents problems in setting the limits of coverage that will meet the need.

This problem can be resolved by either of two approaches:

Changing the information gathering system prior to giving further consideration to the implementation of a renovation warranty.

Or, starting the warranty system and keeping detailed statistics regarding complaints so the coverage can be adjusted as required.

3.5 OTHER ASPECTS OF CONSUMER DEMAND

The data indicated a number of consumer requirements that are not specifically related to the demand for warranty. They are outlined here because they could form the basis of extra services offered by a warranty program or, alternatively, they could be provided to the public by other means.

The first area is locating contractors. This problem is indicated by the large number of inquiries received by the Better Business Bureaus and confirmed by the 1979 RRAP evaluation. The problem could be addressed by a warranty program providing information on members who are qualified to do various types of work or by the Canadian Home Builders' Association or some other group setting up a consumer referral service.

The second is assistance to consumers in dealing with contractors. The assistance could take the form of pamphlets such as Canada Mortgage and Housing Corporation's "How To Hire A Contractor" or the Ontario Ministry of Municipal Affairs and Housing's "Plans, Permits, and Payments" or it could be expanded to include contract forms and detailed instructions regarding their use. The RRAP evaluation indicated that more problems were experienced by homeowners in dealing with contractors when there was no written contract. A further type of assistance could be the development of seminar material that could be presented to persons contemplating renovation projects as part of evening programs presented by school boards or community colleges.

3.6 COVERAGE RECOMMENDATIONS AND CONCLUSIONS

The committee has concluded that at the present time voluntary, provincially or regionally based renovation warranty programs are not feasible because there is insufficient documented evidence of consumer need for protection.

The following coverage outline was derived from incomplete data (see part 4 of this Chapter). It is designed to permit adjustment to meet needs that would be more clearly identified after specific experience in consumer complaints and claims has been documented.

The need for protection differs across the country and the specific limits and types of protection offered by any renovation warranty program should be designed to meet those specific requirements.

Based upon the experience of the New Home Warranty Programs and the limited data available the following types of coverage could be offered by a renovation warranty program.

1. Deposit coverage

In order to encourage consumers to act responsibly in advancing funds to renovators limited deposit coverage should be offered. This could be accomplished by limiting the coverage to a percentage of the value of the renovation contract to a maximum amount.

2. Workmanship and Materials Warranty

This coverage would be for one year and would stand behind the renovator, only taking effect if the renovator fails to honour his warranty.

Performance guidelines that renovators will be required to meet must be established.

In designing warranty coverage consideration should be given to the possible effects of the new workmanship and materials on the existing structure. One method of clarifying coverage is to limit it to the new workmanship and materials specified in the contract between the renovator and his client.

3. Major Structural Defects

This coverage would follow the period of the one year workmanship and materials warranty for a further one year period and would be subject to the same financial coverage limits as the first year of warranty. The major structural defects warranty would provide protection in the event that a failure occurs in the load bearing elements of the home as a result of alterations or additions specified in the renovation contract.

Specific guidelines relating to the nature of major structural defects and the renovator's obligations must be developed.

The warranty would be the responsibility of the warranty program except in circumstances of negligence on the part of the renovator.

4. Complaint Resolution

The warranty would also include a conciliation service which either the homeowner or the renovator could institute by paying a fee that would be refundable in the event the dispute was not frivolous.

5. Renovator Membership Requirements

Procedures should be developed to establish the qualifications of renovators for membership in a warranty program giving consideration to technical and financial capacity and other relevant data.

The size and diversity of this complex industry will make the screening process difficult.

The committee also explored the possibility of coverage to protect against the failure of a renovation contractor to complete projects after they are started. While this type of coverage meets a need that was indicated in the questionnaires and in the RRAP evaluation it was not included in the coverage above because:

1. It could provide coverage to an imprudent consumer who pays an amount to the renovator which is excessive relative to the value of a partly completed renovation.
2. It could provide protection in cases where the renovator under bid the project and abandoned it to limit his losses. This could provide some encouragement of this undesirable practice rather than attempt to eliminate it.
3. It falls into the realm of performance guarantee and insurers would classify it as surety. At present the vast majority of renovation contractors could not qualify for surety bonds and the insurers contacted in connection with this study indicated grave concerns regarding the insurability of a renovation warranty program which offers this type of coverage.

The Program which has been introduced in Quebec has dealt with these concerns by offering completion coverage which is limited to 10% of the value of the contract.

The efforts to educate the public as evidenced by the publication of the booklets "How to hire a contractor" by Canada Mortgage and Housing Corporation and "Plans, Permits & Payments - Home Renovations and Improvements" by the Ontario Ministry of Municipal Affairs and Housing should be expanded and coordinated to make maximum use of the available resources throughout the whole country.

Consideration should be given by agencies who receive consumer complaints in the renovation area to the classifying the complaint statistics in a way which would indicate the need for consumer protection in specific areas. With this evidence the need for a warranty system could be evaluated more specifically in the future.

The series of training courses produced by Canada Mortgage and Housing Corporation which are now being offered by numerous community colleges throughout Canada be made available to as many renovation contractors as possible and be coordinated with any other courses available to maximize the use of resources.

Consideration should be given by any warranty program established to using the courses as part of the criteria for membership in a way that would encourage members of the industry to take advantage of the courses.

CHAPTER FOUR

CONSUMER/RENOVATOR ACCEPTANCE OF (DEMAND FOR) PROTECTION

4.1 INFORMATION SOURCES

The sources of information in connection with consumer acceptance of or demand for protection are the New Home Warranty Programs and the Home Owners Warranty Remodeler Program in the United States (HOW). Due to the nature of this topic all of the data is more subjective than the data related to the need for protection.

This chapter will attempt to measure the willingness of consumers and/or renovators to purchase protection. It also discusses the need, if any, for support from lenders, mortgage insurers, and/or Governments.

4.2 PRICE-VALUE CONSIDERATIONS

There is no doubt that price has a major bearing on consumer demand for a product. Demand should increase as price declines at least until the price becomes so low that the consumer begins to question the value of the product or service offered.

There are, however, two factors which affect the normal demand patterns when dealing with a warranty which is offered to the consumer through an intermediary, in this case the renovator. The first is that the perception of value to the renovator is perhaps more important than that to the consumer since it is the renovator who actually pays the unit enrollment fee to initiate the coverage. Although the renovator would include the fee in his contract price he would not join a voluntary program if he did not feel the consumer wanted, or would receive good value, from the warranty. The second is that if the warranty program is seen as a further complication rather than either a benefit the renovator offers to his customers or a benefit to the renovator himself, he will not see any advantage in offering the warranty to his customers.

The initial fee schedule introduced by the HOW Program in the United States required a fee of approximately \$200 for each renovation of \$5,000 for their insured, voluntary program. At this fee level most renovators were reluctant to join the program. A subsequent reduction in the fee schedule of approximately 50% has not improved the number of renovators applying for membership in the HOW Program. This result would indicate that renovators will not join a voluntary program unless there is consumer demand.

A further adjustment made by the HOW Program was to increase the limit for mandatory enrollment of projects. This limit now requires members to enroll all renovations in excess of \$10,000 rather than the previous \$5,000. All renovations under the limit are enrolled at the option of the renovator.

The enrollment fees charged by the New Home Warranty Programs in Canada vary from Province to Province and according to the value of the home but the range is from \$125 to over \$500 for protection which spans a period of approximately five and one half years.

Another comparison from the consumers point of view would be to compare the cost to that of either homeowners insurance or automobile insurance. Both of these forms of consumer protection cost in the upper portion of the new home warranty enrollment fee range for annual protection for the average home or automobile. Yet, the suggested term of the renovation warranty is two years.

The Quebec survey mentioned in Chapter 3 indicated that persons who had completed renovation projects were prepared to pay \$100 for warranty. Unfortunately demand depends upon the willingness to purchase protection before the project starts.

A further comparison of costs which are of direct interest to a homeowner contemplating a renovation would be the charges related to borrowing under the RenoLoan Program in Ontario. The charges are listed below:

Appraisal fee	\$ 150
Lender processing and inspection fee	300
Insurance application fee	75
Legal fee (approximately)	1% of loan
Mortgage insurance fee	2% of loan

It would appear that the perception of value in the mind of the renovator is perhaps the most significant single consideration in the price-value area.

The Quebec renovation warranty has been instituted more because of a perceived consumer demand as expressed in surveys and by the Provincial Government than because of demand from renovators. The Nova Scotia voluntary scheme results from efforts of a small number of renovators who feel that there are marketing and related credibility benefits that flow from offering a warranty. Neither of these programs demonstrate a willingness on the part of the majority of renovators to purchase coverage.

The New Home Warranty Programs experience indicates that unless a requirement for warranty is imposed by lenders and mortgage insurers, builders resist joining the programs and enrolling units. The level of resistance grows as fees increase.

4.3 EXTERNAL SUPPORT REQUIREMENT AND ALTERNATIVES

Effective July 1978 Canada Mortgage and Housing Corporation introduced a regulation stipulating that new units built by builders (as opposed to homeowners) must have to have a warranty to qualify for mortgage insurance.

Subsequent to July 1978 in cooperation with Canada Mortgage and Housing Corporation and various Provincial Government agencies and mortgage insurance entities, the requirement was extended to cover a number of social housing programs as well as new homes.

In the case of a number of the smaller New Home Warranty Programs it was this support that ensured their survival during the recessionary period subsequent to 1979.

Many of the New Home Warranty Programs found that efforts on the part of builders to avoid enrolling units or membership in the Programs increased during difficult financial times. Apparently, in spite of the length of time the New Home Warranty has been available in Canada, many consumers are either not aware of the Program or are not sufficiently concerned to require that new homes they purchase be covered by warranty.

The prime motivator for most people contemplating a renovation is cost. Human nature generally dictates that people assume problems will only affect "the other guy", therefore, the motivation to request a warranty on the part of the average consumer is not very strong.

In contrast to the foregoing indication of a lack of demand, the Quebec survey mentioned in Chapter 3 and discussions the author has had with persons who had already undertaken renovation projects indicated a high support for a warranty. This would tend to indicate that the complications inherent in the process and the need for protection do not become apparent to consumers until after the fact.

All of the above and the experience of the HOW Program indicate that some form of support is required from external sources to ensure sufficient business for a renovation warranty program. The four alternative types of support examined by the committee are detailed in the following paragraphs:

1. Support from mortgage insurers and the lending sector.

This type of support has been most beneficial to the New Home Warranty Programs but it would appear to be of more limited benefit to a renovation program. There is a wider diversity of financing used for renovations: a large number of renovations are funded either out of the homeowners resources without debt or by loans which are not secured by the property renovated.

Since it is anticipated that there would be a larger number of renovation projects subject to warranty than new homes the administrative efforts required to ensure that the rules were being followed would be considerably greater than for the New Home Warranty Programs.

2. Support in the form of a Provincially legislated warranty program.

This is the method presently used in Ontario for the New Home Warranty Program.

It would ensure that each renovation is covered by the warranty because it would be illegal for a contractor to do a renovation without offering a warranty. The use of this method would have the benefit of maximizing enrollment revenue with a minimum of costs. It, however, has the disadvantage of being perceived by the industry as an additional level of bureaucracy which renovator must deal with.

The requirement for amendments to be either legislated or approved by cabinet may result in delays that could prove costly during the waiting period prior to the adoption of changes.

Another problem is that the quasi-judicial process used to resolve disputes by either consumers or program members is costly both in terms of legal fees and time required by senior warranty program staff.

3. Support in the form of Provincial legislation requiring licensing of renovation contractors with an exemption from licensing for members of an approved warranty program.
This system would also ensure that each renovation was subject to some form of consumer protection.
It would provide a legal structure similar to the New Home Warranty Programs in the Provinces other than Ontario which could be amended by passage of a resolution by a volunteer board of directors. This would result in a shorter reaction time to necessary change.
Since a refusal or termination of a membership would not effectively put a renovator out of business (he could still obtain the alternate license if he could meet the requirements) a procedure which allowed an appeal to a board of directors followed by a judicial appeal, if necessary, would ensure that members and applicants were treated fairly.
Any consumers who were dissatisfied with program conciliations would have the right to have the courts resolve the problem.
4. Policies requiring warranty for Federal and/or Provincial rehabilitation programs.

4.4 LIMITATIONS IN DATA AVAILABLE

The New Home Warranty Programs do not have specific data indicating the number of enrollments which could be directly attributable to the support requirements of CMHC and other agencies.

The reduced enrollment fee in the United States has not resulted in a significant increase in either membership or enrollments.

There is very little hard data available in this area but the experience of the New Home Warranty Programs in Canada and the HOW Remodelers Program in the United States would indicate that some form of support is an absolute necessity given the low voluntary enrollment volume expected in most regions of Canada.

4.5 CONCLUSIONS AND RECOMMENDATIONS

The committee has concluded that sufficient demand from consumers and renovators has not been clearly demonstrated and that some form of support would be necessary to ensure reasonable volumes of enrollments.

The committee feels that the most desirable form of support is that from lenders, mortgage insurers, and agencies such as Canada Mortgage and Housing Corporation, who are part of the industry.

The committee is of the opinion that industry self-regulation with Government support and cooperation is preferable to a legislated warranty program that may not have full industry support.

CHAPTER FIVE

RENOVATION MARKET ANALYSIS

5.1 INFORMATION SOURCES

In order to measure the size of the renovation market in Canada both in terms of the number and value of projects undertaken on an annual basis a number of sources were identified. The first is Statistics Canada which produces data in this area using both building permit surveys and data taken from the periodic surveys of family expenditure. The second source is Canada Mortgage and Housing Corporation statistics in connection with the Residential Rehabilitation Assistance Program (RRAP). There has been a considerable amount of work done by a number of Government agencies and consultants to measure the market and future potential but virtually all research is based on the data sources listed above.

After measuring the volume of activity it was then correlated to the requirements and demands of the public in order to establish the amount of business a renovation warranty program could expect.

5.2 MARKET SIZE

There are two aspects regarding the size of the market that must form the basis of a feasibility study:

The first is the minimum size of the market. This aspect will determine whether there is sufficient revenue to ensure that a renovation warranty program can provide a warranty service at a cost that does not outweigh the value (or the perceived value) of the protection offered.

The second is to determine the maximum market potential. This aspect will provide information on the effects of economies of scale as well as as the likelihood of success.

One measure of the minimum size of the market is the number of renovations carried out under the Canada Mortgage and Housing RRAP program. While there is no certainty that CMHC would adopt a policy that would ensure that all RRAP renovations would be required to be covered by a warranty the numbers provide a useful reference point for the minimum market.

The following summary of the 1981 and 1982 RRAP Trends Reports indicates the number of loans made under the program in the various areas of the country. The 1983 statistics have not been used because there was a one time budget increase during 1983 which would tend to distort the figures.

SUMMARY OF RRAP ACTIVITY

	1981			1982			Two year average		
	HO	R	Total	HO*	R**	Total	HO	R	Total
Nfld.	341	59	400	250	70	320	296	64	360
P.E.I.	178	100	278	115	96	211	147	98	245
N.S.	1272	438	1710	1270	459	1729	1271	449	1720
N.B.	416	608	1024	548	645	1193	482	627	1109
Que.	796	4103	4899	644	3351	3995	720	3727	4447
Ont.	876	705	1581	1458	1727	3185	1167	1216	2383
Man.	404	7	411	654	57	711	529	32	561
Sask.	1043	166	1209	868	156	1024	956	161	1117
Alta.	968	273	1241	1018	298	1316	993	286	1279
B.C.	<u>2169</u>	<u>296</u>	<u>2465</u>	<u>2084</u>	<u>431</u>	<u>2515</u>	<u>2127</u>	<u>364</u>	<u>2491</u>
Canada Totals	<u>8463</u>	<u>6755</u>	<u>15218</u>	<u>8909</u>	<u>7290</u>	<u>16199</u>	<u>8688</u>	<u>7024</u>	<u>15712</u>

(1)

* Home Owner Loan

** Rental Loan (Private plus Direct)

(1) There were 2466 loans made in respect of the 7290 units.

The number of units has been used for rental projects, rather than the number of loans involved, because it is contemplated that any warranty would apply enrollment fees to all units involved.

The Trends Reports do not indicate the breakdown between contractor and owner input of labour and materials.

In addition to the numbers of renovation projects outlined above it is also necessary to examine the value of the work being done so that the proposed enrollment fee structure can be established and the cost-benefit aspects of a warranty from the consumer's point of view can be examined. The following summarizes the data in the Trend Reports in this area.

	1982		1983	
	<u>Home Owner</u>	<u>Rental</u>	<u>Home Owner</u>	<u>Rental</u>
Average cost per unit (Canada)	4892	6692	6147	8438
Province with highest average -Quebec	10498	10183	13737	13073
Province with lowest average	4020(Alta)	2657(Alta)	4468(Alta)	3569(B.C.)
Loan Ranges				
0-3750	57.6%	47.2%	26.9%	45.9%
3751-5999	29.0%	13.7%	53.9%	6.1%
6000-7999	5.9%	14.2%	9.1%	14.1%
8000-9999	3.9%	2.7%	5.5%	4.6%
10000+	3.4%	21.9%	4.6%	31.2%
Per unit loan as % of unit cost	83%	32%	78%	29%
Interpolated unit cost ranges	1982		1983	
	0-4518		0-4808	
	57.6%		26.9%	
	4519-7228		4809-7691	
	29.0%		53.9%	
	7229-9637		7692-10255	
	5.9%		9.1%	
	9638-12047		10256-12819	
	3.9%		5.5%	
	12048+		12820+	
	3.4%		4.6%	

The loan amounts are lower than the project cost amounts and the total project amounts may be influenced by the fact that the loans are forgivable.

In rental RRAP 50% financing by the landlord is required.

The average is high in Quebec because of a Provincial assistance program which provides further financial assistance to the owner or landlord.

The rental loans were excluded from the interpolations because the average rental loan is higher as a result of some loans representing more than one unit.

The interpolation on the previous page indicates that a warranty limit of \$ 5,000 would make 73% (in 1983) homeowner renovations under RRAP eligible for warranty; the remaining 27% would be enrolled on an optional basis only. A limit of \$3,000, however, would exclude very few of the RRAP units.

The selection of a \$3,000. minimum value for renovations subject to coverage would result in a minimum guaranteed market equal to the RRAP volumes if CMHC imposed a warranty requirement as a condition of their program.

It is, however, unlikely because of its national mandate that CMHC would require a renovation warranty until it is offered in all parts of the country.

Statistics Canada building permit data (Statistics Canada and CMHC starts survey; Construction in Canada, 64-201 Statistics Canada catalogue; CANSIM; 1984 forecast by Construction Division, Statistics Canada) is a primary source of data that can be used to measure the maximum potential market for a renovation warranty. This data provides information regarding the number and value of building permits issued under the "Improvements"(these include alterations, cottages, and conversions) classification and the estimated value of "Repairs". A second source is the 1982 Statistics Canada family expenditure survey data (compiled detailed income and expenditure patterns for almost 11,000 family spending units) which provides information regarding the amounts spent by Canadian families in numerous categories of repairs(minor and major) and in categories covering additions, remodelling, and new installations. This source also includes data on the amounts spent on work done under contract and by homeowners, as well as the numbers of households requiring major repair.

By combining and interpreting the above data calculations can be made regarding the number of contract renovations done in each Province. Chart 1 on the second following page indicates the amount of contract renovation work that occurred in each Province in 1982 based on the following methodology:

By using the totals for numbers and values of building permits which Statistics Canada collects from various locations in Canada in order to project the total value of activity, the number of permits in the improvement clasification is calculated. The repair amounts are the Statistics Canada estimates of activity and the number of repair projects is derived by calculating the average value of a repair from the family expenditure data.(see Chart 2)

The following summarizes the proportion of repairs and improvements that are contracted according to the family expenditure data:

	Number	Amount
Repairs	42%	60%
Improvements	47%	56%

These percentages were applied to the data in Chart 2 to calculate the numbers and amounts in each category in Chart 1. The total number of repairs and improvements in Chart 1 is calculated by taking 100% of the repair number plus 33% of the improvements. The improvement numbers are reduced by 67% because 67% of the households reporting repairs are also reporting improvements. While it is recognized that not all improvements would occur in households reporting repairs it is a conservative approach.

Chart 1, therefore, represents an estimate of the potential market in 1982 for a Renovation Warranty. While a large number of renovation or repair projects are of too low a value to be covered by a warranty program, the number of projects which would be subject to coverage is still very large.

Chart 3 shows the value of building permits and the estimated value for 1984 (Source: Statistics Canada) covering both renovation (repairs plus improvements) and new housing. It is significant to note that the trend to increasing expenditures in the renovation sector, while slowed by the recession, is clear. The numbers also indicate a much more stable range of activity in renovation than in new housing. The potential of 1,636,419 renovation projects is approximately 10 times the number of new housing starts expected in 1984.

The realization of the potential will necessarily depend on decisions taken regarding the nature of support, if any, given by CMHC and the mortgage insurance and lending sector and/or by Provincial Governments in the form of legislation, on the lower limit adopted for projects eligible for coverage, and the success of efforts to educate consumers and renovators regarding the benefits of warranty.

5.3 LIMITATIONS IN DATA AVAILABLE

The two major limitations in the data used to produce the estimate of the potential market in Chart 1 are:

There is an inconsistency between the average value of each building permit calculated by dividing the total value of permits by the number of permits under \$25,000 and the average expenditure for additions, renovations and new installations taken from the family expenditure data. The average derived from the building permit data is \$3,610 whereas the family expenditure data indicates an average of \$2,459. In calculating the number of repair projects for Chart 1 the average contracted repair was increased by the proportion by which \$3,610 exceeds \$2,459.

The repair amounts provided by Statistics Canada are estimates based upon the family expenditure survey and there is no method of verifying the data. The average cost of individual renovation or repair projects reported in the family expenditure survey appears low when compared to the building permit data.

In addition to the above, there are limitations resulting from using national averages in respect of the proportions of repairs that were contracted.

RENOVATION MARKET POTENTIAL
1982

CHART 1

	Repairs		Improvements				Total	
	All Sizes		Under \$25,000		\$25,000+		All Sizes	
	Number (Estimate)	Amount (000s)	Number	Amount (000s)	Number	Amount (000s)	Number (Estimate)	Amount (000s)
Nfld	27,570	36,290	7,161	15,248	16	752	29,938	52,290
P.E.I.	5,502	7,243	800	5,121	20	1,170	5,773	13,534
N.S.	41,968	55,241	6,966	47,391	105	5,619	44,301	108,251
N.B.	31,671	41,688	7,425	25,716	87	5,799	34,150	73,203
Que	439,126	578,009	66,403	249,538	1,629	128,002	461,577	955,549
Ont	608,753	801,284	66,726	304,739	1,696	115,012	631,332	1,221,035
Man	52,374	68,938	6,193	33,904	197	11,974	54,483	114,816
Sask	44,353	58,381	8,124	40,113	211	9,841	47,104	108,335
Alta	135,980	178,987	16,439	80,503	632	37,884	141,613	297,374
B.C.*	177,457	233,581	25,206	124,785	1,131	69,584	186,148	427,950
Totals	<u>1,564,754</u>	<u>2,059,642</u>	<u>211,443</u>	<u>927,058</u>	<u>5,724</u>	<u>385,637</u>	<u>1,636,419</u>	<u>3,372,337</u>

SUMMARY OF BUILDING PERMIT DATA
1982

CHART 2

	Repairs		Improvements				Total	
	All sizes		Under \$25,000		\$25,000+		All Sizes	
	Number (Estimate)	Amount (000s)	Number	Amount (000s)	Number	Amount (000)	Number (Estimate)	Amount (000s)
Nfld	65,643	60,483	15,237	27,229	35	1,343	80,915	89,055
P.E.I.	13,101	12,072	1,703	9,144	43	2,089	14,847	23,305
N.S.	99,923	92,068	14,821	84,627	223	10,034	114,967	186,729
N.B.	75,408	69,480	15,797	45,921	185	10,355	91,390	125,756
Que	1,045,539	963,349	141,282	445,603	3,466	228,575	1,190,287	1,637,527
Ont	1,449,411	1,335,473	141,971	544,176	3,609	205,378	1,594,991	2,085,027
Man	124,699	114,896	13,176	60,543	420	21,382	138,295	196,821
Sask	105,602	97,301	17,285	71,630	449	17,573	123,336	186,504
Alta	323,763	298,312	34,977	143,756	1,345	67,650	360,085	509,718
B.C.*	422,516	389,302	53,629	222,830	2,407	124,258	478,552	736,390
Totals	<u>3,725,605</u>	<u>3,432,736</u>	<u>449,878</u>	<u>1,655,459</u>	<u>12,182</u>	<u>688,637</u>	<u>4,187,665</u>	<u>5,776,832</u>

* Includes Yukon and N.W.T.

By using the totals for numbers and values of building permits which Statistics Canada collects from various locations in Canada in order to project the total value of activity, the number of permits in the improvement classification is calculated. The repair amounts are the Statistics Canada estimates of activity and the number of repair projects is derived by calculating the average value of a repair from the family expenditure data. (see Chart 2)

The following summarizes the proportion of repairs and improvements that are contracted according to the family expenditure data:

	Number	Amount
Repairs	42%	60%
Improvements	47%	56%

These percentages were applied to the data in Chart 2 to calculate the numbers and amounts in each category in Chart 1. The total number of repairs and improvements in Chart 1 is calculated by taking 100% of the repair number plus 33% of the improvements. The improvement numbers are reduced by 67% because 67% of the households reporting repairs are also reporting improvements. While it is recognized that not all improvements would occur in households reporting repairs it is a conservative approach.

Chart 1, therefore, represents an estimate of the potential market in 1982 for a Renovation Warranty. While a large number of renovation or repair projects are of too low a value to be covered by a warranty program, the number of projects which would be subject to coverage is still very large.

		VALUE OF ACTIVITY 1977-1984 (In Thousands of Dollars)							CHART 3
		1977	1978	1979	1980	1981	1982	1983	1984
Newfoundland									
New		125,634	98,314	122,620	173,685	152,075	120,818	168,327	146,820
Renovation		68,722	80,391	96,378	116,964	105,696	89,055	122,953	143,995
P.E.I.									
New		24,941	38,778	42,419	22,285	12,908	6,145	23,260	28,200
Renovation		17,413	24,684	28,207	21,141	23,042	23,305	27,669	27,744
Nova Scotia									
New		182,969	199,123	166,113	145,369	177,507	156,128	280,278	276,485
Renovation		109,290	126,326	155,866	167,342	183,525	186,729	231,933	245,755
New Brunswick									
New		140,848	173,360	201,632	124,257	104,960	69,480	200,039	197,636
Renovation		92,489	110,317	131,402	133,306	134,019	125,756	167,293	187,029
Quebec									
New		1,967,525	1,614,467	1,633,054	1,347,961	1,624,720	1,086,091	2,012,371	1,735,965
Renovation		1,062,282	1,221,541	1,399,372	1,485,960	1,602,750	1,637,483	2,031,764	2,180,812
Ontario									
New		2,855,603	2,748,549	2,503,020	2,219,286	2,735,830	2,261,127	3,164,758	3,021,072
Renovation		1,565,401	1,744,514	1,990,746	1,988,455	2,189,215	2,085,027	2,401,707	2,692,835
Manitoba									
New		341,870	417,769	273,251	139,957	180,085	97,934	282,830	327,555
Renovation		139,012	158,255	168,233	192,102	180,204	196,881	250,144	265,548
Saskatchewan									
New		452,078	413,086	476,132	381,785	312,543	282,684	412,552	355,219
Renovation		119,465	132,444	162,946	170,891	157,892	186,504	211,184	233,666
Alberta									
New		1,415,387	1,929,958	2,041,422	1,875,581	2,177,179	1,684,322	1,155,273	753,520
Renovation		332,879	403,237	510,209	522,956	538,086	509,718	545,285	541,719
B.C.									
New		1,220,872	1,228,300	1,274,434	1,776,396	2,528,065	1,598,862	1,522,035	1,379,042
Renovation		474,606	560,659	610,796	700,411	865,222	736,390	842,831	780,461
Canada									
New		8,727,727	8,861,704	8,737,097	8,206,762	10,005,872	7,363,591	9,231,723	8,221,514
Renovation		3,981,559	4,562,368	5,254,155	5,499,528	5,968,651	5,776,832	6,832,763	7,299,564

Note: Renovation includes Repairs, Improvements(alterations & cottages), and Conversions

Chart 3 shows the value of building permits and the estimated value for 1984 (Source: Statistics Canada) covering both renovation (repairs plus improvements) and new housing. It is significant to note that the trend to increasing expenditures in the renovation sector, while slowed by the recession, is clear. The numbers also indicate a much more stable range of activity in renovation than in new housing. The potential of 1,636,419 renovation projects is approximately 10 times the number of new housing starts expected in 1984.

5.4 CORRELATION OF REQUIREMENT FOR PROTECTION WITH DEMAND AND TOTAL MARKET POTENTIAL

While Chapter 3 is not specific in identifying the exact nature of problems being encountered by consumers in Canada it does demonstrate that there would appear to be, proportionately, at least as many consumer problems being experienced in the renovation sector as there were in the new home sector prior to the introduction of the New Home Warranty Programs in the 1970s.

Chapter 4 concluded that, in spite of the problems consumers are having in the renovation area, generally they will not require that their contractors provide a warranty. This apparent contradiction can be explained by the fact that most people think that problems happen to "the other guy" and that most people are motivated by the best price in priority to all other factors.

A further problem on the demand side of the equation, as outlined in Chapter 4, is that it is actually the renovator, not the consumer who buys the warranty.

This chapter has shown that the market volume for renovation warranty is potentially better than the volume of new home construction eligible for warranty. The limited evidence outlined in Chapter 3 indicates that the incidence of problems in renovation exceeds that for new construction. However, the uncertain demand on the part of consumers and renovators makes the realization of this potential questionable.

One major consideration in the area of market acceptance is the reaction of renovators to a warranty system. While opinions vary across the country from positive in Nova Scotia to negative in Ontario with the other Provinces in between, the state of organization of renovators is currently far less advanced than that of new home builders when the New Home Warranty Programs were introduced. This lack of organization could prove to be a major problem in the establishment of renovation warranty programs in Canada. The lack of success the HOW Remodelers Program in the United States has suffered as a result of the fragmentation of the industry and the price-value perception of renovators gives some indication of the potential problem.

5.5 CONCLUSIONS AND RECOMMENDATIONS

The committee has concluded that the potential market size as outlined in this chapter is more than sufficient market to support a renovation warranty program to provide protection to consumers in Canada. However, the current indications of market demand are such that it could not be reasonably expected that administrative and claim costs of such a program could be recovered from voluntary enrollments.

CHAPTER SIX

INSURANCE / RISK ANALYSIS

6.1 INFORMATION SOURCES

In order to estimate the cost of funding the risk undertaken by a warranty program offering protection based on coverage outlined in Chapter Three, a number of sources of information were identified. The first, most useful, source is the New Home Warranty Programs in Canada. They represent the model that was used in designing the coverage recommended and now have between eight and ten years experience since their inception. In addition to the New Home Warranty Programs themselves discussions were held with the two insurance companies which insure the risks of six of the seven New Home Warranty Programs. The final source is the Homeowners Warranty Remodelers Program in the United States.

6.2 "WORST CASE" LOSS PROJECTIONS

There are two primary elements to the loss data collected by the New Home Warranty Programs which form the basis for projections of future losses (which they prepare on a regular basis as part of their financial planning process).

The first aspect is claims frequency. This is a measure of the number of claims that occur in relation to the number of units protected by the program. Most of the programs calculate the claims frequency in relation to each "generation" (units enrolled in a particular period, usually a year) of homes in order to determine trends. It is often expressed in terms of the number of claims per thousand units enrolled as follows:

$$\begin{array}{rcl} \text{Number of Claims} & 17 & \\ \text{Number of Units Enrolled} & 5,129 & \\ \text{Frequency} = & \frac{17}{5,129/1000} & = 3.314 \end{array}$$

An analysis of the trends including a review of the economic conditions during the periods covered leads to a frequency range which is then combined with the severity levels to produce a loss projection.

The second element is severity. This is a measure of the average cost per claim in respect of units enrolled by a program. It is a simple average but can be calculated in two different ways. The first is the cost per claim paid from all generations during any given period such as a fiscal year. The second is the cost per claim in respect of units enrolled during any generation. Experience has shown that the trend resulting from accumulating data based on claims paid during a particular time period seems to be the best measure for projection purposes because it reflects changes in controls and procedures as well as changes in the economy.

$$\begin{array}{rcl} \text{Total cost of Claims} & \$ 35,475 & \\ \text{Number of Claims} & 37 & \\ & \hline & & = \$958.78 \text{ Severity} \end{array}$$

An analysis of severity trends leads to a severity range which is then used to project losses.

The examples are illustrations only and are not intended to portray any actual data.

The New Home Warranty Programs then utilize the frequency and severity data to establish a range for losses which they expect in the future. Since there is no historical data available for a renovation warranty the most conservative approach in projecting losses is to examine the available New Home Warranty data and prepare a projection based upon the worst experience.

The following summary indicates the worst experience in each claim category which one of the Atlantic, Alberta, or B.C. New Home Warranty Programs have had:

	Deposit	First Year	Major Structural
Frequency per 1000 units	1.7	16	20
Severity per claim	\$ 3,840	\$ 2,800	\$ 4,800

There is no reason to expect that the renovation warranty would experience a better loss frequency than a New Home Warranty in both the deposit and first year categories. However, since only a small number of renovations are structural in nature, and recognizing the two year coverage recommendation it is reasonable to assume that the renovation warranty will experience a claims frequency of 10% of the worst indicated above. It should be noted that in excess of 90% of renovations are under \$25,000 and average approximately \$4,100 in value.

The severity for deposit claims should be lower than the New Home Programs because an upper limit of \$1,000 has been used and because the average renovation is under \$5,000. Thus, a coverage limit of 10% would result in a \$500 claim. For these reasons the severity has been projected at \$750.

The highest claim cost experienced in the first year claim category occurred a number of years ago. Since then the combination of improved controls, the availability of more contractors, and the introduction by one New Home Warranty Program of an internal repair division have reduced the average claim by more than 60% to less than \$1,000. The New Home Warranty experience plus the more limited scope of the majority of renovations would indicate that a claims severity of \$500 should be reasonable for a "worst case" projection.

There is no reason to adjust the major structural severity of \$4,800 for this projection.

The above frequency and severity, therefore, result in the following estimate of losses:

	Deposit	First Year	Major Structural	Total
Frequency	1.7	16	2	n/a
Severity	\$ 750	\$ 500	\$ 4,800	n/a
Claim cost per 1000 enrollments	\$ 1,275	\$ 8,000	\$ 9,600	\$ 18,875

This results in a cost per unit subject to warranty of \$18.88.

While this projection estimates the amount that must be collected to cover losses as part of the enrollment fee it does not deal with the effects the actual time of payment of claims may have on the amounts set aside for future obligations. It also assumes that the warranty program would have gained sufficient public recognition so that a normal claims incidence would occur rather than the slightly lower claim cost that can be expected during the first one or two years of a new warranty program's existence.

6.3 INSURING OPTIONS

There are only a limited number of choices for negotiating an insuring agreement to ensure that any new warranty program is able to meet its future claim obligations.

Since the responsibility to pay losses rests with the warranty organization, any insuring agreement is more appropriately described as a form of financial guarantee or support obtained by a warranty company to enable it to withstand the effects of a catastrophic loss experience occurring early in its history. The sooner a warranty program can have sufficient funds on hand to cover all reasonably expected losses, the greater its ability to survive a catastrophe and the less its reliance on its insurers. This means that warranty programs attempt to become increasingly self sufficient and, therefore, to reduce the amount of premium income to an insurer over a period of years.

The experience of the New Home Warranty Programs in Canada, plus a recent survey of the market and discussions with the New Home Program insurers, indicates that only a very limited number (perhaps only two and no more than five) of insurance companies will even discuss the possibility of insuring the risks of new renovation warranty companies. The reducing income potential and the unusual nature of the risk, which to insurers is partly property and casualty and partly financial guarantee, make it difficult to attract widespread interest.

All of the insuring agreements used by the New Home Warranty Programs to date have included provisions wherein the insurers would pay all or some of a Program's claims under specified circumstances. Normally these circumstances would only occur after a Program had paid a considerable amount of the losses incurred in any particular period. After payment by the insurer the Program is obligated to repay at least a portion of these amounts in accordance with a predetermined formula. In most cases the Program can not cancel the agreement while any of these amounts are unpaid.

Within the agreement framework outlined above there are two further alternatives. The first is that the premium paid to the insurer includes the amount of claims that the Program is obligated to pay. In this case the insurers will refund any difference if claims are lower than an agreed amount. The second alternative is that the Program pays a premium and pays all losses. If the losses exceed the stipulated amount the Program will call on the insurer to pay the excess. Generally the second form of agreement has been one which some Programs have changed to after they had some experience and sufficient funds on hand.

This results, therefore, in only a limited number of options for a new warranty program both in terms of the number of insurers to deal with and the type of contract available.

The most likely format for an insuring agreement for a new warranty program requires the program to pay an amount to the insurer which includes both the insurance premium and the estimated claims amount. The reason that insurers prefer this system during the early years of a new program's development is that they are able to ensure that sufficient funds will be available to settle claims. Since most warranty programs have Boards of Directors comprised of volunteers this system gives the insurers time to develop a working relationship with the organization and be confident that the claim obligations will be met.

6.4 PROJECTED INSURANCE / RISK COSTS

The Home Owners Warranty Remodelers Program in the United States has had only extremely limited market penetration and has not been in business for a sufficient length of time to be considered a representative example of the loss experience that could be expected in Canada.

Discussions with the insurers of the New Home Warranty Programs have indicated that they will need to be assured any new renovation program can demonstrate sufficient enrollments to ensure its administrative obligations can be met. They require this assurance because the system outlined in this report contemplates that the program will be obligated to provide the claim settlement process and other administrative support, while the insurers are only required to cover the out of pocket cost of the claims. This means insurers must be satisfied that the program can meet its obligations so that they would not be required to administer claim payments in the event of a financial failure by the program.

Based upon the experience of the New Home Warranty Programs and the discussions with their insurers, it is estimated that the average cost of insuring each unit enrolled for the first few years of a new program would be in the \$6. to \$10. range.

The combination of the projected losses in section 6.2 of \$18.88 and the estimated cost of insurance above of \$6. to \$10. indicate that between \$25. and \$29. of each enrollment should be set aside to adequately fund the expected losses.

6.5 RECOMMENDATIONS AND CONCLUSIONS

Insurance underwriters are reluctant to offer coverage to a separate voluntary program without assurances that the program is able to meet its financial obligations .

Detailed operating and loss projections should be carried out for each program established so that the amount necessary to fund losses and insurance premiums can be included in each enrollment fee collected.

To the extent possible, renovation and new home warranty programs should negotiate an umbrella insuring agreement to reduce the amount of premiums paid by each program, by offering an insurer a larger total premium. Since it is likely that separate legal entities would come into existence at different times in the various areas of the country, this concept could only be pursued after one or two renovation warranty programs have started or if an agreement could be reached between a number of renovation and new home warranty programs. The amount of the total premium and the increased spread of risk that would result from a number of programs participating in one insuring agreement should result in considerable savings to the participants while still being attractive to the insurer.

The preferred type of insuring agreement is one which stipulates that only the cost of losses and not the cost of claims be paid to the insurers. This will result in the renovation warranty program being able to earn interest on funds which are set aside for future losses.

CHAPTER SEVEN

FINANCIAL PROJECTIONS

7.1 INFORMATION SOURCES

The New Home Warranty Programs were the only source of data used in preparing the projections included in this chapter. The model for the documentation and the protection offered is based on the New Home Warranty system and it was felt that no other data was as representative of the operating conditions a renovation warranty program could expect.

The projections were prepared to assess the results of operating a renovation warranty program at various levels of activity. They attempt to determine the conditions under which a program using the minimum enrollment fee selected by the committee could operate successfully.

7.2 BASIS OF PROJECTIONS

In order to assess the economic feasibility of a warranty program for renovations, and to attempt to measure the impact of the alternative possibilities regarding outside support for such a program, a cash flow model has been prepared to illustrate the fee structure required at different levels of activity.

The minimum level selected was based upon the lowest level of activity in any of the regions in which the New Home Warranty Programs operate. It is intended to provide information regarding the enrollment fee required by a program operating at a low level of activity.

The second level selected is based upon the market potential for improvements in Manitoba. It is 80% of the total number of improvement projects as shown in Chart 1 in Chapter 5. Manitoba was chosen because it represents the smallest market potential for improvements in any of the seven regions where the New Home Warranty Programs operate.

The third level is presented to illustrate the effects of a further increase in volume on the unit costs.

The enrollment fee of \$50 was considered a fee which would attract a reasonable level of volume.

The following assumptions were made in preparing the cash flow:

The renovator registration (initial membership in the program, annual renewal would be in the \$200-300 range) fee would be \$400. It is intended that this rate be used during the start up period and then increased later. Ultimately registration would be in \$450 - \$700 range, depending on the cost of administration.

The registration cost factor is based upon the out of pocket cost of printing and supplies of the Alberta New Home Warranty Program increased slightly to allow for contingencies.

The enrollment cost factor is based upon the out of pocket cost of printing and supplies of the Alberta New Home Warranty Program of \$4.00 plus an allowance for the cost of printing standard contracts and a pamphlet similar to CMHC's "How to Hire a Contractor" or the Ontario Government's "Plans, Permits, & Payments".

The insurance cost is estimated at \$25 per enrollment subject to warranty.

The other overhead is based on the current overhead levels of the Manitoba New Home Warranty Program for the 1,000 enrollment level plus \$25,000 per 1,000 additional enrollments.

The number of members is based on an assumption that each renovator would have to do at least 15 projects per year at an average of approximately \$5,000 to survive economically.

The overhead levels are based on a system which does not examine plans in order to accept enrollments and conducts inspections only in connection with membership approval, conciliations, and claims, as is the case with the New Home Warranty Programs.

It is assumed that the overhead does not include the cost of any programs or services in addition to the basic processing of enrollments, applications or renewals, and the conciliation-claims function.

The shared overhead factor is based on an estimate of the savings that could be accomplished by contracting with a New Home Warranty Program for management rather than operating on an independent basis. It is calculated as follows:

Enrollment level	Total Annual Saving \$	Saving to Renovation Program \$	Saving to New Home Program \$
1,000	30,000	15,000	15,000
3,000	60,000	30,000	30,000
5,000	90,000	45,000	45,000
7,000	120,000	60,000	60,000
9,000	150,000	75,000	75,000

The projections show that there are extremely significant effects on the breakeven cost per unit as the volume increases; however, in the model used, the benefits level off once the 5,000 level of enrollments is reached. Overhead should not continue to increase on the straight line basis used in the projections indefinitely. Further benefits of larger volume should be achieved at volumes above those illustrated.

The cost of providing protection to each renovation will likely have a significant impact on the decision making process of all parties who might provide support to a renovation warranty program.

7.3 PROJECTIONS

RENOVATION WARRANTY

CASH FLOW PROJECTIONS

	Units	Dollars	Units	Dollars	Units	Dollars
Enrollment level	1,000		5,112		7,500	
Number of members	67		341		500	
REVENUE						
Membership fees	\$ 400	26,800	\$ 400	136,400	400	200,000
Enrollment fees	50	<u>50,000</u>	50	<u>276,700</u>	50	<u>375,000</u>
		<u>76,800</u>		<u>413,100</u>		<u>575,000</u>
EXPENSES						
Membership	50	3,350	50	17,050	50	25,000
Enrollments	10	10,000	10	51,120	10	75,000
Insurance costs	25	25,000	25	127,800	25	187,500
Other overhead		<u>150,000</u>		<u>250,000</u>		<u>312,500</u>
		<u>188,350</u>		<u>445,970</u>		<u>600,000</u>
CASH FLOW						
(DEFICIENCY) BEFORE OVERHEAD SHARING		(111,550)		(32,870)		(25,000)
Overhead sharing		<u>15,000</u>		<u>45,000</u>		<u>63,750</u>
NET CASH FLOW		<u>(96,550)</u>		<u>12,220</u>		<u>38,750</u>
BREAK EVEN ENROLLMENT FEE						
Before overhead sharing		\$ 162		\$ 56		\$ 53
After overhead sharing		147		48		45

7.4 CONCLUSIONS AND RECOMMENDATIONS

Any renovation warranty program should endeavour to ensure that it could expect at least 5,000 enrollments so that it could offer an acceptable fee scale.

Total industry support may be necessary in order to achieve this minimum level of activity.

Since economic and logistical conditions differ in each region of the country no program should commence operations without preparing detailed operating projections which will adequately take into account those local circumstances.

CHAPTER EIGHT

LEGAL STRUCTURE

8.1 ALTERNATIVES

There are a number of legal structures which could be used to operate a renovation warranty program in the various regions of the country:

- Federally incorporated company
- Provincially incorporated company
- Society
- An Act of a Legislative Assembly

There are also two operating systems that can be adopted.

A. Federally Incorporated Company, licensed to do business in all Provinces and Territories structured as follows:

A Board of Directors consisting of one member from each operating area of the country plus the Chairmen of the New Home Warranty (Certification) Program or other agency which provides management services in each region. Board members who do not represent managing agencies must be Renovator Members of the Program and will be the Chairmen of each Regional Executive Committee. Operating areas are.

1. Atlantic Canada
2. Quebec
3. Ontario
4. Manitoba
5. Saskatchewan
6. Alberta
7. British Columbia

The Board will operate in a fashion similar to the current New Home Warranty National Warranty Council but will have the added responsibility to oversee the national insuring agreement, which will be structured as follows:

- a) Each region will be responsible for providing sufficient funds to cover reasonably expected losses plus insurance premiums to a central account maintained by the Board.
- b) The Board will negotiate a single insuring agreement and will have the right to transfer funds contributed by one operating area to pay losses of another providing interest is credited to the area making the contribution and a repayment scheme is established.
- c) The ability to transfer funds and the negotiation of a single agreement will reduce the cost of insurance significantly.

The Board will also:

Ensure that information regarding changes made in any region resulting from decisions of a Regional Executive Committee will be conveyed to the other regions.

Ensure that research into areas of national concern is carried out in a cost effective manner.

Negotiate management contracts for each of the operating areas with the applicable New Home Warranty (Certification) Programs or other acceptable parties.

Delegate other policy and management decisions applicable to a region to the appropriate Regional Executive Committee.

The Regional Executive Committees will have total operating responsibility for their division of the Company except as outlined above.

The makeup of the Regional Executive Committees will be established by the applicable Renovators Councils of the Canadian Home Builders Association.

There are a number of advantages to the structure which are listed below:

The cost of insurance will be minimized.

The Board of Directors will be the equivalent of the New Home Warranty National Warranty Council but will have the authority to act and raise funds directly rather than be subject to the constraints which affect the National Warranty Council.

The single company could obtain an Income Tax ruling and simplify the process of ensuring the non-taxable status.

As a result of improved communication links each region of the country will have greater certainty of benefiting from the experience of the others.

Research can be conducted on a coordinated basis nationally.

The overall operating costs should be lower.

The disadvantages of the structure are:

History has shown that the industry could not agree on a national system for New Home Warranty.

There may be problems resulting from varying financial strengths of the regional groups.

The size of the Board and the executive committees may prove unwieldy.

B. Incorporate a number of identical Federal Companies to operate in the various regions.

The Boards of Directors would be selected by a similar process to that used by the New Home Warranty Programs in each region. All of the renovation warranty programs could belong to the National Warranty Council of the Canadian Home Builders' Association.

The advantages of this structure are:

This would result in a consistent form of organization for Income Tax purposes.

It permits regional autonomy.

This structure is so similar to the existing New Home Warranty Programs that it will not cause any confusion or misunderstanding on the part of the public or the members.

The disadvantages are:

The national body will be weaker than if alternative A is chosen.

There will be less exchange of operating information and no potential for sharing of resources which would result in reduced costs, particularly to the smaller programs.

The implementation of a national insuring agreement, while still possible, is unlikely. The lack of a national insuring agreement will result in higher insurance costs.

Coverage is more likely to vary from region to region.

8.2 RECOMMENDATIONS

Federally incorporated companies should be used to provide consistency across the country.

Since the wording of Part 2 of the Canada Corporations Act is consistent with the wording of the Income Tax Act regarding non-profit companies the potential for problems in connection with income tax status should be reduced.

The committee recognizes the difficulties that were encountered in attempting to create a national new home warranty system and therefore recommends that a system using regional Federally incorporated companies would be the most workable alternative.

CHAPTER NINE

DOCUMENTATION

9.1 INFORMATION SOURCES

The three sources of information used to develop the documentation package are:

The New Home Warranty Programs
The Nova Scotia Home Builders' Association
Home Owners Warranty Remodelers Program

9.2 HIGHLIGHT COMMENTS

The sample documents which follow have been designed using the New Home Warranty Programs model and making changes based upon a review of those prepared by the Nova Scotia Renovations Committee and HOW.

The Deposit Receipt and the Limited Warranty Certificate both contain references to the Agreement with Renovator because they form part of that document as well as being separate documents which are given to consumers as evidence of protection.

The documents do not include a detailed membership qualification criteria because the committee feels that membership standards must be set differently in each region of the country. Generally they will include measures of financial responsibility, technical competence, and reputation.

The committee recommends that the series of training courses produced by Canada Mortgage and Housing Corporation which are now being offered by numerous community colleges throughout Canada be made available to as many renovation contractors as possible and be coordinated with any other courses available to maximize the use of resources. Consideration should be given by any warranty program established to using the courses as a part of the criteria for membership in a way that would encourage members of the industry to take advantage of the courses.

The documents may seem complicated in some instances but the wordings have proven necessary in the experience of the New Home Warranty Programs both to ensure that the intent of the warranty is clear and so that proper recourse can be maintained where necessary.

The documents included in this report are not intended for use in any jurisdiction without detailed review by legal counsel to insure compliance with applicable statutes.

No examination of existing copyrights has been undertaken. Sample documents may be subject to prior copyright claims and should not be used for public protection without proper licensing clearance. The committee sees no difficulty in obtaining any necessary licensing agreements from the New Home Warranty Programs.

9.2.1 DEPOSIT RECEIPT

THIS IS THE FORM OF RENOVATION DEPOSIT RECEIPT BEING SCHEDULE "B" WHICH IS ATTACHED TO AND FORMS PART OF THE AGREEMENT WITH RENOVATOR HEREUNTO ANNEXED.

RENOVATION WARRANTY PROGRAM OF _____ renovation deposit
deposit receipt between: receipt number _____

CONSUMER _____ R# _____
phone _____
RENOVATOR _____ no. _____

for the renovation of _____
a home located at: _____ H# _____

deposit receipt amount _____ /100 \$ _____

total contract price \$ _____ under contract dated _____ 19 _____

expected start date _____ 19 _____ expected completion date _____ 19 _____

coverage of this receipt is limited to a maximum of \$1,000 paid as a deposit as defined and subject to the provisions on the reverse side hereof. confirmation of this coverage will be issued by the program when the original copy of this receipt is received by the program from the consumer.

mailing address
of consumer _____
street city postal code
renovator consumer
signature signature _____

white - program copy (to be mailed or delivered by consumer to the program)
pink - renovator copy canary - consumer

SAMPLE SAMPLE SAMPLE SAMPLE SAMPLE SAMPLE SAMPLE SAMPLE SAMPLE

IN THIS Deposit Receipt a "deposit" means earnest money paid at the time of signing to bind a contract confirmed by the Program in writing. Without limiting the generality of the foregoing the term "deposit" shall be deemed not to include considerations such as: work or materials provided; part payments and conditional payments; payments made subsequent to the date of signing of the contract; payments made which are subject to a setoff in favour of the Renovator to the extent of the amount of the setoff.

WHEREAS the Renovator named on this Deposit Receipt has entered into a written contract with the Renovation Warranty Program of _____, a body corporate carrying on business in the _____ of _____ (hereinafter called "the Program"), the terms and conditions of which written contract govern and apply to this Renovation Deposit Receipt;

AND WHEREAS under the said written contract, the Program has agreed to carry out some obligations of the Renovator in the event of the Renovator's bankruptcy, insolvency or fraud;

NOW THEREFORE the Program hereby acknowledges and agrees that in the event the deposit paid by the consumer to the Renovator named on the face hereof should become refundable to the Consumer and is not otherwise excluded above and in the event such deposit monies cannot be recovered by the purchaser from the Renovator due to bankruptcy, insolvency or fraud of the Renovator, the Program shall repay the same to the Consumer, subject always to the following conditions:

1. The Consumer shall perform all of his obligations or shall be ready, willing and able to complete all of his obligations to the Renovator pursuant to the contract between them; and

2. The Consumer shall in the event of payment of any deposit monies by the Program to such Consumer, forthwith assign and transfer to the Program to the extent of such payment any security position, judgement, or cause of action the Consumer may hold against the Renovator relating to the same transaction; and

3. The Program copy of this Deposit Receipt must be registered with the Program by the Consumer promptly following the execution of this receipt, and deposit coverage will become effective only when confirmation of coverage has been issued by the Program;

4. The following limitations shall apply:

- a) The protection offered by the Program against loss of a deposit shall end, subject to the further conditions contained in paragraph 4. c), at the commencement of any warranty provided by the Program on the same residential unit and for purposes of clarity completion of a renovation means the date when the work specified in the contract to which this receipt attaches is capable of being used for the purpose intended as evidenced by a Certificate of Completion signed by the Consumer and the Renovator.

- b) Any legal proceeding or action against the Program under the conditions and agreements of this Deposit Receipt must be instituted before the expiration of a period of one (1) year from the date upon which the bankruptcy, insolvency or fraud of the Renovator has occurred;

- c) Deposit coverage shall cease when value, to the amount of the initial deposit, has been installed in the Renovated Residential Unit to the benefit of the Consumer.

5. The limit liability of the Program for refund of a deposit to any Consumer shall be equal to 10% (ten percent) of the Contract Price hereon to a maximum of _____ DOLLARS and in the case of warranties, such limitations as set forth in any Limited Warranty Certificate of the Program shall apply.

6. The information provided on this receipt must correspond exactly with the Contract.

7. The Consumer will be required to demonstrate that a loss has been incurred in accordance with the provisions of this receipt and will be subject to the claim and settlement process established by the Program.

9.2.2 LIMITED WARRANTY CERTIFICATE

Form to be designed so that it can be mailed without requiring an envelope.

Description of Renovated Residential Unit(s):

Legal; Lot: _____ Address: _____
Block: _____
Plan: _____
Type: _____

Number of units: _____

Date of Contract with Registered Renovator _____ 19__

Total amount of contract and addenda reported to Program \$ _____.

RENOVATOR

Name: _____
Address: _____

IMPORTANT

Peel off this sticker and
place it on the electrical
panel in your home.

THIS HOME IS PROTECTED BY
RENOVATION WARRANTY

Date of Completion
_____ 19__

R _____ H _____

Dear Consumer:

Congratulations on having your renovation completed by a Registered Renovator!

Attached is your Two Year Limited Warranty Certificate. This Certificate is an important document and should be safeguarded. Please read it carefully.

The Limited Warranty on your newly renovated home became effective on the date of completion shown on the Limited Warranty Certificate. Attached is a warranty sticker which is to be peeled off and placed on the electrical panel in your home to show that your home is covered by the Program's Limited Warranty. If you have any questions about your new home, contact your renovator first. If it is necessary to contact the Program, please quote the R and H numbers which appear on the upper right of the Warranty Certificate and on the panel sticker above.

IT IS NOT NECESSARY TO NOTIFY THE PROGRAM OF CHANGES IN OWNERSHIP. THE LIMITED WARRANTY IS AUTOMATICALLY TRANSFERRED TO SUBSEQUENT OWNERS.

The Program can be contacted at

Renovation Warranty Program of _____

Per _____
Chairman of the Board

Per _____
President

9.2.2 LIMITED WARRANTY CERTIFICATE

THIS IS THE FORM OF LIMITED WARRANTY CERTIFICATE BEING SCHEDULE "A" WHICH IS ATTACHED TO AND FORMS PART OF THE AGREEMENT WITH RENOVATOR HERETO ANNEXED

RESIDENTIAL RENOVATION WARRANTY INTERPRETATION

1. In this Residential Renovation Limited Warranty Certificate:

- (a) "Renovator" means the Registered Renovator named in this Warranty Certificate;
- (b) The "Program" means the Residential Renovation Warranty Program of-----, a body corporate carrying on business in the -----of -----;
- (c) "Date of Completion" means the date when the work specified in the Contract is substantially complete in accordance with the Contract specifications.
- (d) "Defects in Workmanship or Materials" means any construction carried out by the Renovator below the building standards prescribed by (name code applicable in local area and/or the Program) in force at the time of renovation that govern the work specified in the Contract;
- (e) "Major Structural Defects" means Defects in Workmanship or Materials which have or are likely to have a material adverse effect on the load bearing portion of the home. It is strictly a condition that, excluded as Major Structural Defects, are defects in driveways, basement floors, garage floors, patios, sidewalks, retaining walls, all concrete constructions which are not load bearing and defects which occur in portions of the structure not affected by the renovation.
- (f) "Load Bearing Portion" shall, so as not to limit the generality of the foregoing, mean footings, piles, basement walls, grade beams, teleposts or columns, beams of timber or steel, load bearing walls, floor joists, and roof trusses provided the foregoing support an integral part of the home or garage and were affected by the work carried out under the Contract;
- (g) "Home" means the Renovated Residential Unit described in this Limited Warranty Certificate including, not to limit the generality of the foregoing, condominium units, condominium common property (use applicable local terminology or delete, as applicable) apartment units and public areas of apartment buildings; but excluding attached or detached garages or outbuildings, driveways, sidewalks, and patios;
- (h) "Consumer" means the party named in this Warranty Certificate as Consumer and any subsequent purchaser who may become a legal or equitable owner of the home during the term of this Warranty;
- (i) "Contract" means the contract in writing between the Renovator and the Consumer the date of which is entered on the face of this Limited Warranty Certificate. The Contract excludes Major Structural Defects resulting from Defects in Workmanship or Materials supplied by the Consumer, or from improper maintenance by the Consumer, or from alterations made by the Consumer.

RENOVATOR LIMITED WARRANTY (by the terms of an agreement between the Renovator and the Program as evidenced by the signature of the Program hereto)

2. The Renovator warrants that the Home was renovated in accordance with construction standards prevailing in (name code applicable in local area and /or tha Program) at the time of renovation and without Defects in Workmanship or Materials.

3. The Renovator agrees to repair Defects in Workmanship or Materials in the Home and to repair or replace defective materials and appliances supplied by the Renovator where defects become apparent within One (1) year from the Date of Completion.

4. The Renovator shall, to the extent permitted by manufacturers and suppliers, assign to the Consumer the benefit of any guarantee or warranty provided by any manufacturer or supplier for a period in excess of One (1) year from the Date of Completion.

5. The following items shall not be considered defects in workmanship and materials:

- (a) defects in materials, appliances, design and workmanship supplied by the Consumer;
- (b) defects arising from soil subsidence if the Contract specifies work which involves changes or additions to the Load Bearing Portion of the structure and the Consumer does not grant the Renovator permission to conduct soil tests;
- (c) defects arising from improper acts or maintenance by the Consumer including dampness or condensation due to failure of the Consumer to maintain adequate ventilation in the Home;
- (d) defects in Workmanship or Materials in alterations by the Consumer and Defects in Workmanship or Materials supplied by the Consumer arising from such alterations made by the Consumer;
- (e) surface Defects in Workmanship or Materials apparent and accepted by the Consumer at the Date of Completion;
- (f) normal cracks in plaster, paint, drywall, masonry, stucco and concrete;
- (g) normal shrinkage or warpage of materials;
- (h) normal soil subsidence of the land around the building or along utility lines;
- (i) modifications or alterations to existing heating and cooling systems, equipment and appliances, where the orininal heating and/or cooling equipment (appliance/equipment) was not replaced by the Renovator.
- (j) any loss or damage which the Consumer has not taken timely action to minimize.
- (k) Renovations to portions of the Home not used for residential purposes.
- (l) Defects in swimming pools and other recreational facilities.

- (m) Solar panel systems or their installation.
- (n) failure of the renovator to complete the work outlined in the plans and specifications to the Contract.

CONCILIATION PROCEDURE

6. If any dispute arises between the Renovator and the Consumer on any question regarding the performance by the Renovator of the Renovator's One Year Limited Warranty which cannot be settled between the Renovator and the Consumer the dispute shall be submitted to the Program for conciliation within sixty (60) days of the end of the Renovator's One Year Limited Warranty. The conciliation procedure shall be deemed to be mandatory upon the Renovator and the Consumer as a condition of the Program's accepting any responsibility whatsoever to carry out any remedial work or repairs as set forth in clause 14(a).
7. Either the Renovator or the Consumer may submit the dispute to the Program with a conciliation application fee in an amount to be set from time to time by the Program.
8. The Program shall provide a conciliator who shall make any inspections he considers necessary and who shall receive representations in a form approved by the Program from both the Renovator and the Consumer within the time prescribed by the conciliator.
9. Within a reasonable time of commencement of the conciliation proceedings, the Program shall cause the conciliator to provide the Consumer and the Renovator with a decision in writing setting forth the actions, if any, required to settle the dispute, provided such decision shall not be delivered until all unpaid funds under the Contract have been paid into trust under conditions satisfactory to the Program.
10. If the conciliator determines that remedial work is necessary, the conciliator shall continue to conduct inspections of the Home he deems necessary until the work has been completed to the satisfaction of the conciliator.
11. The decision of the conciliator shall be final and binding on both parties unless varied, revoked, or altered by an order or judgement of a court of competent jurisdiction.
12. If the award of the conciliator is in favour of the party submitting the matter to conciliation or if the conciliator rules that the request for conciliation was justified in any event, the conciliation fee paid by such party shall be refunded by the Program. In all other cases the fee shall be retained by the Program.
13. If the award of the concilaitor is made against the party submitting the dispute to conciliation, the said application fee shall be forfeited to the Program unless otherwise directed by a Court of Law.

PROGRAM LIMITED WARRANTY

14. (a) If a Renovator fails to fulfill the terms of the Renovator's Limited Warranty, the Program shall fulfill the terms of the Renovator's Limited Warranty.
- (b) The Program shall repair to the limit of liability under this Limited Warranty Certificate any Major Structural Defects in the construction of the Home which become manifest during the One (1) year period commencing on the first anniversary date of the Date of Completion until the end of the second year next following the Date of Completion.
- (c) Decisions of the Program regarding the correction of Defects in Workmanship or Materials or Major Structural Defects shall be final and binding unless varied, revoked, or altered by an order or judgement of a court of competent jurisdiction.
- (d) In the event that a Home is rendered untenable by Defects in Workmanship or Materials or Major Structural Defects which the Renovator or the Program are obligated to repair, the Program shall pay any necessary increase in living expenses together with moving expense, if necessary, of household furniture and personal effects incurred by the Consumer to continue as nearly as practicable the normal standard of living of the Consumer's household for the time required with the exercise of due diligence and dispatch to repair the Home up to a maximum of _____ and not to exceed _____ per day for board and lodging in aggregate for all claims resulting from one Contract during the term of the Limited Warranty.

CONSUMER OBLIGATIONS

15. (a) The Consumer shall promptly advise the Renovator in writing of any Defect in Workmanship or Materials which the Renovator has failed to rectify under the Renovator's Limited Warranty. If the Renovator then fails to respond to the written request of the Consumer within 15 days the Consumer shall promptly advise the Program in writing providing full details of the situation.
- (b) If the Consumer wishes to claim under the Program Limited Warranty for Major Structural Defects the Consumer shall promptly advise the Program in writing. The Consumer may be required to pay a fee to initiate a claim, the amount of the fee and the conditions governing it are to be determined from time to time by the Program.
- (c) If the Consumer has any dispute with the Renovator concerning the performance of the Limited Warranty obligations of the Renovator, the Consumer shall, before utilizing any other remedy available to him, proceed to conciliation in accordance with the conciliation procedure in this Limited Warranty Certificate.
- (d) In the event the Home subject to this Limited Warranty is sold (resold) by the original Consumer during the term of this Warranty,
- (i) all of the foregoing obligations shall be binding upon any subsequent purchaser and in particular, any previous acts, commissions, defaults or agreements of any kind made by the Consumer with the Renovator or Program shall be binding on any subsequent purchaser.

- (ii) any subsequent purchaser shall inquire of the Program to determine the balance of current coverage remaining on the Home, if any.

LIMITATION OF WARRANTY

16. There are no warranties or guaranties given by the Renovator or the Program pertaining to the Home binding upon the Program except as contained in this Limited Warranty Certificate.

17. In cases of Defects in Workmanship or Materials becoming apparent during the Renovator's Warranty but not resulting in loss, damage, or an adverse effect on the Home the Program shall be entitled to defer the correction of the defect(s) until a loss, damage, or adverse effect occurs provided the occurrence takes place within a reasonable period of time.

18. Major Structural Defects resulting from Defects in Workmanship or Materials supplied by the Consumer, or from improper maintenance by the Consumer, or from alterations made by the Consumer are not included in the Program Limited Warranty.

19. No proceedings, claims or actions may be taken for the repair of defects, the replacement of materials or otherwise under this Limited Warranty where any proceedings, claims or actions have been taken under any deposit receipt issued by the Renovator on behalf of the Program respecting the Contract described herein.

20. The Warranties contained in this Limited Warranty Certificate apply to Defects in Workmanship and Materials and resultant damage to the Home. Neither the Renovator nor the Program shall have any liability other than to repair the defects and resultant damage, and in particular, shall not in any way, directly or indirectly, be liable for the resultant physical injury or damage to a person or persons, or to property other than the Home covered by this Limited Warranty Certificate.

21. The limit of liability of the Program under this Limited Warranty Certificate shall be:

- (i) in the case of individual homes the amount listed opposite the ranges of the Contract price below, including any addenda which have been reported to the Program in the prescribed manner, to a maximum of
- (ii) for each multi-unit building the amount of the Contract price, including any addenda which have been reported to the Program in the prescribed manner, to a maximum of -----
----- per Home affected by the work specified in accordance with the schedule in 21.(i) by the Contract up to a limit of ----- per Contract.
- (iii) the amount of increased expenses, if any, provided under Clause 14(d) for each Home subject to the Contract.

22. Any legal proceeding or action against the Program under the conditions and agreements of this Limited Warranty Certificate must be instituted before the expiration of a period of One (1) year from the date loss occurs.

23. If at the time of a loss caused by a defect covered by this Limited Warranty such loss or resultant damage was insurable or qualified for other coverage available both before or after such loss by any third party, government authority or otherwise which would have provided payment for any such loss or resultant damage the Program shall be liable only for the excess, if any, to Program limits.

TERMINATION OF LIMITED WARRANTY

24. This Limited Warranty shall terminate and become null and void without notice in any of the following events:

- (i) Should the Consumer default in any of the requirements or terms of Clause 15 of this Limited Warranty;
- (ii) Should the Consumer fail to keep the Home in a clean and sanitary condition;
- (iii) Should the Consumer allow any use of the Home other than as a permanent residence;
- (iv) Should the Consumer allow the removal of the Home from the lands described in this Limited Warranty Certificate;
- (v) Should the Consumer take any other legal recourse or proceedings with respect to this Limited Warranty without first proceeding to the conciliation proceeding herein contained.

9.2.3 AGREEMENT WITH RENOVATOR

(hereinafter called the "Renovator")

1. INTERPRETATION

In this Agreement:

(a) "Consumer" means a person who pays a deposit to, or contracts with the Renovator for the purchase of Workmanship or Materials to be used to Renovate a Residential Unit in the _____ of _____.

(b) "Renovated Residential Unit" means a building or part of a building used or intended to be used for residential purposes, renovated by the Renovator and permanently, or through another part or parts of the building, attached to a permanent foundation located in (name jurisdiction) which may comprise:

- (i) a single detached unit,
- (ii) a duplex unit,
- (iii) a semi-detached unit,
- (iv) a row housing unit,
- (v) a mobile home on a permanent foundation,
- (vi) a Renovated Residential Condominium Unit and related Common Property as defined by (name applicable legislation),
- (vii) an apartment unit,
- (viii) an apartment building,

(c) "Renovation" means the application of Workmanship or Materials to an existing residential unit to produce a "Renovated Residential Unit" under a contract between a Registered Renovator and a Consumer which is eligible for enrollment with the Program.

(d) "Common Property" means (as defined in applicable legislation) .

(e) "Condominium Corporation" means (as defined in applicable legislation) .

(f) "Date of Completion" means the date set forth as the Date of Completion in the Certificate of Completion as confirmed to the Consumer by the Program.

(g) "Limited Warranty Certificate" means the certificate to be issued by the Program to a Consumer immediately following the Date of Completion setting forth the warranty obligations of the Program and the Renovator in respect of the Renovated Residential Unit described in such certificate, which certificate shall be in a form hereto annexed as Schedule "A" or as may be determined by the Program from time to time.

(h) "Deposit Receipt" means the receipt of the Program to be issued by the Renovator to a Consumer upon receipt of earnest money paid to bind a contract at the time of signing in a sum not exceeding Program limits and in a form hereto annexed as Schedule "B" or as may be determined by the Program from time to time.

(i) "Renewal Date" means a date established by the Program not later than five months from the end of the fiscal period of the builder.

(k) "Major Structural Defect" means those Major Structural Defects as defined in Schedule "A" annexed hereto.

2. RENOVATOR COVENANTS

(a) The Renovator covenants that he has read and understands the Letters Patent and By-Laws of the Program and he agrees that he shall be bound by such Letters Patent and By-Laws and he further agrees that if in the opinion of the Board of Directors of the Program he, in any way, contravenes the said Letters Patent and By-Laws his membership in the program shall cease and he shall no longer be deemed a member in good standing of the Program.

(b) The Renovator covenants that all information supplied by him is complete and accurate in respect to any applications, renewals or any other material provided to the Program.

(c) The Renovator shall complete each Renovation in accordance with the (name applicable legislation or code), and in accordance with the building standards prescribed by the local authority having jurisdiction in the municipal district in which the Renovated Residential Unit is located or as prescribed in the plans and specifications where the standards included in the plans and specifications exceed the above requirements. In the event that the (name legislation or code) has not been adopted and/or enforced and there are no municipal building standards then the Renovation shall be completed in accordance with the building practise prevailing from time to time in the applicable municipal district or in accordance with the plans and specifications where they exceed the prevailing practise.

(d) The Renovator agrees that he will enter into written contracts with Consumers for all Renovations.

(e) The Renovator agrees that the warranties set forth in the Limited Warranty Certificate shall be fully binding and of full force and effect upon the Renovator, notwithstanding title may not have passed to the Consumer.

(f) The Renovator agrees that the warranty obligations arising against him shall survive any termination of this Agreement.

(g) The Renovator agrees that all material provided to the Program shall remain the property of the Program.

(h) The Renovator shall not make representations to the public requiring the Program to do anything beyond the coverage and limits of the Program.

(i) The Renovator agrees he will request permission to conduct soil tests if the Renovation will result in changes or additions to the load bearing portion of the structure and if permission is refused will advise the Consumer of the limitation contained in Paragraph 5(b) of Schedule "A".

(k) The Renovator undertakes and agrees that he carries on the Renovation of residential units only under the name of the Registered Renovator named in this Agreement, and the Renovator covenants and agrees that he will not in any capacity carry on Renovation of residential units in any other company, partnership, joint venture, firm or any other name unless he first makes full disclosure forthwith of such residential Renovation enterprise to the Program and undertakes to make application to the Program for a separate membership for such other outside residential Renovation enterprise.

3. INSPECTIONS

(a) If requested to do so the Renovator shall advise the Program upon the completion of such stages of construction as may be specified by the Program.

(b) The Renovator shall grant to the Program's inspectors full access to each Renovation at all reasonable times prior to the Date of Completion.

(c) If the Renovation is not carried out in a municipality in which the Program maintains an office, the Renovator may be required to pay an inspection fee for each inspection which the Program conducts.

4. ENROLLMENT

(a) The Renovator shall enroll with the Program each Renovation which it commences after the date of this Agreement.

(b) The Program may require the Renovator to enroll with the Program all incomplete Renovations which it commenced prior to the date of this Agreement.

(c) All Renovations shall be enrolled with the Program upon the signing of a contract with a Consumer for a Renovation which is eligible for enrollment under Program Regulations by submitting to the Program:

(i) A completed enrollment form as may be prescribed by the Program from time to time;

(ii) An enrollment fee as established from time to time by the Program.

(d) Where a Deposit Receipt is issued by the Renovator prior to signing a contract the Renovator shall submit forthwith to the Program the designated copies of the Deposit Receipt with the appropriate enrollment form and fee.

(e) In the event the Renovator fails to enroll a Renovation within the time prescribed by the Program, the Program upon written notice may assess, an administration fee against the Renovator, the amount of which the Program may determine from time to time.

5. ISSUE OF DEPOSIT RECEIPTS

(a) The Program may furnish the Renovator with a supply of Deposit Receipts.

(b) Upon the receipt of any deposit with respect to any Renovation, the Renovator shall complete and execute a Deposit Receipt not exceeding Program limits and shall have the Consumer execute the same and shall countersign on behalf of the Program.

(c) The Renovator shall deliver two copies of such Deposit Receipt to the Consumer who shall submit the designated copy to the Program.

(d) The Renovator shall not, under any circumstances, issue a Deposit Receipt in respect of a Renovation which is not enrolled in the Program except as provided under 4(d) above.

6. COMMENCEMENT OF PROGRAM WARRANTY

(a)

(i) Upon completing a Renovation, the Renovator shall, duly complete and execute a Certificate of Completion in such form as may be prescribed by the Program from time to time. The Renovator shall furnish the Consumer with a copy of such Certificate of Completion and shall immediately forward the designated copy of the Certificate to the Program.

(ii) Upon receipt of the foregoing documents, the Program undertakes to honor the terms of its Warranty if the Renovator fails to do so, and to evidence such undertaking the Program shall issue to the Consumer a Limited Warranty Certificate in the same form as Schedule "A" or as may be prescribed by the Program from time to time;

(b) The Renovator hereby authorizes the Program to execute the Limited Warranty Certificate on its behalf.

7. RENOVATOR INDEMNIFICATION

(a) The Renovator shall indemnify and save harmless the Program from any loss which the Program incurs:

(i) As a result of any liability of the Program to a Consumer under a Deposit Receipt:

(ii) As a result of default by the Renovator in the performance of its obligations arising under the Limited Warranty Certificate during the first (1) year period commencing on the Date of Completion;

(iii) By warranting the Renovated Residential Unit against Major Structural Defects as set forth in the Limited Warranty Certificate arising during the second year inclusive after the Date of Completion, PROVIDED ALWAYS that this indemnification shall apply only in cases where Major Structural Defects result from a provable act of negligence on the part of the Renovator.

(iv) Any loss which the Program incurs as a result of administrative costs and legal costs to the Program arising from litigation against the Renovator including solicitor and client costs.

(b) Notwithstanding any termination of this Agreement, the foregoing indemnities by the Renovator shall nevertheless remain in full force and effect.

(c) Should any loss occur to the Program arising out of a default or negligent act of a third party, the Renovator hereby agrees that it shall subrogate its right of action, if any, against any third party to and in favour of the Program.

8. CONCILIATION

(a) The Renovator agrees to postpone its right of recourse to the Courts on any Warranty dispute between the Renovator and the Consumer until completion of the conciliation procedure set forth in the Limited Warranty Certificate.

(b) The Program shall appoint a conciliator to act in any dispute arising between the renovator and the Consumer in any matter relating to the warranty of the Renovator as contained in the Limited Warranty Certificate.

(c) If conciliation procedures are instituted by the Consumer and the decision of the conciliator is in favour of the Consumer, the Renovator may be required to pay the Program a conciliation fee as established from time to time by the Program which shall be refunded to the Renovator if the decision of the conciliator is subsequently reversed by a court of competent jurisdiction.

(d) If conciliation procedures result in a decision of the conciliator in favour of the Renovator, the Program may at its option, in cases of special precedent or importance defend the Renovator and conduct an action at law or in equity at its sole expense brought against the Renovator to recover under the terms of the Renovator's warranty.

9. TERM

(a) This Agreement shall be in force for a period ending on its Renewal Date.

(b) This Agreement may be renewed from year to year for up to additional one (1) year periods commencing on the Renewal Date of this Agreement subject to the terms and conditions specified by the Program.

10. DEFAULT BY THE RENOVATOR

The Renovator shall be in default under this Agreement upon any of the following events:

(a) If the Renovator shall default in the payment of any monies owing to the Program;

(b) If the Renovator shall neglect to carry out or observe any agreement, covenant or condition herein contained on the part of the Renovator to be observed or performed or should the Renovator fail to comply with any rules or regulations made by the Program under the terms of this Agreement or should the Renovator fail to comply with any other requirements set forth in the Letters Patent and By-Laws of the Program;

(c) If an order shall be made or an effective resolution shall be passed for the winding up or liquidation of the Renovator;

(d) If the Renovator shall make a general assignment for the benefit of its creditors or shall commit an act of bankruptcy or if a custodian or a receiver/manager or any other officer with similar powers shall be appointed of the Renovator or of the property of the Renovator or of any part thereof;

(e) If an encumbrancer shall take possession of any property of the Renovator which is, in the opinion of the Program, a substantial part of the Renovator's property or if a distress or execution or a similar process shall be levied or enforced against such property.

11. TERMINATION

(a) The parties hereto mutually agree that this Agreement shall terminate at the option of the Program upon the happening of any of the following events:

(i) If the Renovator ceases for any reason to remain a member in good standing of the Program;

(ii) If the Renovator shall default in any of the covenants, terms or conditions set forth in this Agreement.

(b) In the event of termination under 11(a), the Program may also at its option terminate the membership of:

(i) any Affiliate;

(ii) any firm in which the terminated Renovator holds a 10% or more ownership interest;

(iii) any officer of the terminated Renovator or any principal having 10% or more ownership interest in the terminated Renovator where such officer or principal is also registered with the Program in his own name;

(iv) any firm in which an officer of the terminated Renovator is also an officer or holds 10% or more ownership interest; and

(v) any firm in which an owner of 10% or more interest in the terminated Renovator is an officer, holds 10% or more ownership interest, or controls the day-to-day business operations.

(c) Should the Program not, in its discretion, exercise its option to terminate this Agreement such action shall not operate as a waiver of the right of the Program to exercise its said option at any time thereafter for the first or any subsequent defaults of the Renovator under this Agreement.

(d) In the event of termination of this Agreement, the Renovator acknowledges, undertakes and agrees to cease the use or public display of any material bearing the Program's Registered Trade Mark or other identification and that all documentation, paper writings, receipts or other materials furnished to the Renovator by the Program remain the property of the Program and shall forthwith be returned by the Renovator to the Program on demand of the Program.

(e) In the event of termination of this Agreement any Renovation enrolled but not commenced on the date of termination of this Agreement, may be removed from enrollment and such enrollment fees may be deemed to be earned in full by the Program. Further, the Renovator shall not hold out such Renovations as eligible for Limited Warranty by the Program.

12. RULES AND REGULATIONS

The Renovator covenants that the Program may, from time to time during the currency of this Agreement, make reasonable rules and regulations to better define or carry out the intent of this Agreement and in all such cases, the Renovator agrees that such rules and regulations together with all of the relevant provisions contained in the Letters Patent and By-Laws of the Program shall be binding upon the Renovator as if the same formed part of this Agreement. Without limiting the generality of the foregoing, the Renovator undertakes and agrees to comply with all rules and regulations of the Program pertaining to full disclosure and all other matters, things or information as might be required by the Program during the currency of the Agreement.

13. REGISTERED RENOVATOR

During the currency of this Agreement, the Renovator shall be entitled to use or display the term "Registered Renovator", and use or display any of the materials bearing the Program's Registered Trade Mark or other identification and to use all documentation, paper writings, receipts or other material furnished by the Program.

14. NOTICES

Any notice or communication may be served upon a party to this Agreement by either delivering it or forwarding it by mail to the address of the other party. Any notices sent by mail shall be deemed to be received by the other party seven (7) days next following the date of mailing. The addresses of the parties are as shown in the face hereof.

Either party may change its address to another address within the of _____ by giving fourteen (14) days notice of the change to the other party. All notices and communications between the parties shall be in writing.

15. ASSIGNMENT

(a) The Renovator shall not assign this Agreement or any of its rights hereunder.

16. SAVING CLAUSE

In the event any of the covenants, clauses or provisions of this Agreement are held by any competent authority to be individually void or unenforcable, the parties hereto agree that the remaining covenants, clauses or provisions of the Agreement remain in full force and effect.

DATED this _____ day of _____ A.D. 19

Registered Renovator Number _____

The Renovator _____

Per: _____

Per: _____

9.2.4 RENOVATION ENROLLMENT AND CONTRACT REQUIREMENTS

This section includes a sample renovation enrollment form and a contract form that is distributed by the New Home Warranty Program of Alberta to its members.

A contract specific to renovation has not been included or drafted because the committee felt that there are numerous forms available throughout the country which could be adapted.

The following items should be addressed in either a contract form or the accompanying instructions:

The amount paid upon signing the contract should be limited. A more appropriate time for a significant payment is upon delivery of materials to the site.

There should be appropriate spaces in the contract for the renovator to acknowledge acceptance of materials supplied by the owner or for the use of used material.

The payment schedule should be designed to reflect the value of work in place. It should also permit the homeowner to make payments directly to suppliers for materials. It should also comply with applicable lien laws.

The contract should indicate that the homeowner is to approve work at specific stages prior to it being closed in by other work.

9.2.4 RENOVATION ENROLLMENT

registered
renovator's
job number

(insert program address)

registered renovator's
name and address

R _____ H _____
(program to complete)

requests the enrollment of the following renovation (as defined in the Agreement with Renovator) with the Renovation Warranty Program of _____.

DETAILS OF RENOVATION

street address _____ area _____
city, town, village _____ postal code _____
legal: lot _____ block _____ plan _____
building permit no. _____ issued by _____ on _____ 19__

soil test required ___yes___ ___no___ accepted by Consumer(initial) _____

Renovator using Consumer supplied materials ___yes___ ___no___ accepted by
Renovator(initial) _____

CONTRACT PRICE \$ _____ DATE _____ 19__ / ___ contract, ___ spec

ENROLLMENT FEE \$ _____. (refer to fee schedule)

TYPE OF RENOVATION

___single detached/ ___condominium - number of units___/ low___ or highrise___
___semi-detached / ___apartment - number of units___/ low___ or highrise___
___row/townhouse / ___manufactured home
___duplex / rehabilitation___ addition___, ___foundation extended
___height increased

estimated construction date _____. previous renovations in 19__, 19__, 19__

size of unit, before renovation ___, after _____. (in sq.m.).

FINANCING

___chartered bank ___credit union ___life insurance co.
___trust co. ___cash ___provincial government
___mortgage loan co. ___federal government
___other (specify) _____

assistance, if any (name program) federal _____ provincial _____

mortgage insurance cmhc ___ provincial ___ private insurer _____

SIGNATURES

renovator

consumer

date

19__

NOTE: the contract including signed plans and specifications between the Renovator and the Consumer forms part of this Renovation Enrollment and must be retained by the Consumer for his protection.

ENROLLMENT FEE CALCULATION:

SINGLE UNIT	FEE
base fee	\$ 50
balance subject to enrollment fee:	
total contract price(not to exceed \$20,000) \$ _____x\$5/1000	_____
TOTAL FEE	\$ _____

MULTI UNIT BUILDINGS

total contract price	\$ _____	(A)
\$ 20,000 x _____units	= _____	(B)

base amount \$ 50.00 x _____units	\$ _____
balance subject to enrollment fee	
lesser of (A) or (B)	
_____x \$5/1,000	_____
total fee	\$ _____

Sample of an agreement used in new home construction.

Requires revision for use in renovation

INSTRUCTION SHEET FOR CONSTRUCTION AGREEMENT

For use on completion of Construction Agreement where a new home is being constructed by the Builder on lands of the purchasers - please follow letters appearing in margin of attached agreement.

NOTE: As remedies at law differ when land is or is not included in the sale, be sure to use the correct Agreement, namely yellow where builder is selling house and providing land and green where builder is constructing dwelling on lot of another.

- A. Fill in date of signing on all copies (4). Do not complete on a Sunday.
- B. Fill in name of Builder in same form as corporate registry or as Builder carries on business. Plus address.
- C. Fill in names of Purchasers exactly as they appear on title and Purchaser's current address — not house under construction.
- D. Fill in legal description of land owned by the Purchasers as completely as possible.
- E. Fill in appropriate building standards (i.e. AUBS.)
- F. Fill in name or location of model house or comparative house or complete blank description. Strike out other paragraphs. Both parties initial all changes.
- G. Fill in full price of new house including all deposits and subsequent payments.
- H. Interest rate due Builder on overdue payments to be inserted. NOTE - Monthly interest intended (for example, 2% per month.)
 - I. The amount of deposit should be stated exactly.
- J. Fill in dollar value and exact description of property to be applied on price of house (i.e. description of trade-in house, etc.)
- K. Insert progress payments and construction stage for each payment.
- L. Insert final payment on possession. (Note - all payments set out in 4(a), (b), (c), (d), (e) and (f) should be equal to the price of house in 4.)
- M. Fill in items to be paid by builder, i.e. public liability insurance premium.
- N. Fill in latest completion date - Builder's estimate.
- O. Attach a separate list of extras or deletions at back of agreement and both parties initial.
- P. Soil Tests - If purchasers reject this requirement, builder should obtain written waiver and strike out and initial appropriate words for this clause, "Including right to conduct soil tests."
- Q. Fill in same interest rate as in "H."
- R. Fill in any special or unusual clauses you wish here and specify applicable warranty coverage (i.e. NHCPA).
- S. Have a witness sign who sees Purchasers sign and also have a witness sign if the Builder is not an incorporated body.

CONSTRUCTION AGREEMENT

FOR CONSTRUCTION OF A NEW HOME ON LAND OF ANOTHER

(A) THIS AGREEMENT made this _____ day of _____ A.D. 19 _____
 (B) BETWEEN:

_____ of the _____ of _____ in the Province of Alberta (in this agreement called the "builder")
 — and —

(C) _____ of the _____ of _____ in the Province of Alberta (in this Agreement called the "purchasers")

(D) The purchasers are the owners or are entitled to become the owners of the following lands:

_____ in the Province of Alberta (in this agreement called the "lands"):

AND the builder has agreed with the purchasers to construct a dwelling house on the lands in accordance with this Agreement;

NOW in consideration of the payments to be made by the purchasers as specified in this Agreement, the builder and the purchasers agree as follows:

1. SALE PURCHASE

The builder agrees to construct a new home on the lands of the purchasers, on the terms and conditions set forth in this Agreement.

2. CANCELLATION

The builder and purchasers agree that should the builder not be able to commence construction within a period of sixty (60) days from the date of this Agreement due to causes beyond his control such as inability to obtain a building permit, failure of purchasers to qualify for a mortgage or failure to comply with provincial or municipal statutes, then the builder may cancel this Agreement on written notice to the purchasers mailed to or delivered to the address shown in this Agreement. The builder's liability to the purchasers shall be limited to the refund of any monies paid by the purchasers to the builder.

3. CONSTRUCTION

The builder agrees to provide a dwelling house built to _____ standards in effect at the date of this Agreement on the lands by supplying all of the materials and performing all of the work for the construction in accordance with:

(a) A floor plan and general specifications similar to Model No. _____ previously constructed by the builder at _____, excluding landscaping, topsoil and retaining walls.

or

(b) A floor plan and general specifications which the builder has in its possession similar to its Model entitled _____ excluding landscaping, topsoil and retaining walls.

or

(c) _____

Fill in different description if a) and b) do not apply.

(G) 4. **PRICE**
 The price to be paid by the purchasers to the builder, for the dwelling house to be provided on the lands, shall be the sum of \$ _____ DOLLARS which sum shall include only extras as written on Schedule "A" attached to this agreement or by amending Schedule "A" and initialing.

(H) 5. **TERMS OF PAYMENT**
 The purchasers agree to pay to the builder the above price with interest at the rate of _____ per cent per month on any part of the price which is not paid when due as follows:

BUILDER COPY

- (I) (a) _____ DOLLARS deposit upon the signing of this agreement;
- (J) (b) _____ DOLLARS for _____

- (c) _____ DOLLARS on completion of _____

- (K) (d) _____ DOLLARS on completion of _____

- (e) _____ DOLLARS being the balance of the price if any, on the completion of the dwelling house is to be provided by this agreement or the date of possession and/or occupancy of the dwelling house, whichever occurs first.
- _____ TOTAL

(L)

6. PRE-POSSESSION OR OCCUPANCY INSPECTION

When the dwelling house is ready for possession and/or occupancy, the builder shall provide a notice in writing to the purchasers advising that on a date to be specified in the notice the dwelling house is ready for possession and/or occupancy and further advising the purchasers that an inspection shall take place on the date specified. The purchasers shall make an inspection of the dwelling house on the date specified in the notice together with a representative of the builder at which time any omissions or defects will be noted in writing. Taking possession and/or occupancy will be deemed to conclusively prove the dwelling house is then complete and in full compliance with this Agreement except as to matters noted at the time of inspection.

7. ADJUSTMENTS

It is agreed that all payables including utility connections, liability insurance, building permits, surveys, taxes, rates, levies, charges, assessments, interest, fire insurance premiums, solicitor's fees, disbursements and mortgage insurance premiums or any other payables requiring adjustment affecting the lands or the provision of the dwelling house shall be adjusted and calculated as of the date of possession and/or occupancy. It is agreed that up to the date of possession and/or occupancy, the builder shall be responsible for the payment of the following items:

(M)

_____ and all other payables shall be paid by the purchasers.

(N)

8. COMPLETION DATE

The builder agrees to provide the dwelling house in accordance with Paragraph 2. of this agreement in a proper and workmanlike manner and with all due diligence and dispatch and to have the said dwelling house completed on or about the day of _____ A.D. 19 _____ provided that the builder does not guarantee the completion or possession of the dwelling house to the purchasers on this date in the event delays occur for which the builder may not be responsible or caused by unfavorable weather, strikes, fires, shortages of material, acts of God or any other causes beyond the control of the builder. The Purchasers agree that if items chosen by them such as floor coverings, tile, plumbing fixtures, bricks or countertops, are not available for installation in time for the builder's scheduled installation date, they shall choose alternate items that are available to be installed in time, otherwise the builder reserves the right to make such alternate selections, which selections shall be final and binding on the purchasers.

(O)

Attach schedule if desired.

9. EXTRAS OR DELETIONS

Any additions, removals, corrections, variations or price changes to the dwelling house referred to in Paragraph 2, shall be effected only by a further agreement in writing signed by the builder and purchasers and attached to this agreement or an initialed amendment in writing to Schedule "A" by the builder and the purchasers and both shall be subject to acceptance by any mortgagee.

(P)

10. ACCESS TO LANDS

The purchasers covenant and agree to give free uninterrupted and exclusive possession of the lands to the builder including the right to conduct soil tests from the date of this Agreement until the builder has completed construction of the dwelling house, provided, however, the purchasers shall have the right of inspection at all reasonable times so long as they do not interrupt or interfere with the work of the builder or anyone gaining access under such builder.

11. DEFAULT BY PURCHASERS

In the event that payment of any of the amounts herein agreed in to be paid to the builder at the times and in the manner provided are not so made, or in the event the purchasers should default in any of the other covenants or agreements herein, the builder may at its option cease work and treat the contract as repudiated forthwith on the occurrence of such default, and the builder may recover payment for the work already completed proportionately to the total contract price plus damages, including loss of profit together with interest thereon that may be due and payable under the provisions of this Agreement or as is reasonable for delay in payment, such interest to be at the rate of _____ % per annum.

(Q)

BUILDER COPY

14. DEFAULT BY BUILDER

If the builder should neglect to prosecute the work in accordance with the terms of this Agreement, or fail to make prompt payment to sub-contractors, material men or labourers, or if the builder should become bankrupt or make a general assignment for the benefit of its creditors, or if a receiver of the builder should be appointed, the purchasers may provide a written notice to the builder requiring it to cure the default, neglect or event specified in such notice within fifteen (15) days of the delivery of such notice. Should the builder fail to comply with the said notice in the time so limited, the builder's employment shall forthwith terminate and the purchasers may take possession of the lands and of all materials and appliances thereon and finish the work in accordance with the plans and specifications as they may deem expedient but without undue delay or expense. In such event, the builder shall not be entitled to any further payment under this Agreement, but upon completion of the work an accounting shall be had between the purchasers and the builder in which the costs of completion necessarily incurred by the purchasers shall be set off against the balance due to the builder at the time the purchasers took possession of the lands. If the unpaid balance shall exceed the expense of finishing the work, such excess shall be paid to the builder, however if such expense shall exceed such unpaid balance, the builder shall pay the difference to the purchasers.

15. NO ASSIGNMENTS

No assignment of this agreement shall be valid by either the builder or purchasers without the written consent of the other.

16. TIME ESSENCE

It is agreed that time is to be considered of the essence of this agreement.

17. INTERPRETATION

All words in this agreement may be read and construed in singular number instead of the plural if there be less than two purchasers named and in such case, this agreement shall be deemed to bind the purchasers individually as well as severally and jointly and also the masculine gender shall be construed to include the feminine or a body corporate where the context of this agreement so requires.

18. POSSESSION OF PREMISES

It is strictly agreed between builder and purchasers that the dwelling house provided by the builder may not be possessed and/or occupied by the purchasers until all monies payable to the builder have been received by the builder.

19. SPECIAL CONDITIONS & WARRANTY

20. EARLY OR WRONGFUL POSSESSION BY PURCHASERS

In the event the purchasers shall occupy the said dwelling house prior to completion thereof, or after completion without having completed the inspection referred to herein, or without full payment of all monies due the builder, the purchasers shall be deemed to have accepted the said dwelling in the state in which they find it and shall be deemed to have waived all rights to object to or complain about a defect in workmanship, materials or construction of any kind and all warranties of any kind given by the builder or through the builder.

21. NOTICES

Any notices required to be given under this agreement shall be given to either the builder or the purchasers in writing and mailed to or delivered to the other at the address shown in this agreement.

Any notice delivered by mail shall be deemed to have been received Seventy Two (72) hours after it has been posted in a prepaid addressed envelope.

22. ENTIRE AGREEMENT

This agreement shall constitute the entire agreement between the builder and the purchasers and no representations, warranties and previous statements made by any person or agent other than those in writing in this agreement signed by the builder shall be binding on him so as to vary the terms of this agreement. The purchasers agree that all actions, causes of action, claims or demands against the builder arising out of the purchase of the dwelling house shall be limited and restricted to the remedies provided in this agreement and any award for damages for negligence against the builder arising out of the relationship created by this agreement shall be limited to the sum of FIVE HUNDRED (\$500.00) DOLLARS.

23. BINDING EFFECT

This clause shall enure to the benefit of and be binding upon the builder and the purchasers, their respective heirs, administrators, executors, successors and assigns.

IN WITNESS WHEREOF the builder and the purchasers have signed this agreement on the date on page one of this agreement.

(name of builder) _____

PER: _____

PER: _____

SIGNED, in the presence of:

purchaser

Witness

purchaser

(S)

Witness to sign
if the builder is
not a corporation.

BUILDER COPY

9.2.5 CERTIFICATE OF COMPLETION

registered
renovator's
job number _____

(insert program address)

R _____ H _____

renovator _____

renovation address _____ city _____

building permit no. _____ issued by _____

legal description: lot _____ block _____ plan _____

FINAL CONTRACT PRICE \$ _____ ORIGINAL PRICE \$ _____.

(if final price exceeds original price by more than 20% renovator must
pay additional fee to program.)

DATE OF COMPLETION ____/____/____
day month year

PLANS AND SPECIFICATIONS RECEIVED BY CONSUMER _____ (initial)

CONSUMER(S) NAME _____

1. The following items are to be corrected by the Renovator.*

A. Warranty items: (attach list if necessary)

B. Contractual items; (attach list if necessary)

Contractual items are not covered by the Warranty Program.

2. The following work and materials are not warranted by the Renovator.*

3. For service contact _____ at _____ - _____

4. The following trades were involved in your renovation:

plumber _____ electrician _____ roofer _____
drywall _____ painter _____ siding _____
carpets _____
other _____

SIGNATURES:

The Consumers accept the renovation (subject to conditions on reverse).

renovator consumer date 19__

* IMPORTANT: read conditions on reverse

The Renovator hereby certifies to the Renovation Warranty Program of _____ that:

1. The renovation was substantially completed and was turned over to the Consumer(s) on the Completion date shown, subject only to the completion of seasonal work and items of a minor nature, more particularly set forth on the reverse side, under the warranty and/or contractual items.
2. The Renovator completed the renovation (or granted possession) of the residential unit (building) to the named consumer(s) on the date specified on the reverse side and the Limited Renovation Warranty granted by the Renovator and by the Renovation Warranty Program of _____ is effective from that date.
3. The Program Limited Warranty does not cover defects in materials, appliances, design, and workmanship supplied by the Consumer(s) and, to the extent that such defects cause defects to the materials, appliances, design, and workmanship supplied by the Renovator, the liability of the Program, if any, will be adjusted.
4. Contractual items cover those items listed in the specifications or in the contract to be furnished, but which were not complete on the date of completion of the unit (building). Seasonal items are also included in this category.
5. Warranty items include the repairing of defects in the workmanship in the renovation and the repair or replacement of defective materials supplied by the Renovator to the date of completion of the unit (building).
6. Work and materials not warranted by the Renovator covers all labour and materials performed and/or supplied by the Consumer except those which the Renovator accepted in writing as part of the Contract as evidenced by the Renovator's initials on the Program Renovation Enrollment .
7. Items completed after the date of completion of the unit (building) receive the same warranty period as if they were completed at the date of completion of the renovation.
8. The renovator is to deliver a copy of the plans and specifications to the consumer who should retain them for future reference.
9. The Date of Completion should be the date at which the renovation is completed to the extent that the portion of the home that was the subject of the renovation is capable of being used for the purpose intended. Should there be a disagreement between the Consumer and the Renovator the date may be fixed by conciliation by the Program.

9.2.6 MANAGEMENT CONTRACT REQUIREMENTS

The committee felt that any contract between any New Home Warranty Program or any other agency which contracts to operate a renovation warranty program would, necessarily, be specific to the two parties involved. The points listed below are simply suggestions that may provide some guidance:

1. Fees

The manager should contract on the basis that they should be reimbursed for all out of pocket costs and should not be required to increase overhead to the benefit of the renovation warranty program.

The fees should be paid proportionately out of each application, renewal, or enrollment fee collected with a provision to adjust to actual cost annually.

There should be an agreement to share savings on a 50-50 basis.

2. The renovation warranty program should have the right to establish levels of service and response times so that they have some control over costs.
3. The renovation warranty program should negotiate their own insuring agreement and accept any costs or risks which result.
4. Each party will have to assure the other that it has made adequate provision to fund its administrative costs so that it can meet its obligations under the management contract.
5. The renovation warranty program should consider hiring its own chief executive officer so that it can ensure fair treatment under the contract and have one person totally involved with the operation of the renovation warranty.
6. The manager should not be able to commit the renovation warranty program beyond its budget unless specific approval is granted by the Board of Directors of the renovation warranty program.

9.2.7 SAMPLE INCORPORATION DOCUMENTS



Now being issued by:
Consommation et Corporations Canada Consumer and
Corporate Affairs Canada

Voire référence Your file

Notre référence Our file

INCORPORATION OF A CORPORATION WITHOUT SHARE CAPITAL

UNDER PART II OF THE CANADA CORPORATIONS ACT

JUNE 7TH, 1979

INCORPORATION OF A CORPORATION WITHOUT SHARE CAPITAL UNDER PART II
OF THE CANADA CORPORATIONS ACT

1.0 INTRODUCTION

This kit is intended to provide clients with the basic instructions for fulfilling the filing requirements in respect of an incorporation under PART II of the Canada Corporations Act; it does not contain a comprehensive list of provisions which may be included in the application or by-laws if desired.

2.0 REQUIRED DOCUMENTS

In order to obtain letters patent, you must file certain documents with the Corporations Branch of Consumer and Corporate Affairs. These are:

2.1 An application in complete and proper form:

Enclosed is a model of a completed application which complies with all the requirements set out in Section 155(1) of the Act. Adherence to the form and content of the model (with substitution of certain information) should prevent substantial errors in the application.

2.2 A statutory declaration:

This must be made out by one of the applicants and attest to the truth of the facts set out in the application. A sample is enclosed.

2.3 By-laws of the proposed corporation:

The sample by-laws which are attached hereto contain all the provisions required to be included therein under Section 155(2) of C.C.A. and many extra clauses which are optional. As long as you cover the points set out in items (a) through (g) of S. 155(2) of the Act, you may add any other clause you wish as long as it does not conflict with any provision of the law.

3.0 CORPORATE NAME

The proposed name of the corporation must be searched and approved before letters patent may be issued. It is recommended that you have a name approved before you file the application if at all possible and to do this

you may

- a) forward requests for reserving a proposed corporate name to the private firms noted on the enclosed list, who directly access the database and automated search system administered by the Minister.
- b) if you are unable to clear the proposed name in advance, it will be searched when the application is received in the Corporations Branch. However, if the proposed name is not available and you have not previously indicated your willingness in this event to accept a numeric name, then the application will be rejected and the original engrossing date will be lost.

If approved, the name will be reserved for a period of 90 days.

4.0 FEES

A complete schedule of fees is to be found on page 3.

4.1 Name Fee

The fee for searching by the Corporations Branch is \$15.00 for each proposed name requested.

4.2 Filing Fee

The charge for processing an application for letters patent under C.C.A. Part II is \$200.00. As no service may be rendered in advance of payment, the fee should accompany the application.

If the application must be returned to you for additions or corrections, the fee will be retained pending return of the documents. Should you wish to withdraw your application, you will be granted a full refund upon receipt of a written notice from you to the effect that you are abandoning the application.

CANADA CORPORATIONS ACT FEES

1. Item 1 of Schedule 2 to the Canada Corporations Regulations is revoked and the following substituted therefor:
 - a) Each direct request to the Minister to search one proposed corporate name, including the reservation of the name..... \$ 15.00
 - b) Each request for access to the database and automated name search system administered by the Minister for the purpose of making a search of one proposed corporate name, made by a government agency or a private sector firm that offers name search services..... \$ 2.00
 - c) Each request for a name search or an analysis of the trade name database that cannot be effected by a standard computer search..... Cost Plus 20%
2. An application to the Minister for:
 - a) letters patent issued under sections 137, 154 and 159 \$200.00
 - b) supplementary letters patent issued under sections 13, 20, 29, 60 and 135..... \$ 50.00
 - c) a certificate of increase in consideration for shares without par value..... \$ 50.00
3. On the issuance by the Minister of any certificate..... \$ 10.00
4. On filing a summary under section 133..... \$ 30.00
5. For uncertified copies of or extract from documents supplied by the Minister under subsection 129(2), per document if in excess of nine (9) documents..... \$ 1.00
6. Certified copies of or extract from documents supplied by the Minister under subsection 129(2)..... \$ 10.00
7. On registering particulars of mortgages or charges under subsection 68(6)..... \$ 10.00
8. On any search of the register under section 58..... \$ 10.00
9. On registering an order for the appointment of a receiver or receiver and manager under section 69..... \$ 10.00
10. On the inspection of documents under sections 100.1 and 108.4..... \$ 10.00

1. L'alinéa 1 de l'annexe 2 du Règlement sur les corporations canadiennes est abrogé et remplacé par ce qui suit:
 - a) Chaque demande, adressée directement au Ministre, concernant la recherche d'une dénomination sociale projetée, y compris la réservation de cette dénomination..... \$ 15.00
 - b) Chaque demande d'accès au fichier et au système de recherche automatisée de dénominations, concernant la recherche d'une dénomination sociale et soumise par une agence gouvernementale ou par une entreprise privée offrant des services de recherche de dénominations..... \$ 2.00
 - c) Chaque demande pour une recherche de nom ou d'analyse du fichier des noms commerciaux ne pouvant être satisfaite par une recherche normale par ordinateur..... Coût Plus 20%
2. Demande au Ministre pour:
 - a) une Émission de lettres patentes en vertu des articles 137, 154 et 159..... \$200.00
 - b) une Émission de lettres patentes supplémentaires en vertu des articles 13, 20, 29, 60 et 135... \$ 50.00
 - c) une Émission d'un certificat confirmant une augmentation du montant auquel peuvent être émises des actions sans valeur au pair..... \$ 50.00
3. Délivrance d'un certificat par le Ministre..... \$ 10.00
4. Dépôt d'un sommaire en vertu de l'article 133..... \$ 30.00
5. Fourniture par le Ministre de copies non certifiées de documents, en vertu du paragraphe 129(2), par document, s'il y en a plus de 9 \$ 1.00
6. Fourniture par le Ministre de copies certifiées de documents, en vertu du paragraphe 129(2)..... \$ 10.00
7. Enregistrement des détails d'hypothèques ou de charges en vertu du paragraphe 68(6)..... \$ 10.00
8. Recherche dans le registre en vertu de l'article 68..... \$ 10.00
9. Enregistrement d'une ordonnance pour la nomination d'un séquestre ou d'un séquestre-et-gérant en vertu de l'article 69..... \$ 10.00
10. Consultation de documents en vertu des articles 100.1 et 108.4..... \$ 10.00

APPLICATION FOR INCORPORATION OF A CORPORATION WITHOUT SHARE
CAPITAL UNDER PART II OF THE CANADA CORPORATIONS ACT

To the Minister of Consumer and Corporate Affairs of Canada.

I

The undersigned hereby apply to the Minister of Consumer and Corporate Affairs for the grant of a charter by letters patent under the provisions of Part II of the Canada Corporations Act constituting the undersigned, and such others as may become members of the Corporation thereby created, a body corporate and politic under the name of

XYZ CORPORATION - LA CORPORATION XYZ*

The undersigned have satisfied themselves and are assured that the proposed name under which incorporation is sought is not the same or similar to the name under which any other company, society, association or firm, in existence is carrying on business in Canada or is incorporated under the laws of Canada or any province thereof or so nearly resembles the same as to be calculated to deceive (** and, where required by the circumstances: except that of which has signified its consent to the use of the said name) and that it is not a name which is otherwise on public grounds objectionable.

II

The applicants are individuals of the full age of twenty-one years with power under law to contract. The name, the place of residence and the calling of each of the applicants are as follows:

JOHN DOE,	100 Dominic Street, Bytown, Ontario Barrister;
JAMES SMITH,	200 Dominic Street, Bytown, Ontario Office Manager;
ANN JONES,	300 Dominic Street, Bytown, Ontario Secretary.

The said JOHN DOE, JAMES SMITH and ANN JONES will be the first directors of the Corporation.

- * If the name has not been cleared in advance, it is suggested to leave a blank space so that the name which is finally found to be acceptable may be inserted by the officials of the Department.
- ** When drafting please insert only applicable wording where choices are provided for in this form.

III

The objects of the Corporation are:

(The objects should be set forth in the infinitive form, in general terms and be as brief as possible; they should also be compatible with the type of business implied by any descriptive word which may form part of the corporate name.)

IV

The operations of the Corporation may be carried on throughout Canada and elsewhere.

V

The place within Canada where the head office of the Corporation is to be situated is: *

VI

(The following clause should be inserted if the Corporation is to be registered as a Canadian charitable organization with the Department of National Revenue - Taxation.)

It is specially provided that in the event of dissolution or winding-up of the Corporation all its remaining assets after payment of its liabilities shall be distributed to one or more recognized charitable organizations in Canada.

(If the Corporation is not intending to be registered as a Canadian charitable organization the following wording is required:)

It is specially provided that in the event of dissolution or winding-up of the Corporation all its remaining assets after payment of its liabilities shall be distributed to one or more organizations in Canada having cognate or similar objects.

(See also subsections 16(3) and (4) and subsection 155(3) of the Canada Corporations Act.)

VII

(Optional)

In accordance with Section 65 of the Canada Corporations Act, it is provided that, when authorized by by-law, duly passed by the directors

* Need only specify municipality and province here. Please advise us of postal address by covering letter.

and sanctioned by at least two-thirds of the votes cast at a special general meeting of the members duly called for considering the by-law, the directors of the Corporation may from time to time

- a) borrow money upon the credit of the Corporation;
- b) limit or increase the amount to be borrowed;
- c) issue debentures or other securities of the Corporation;
- d) pledge or sell such debentures or other securities for such sums and at such prices as may be deemed expedient; and,
- e) secure any such debentures, or other securities, or any other present or future borrowing or liability of the Corporation, by mortgage, hypothec, charge or pledge of all or any currently owned or subsequently acquired real and personal, movable and immovable, property of the Corporation, and the undertaking and rights of the Corporation.

Any such by-law may provide for the delegation of such powers by the directors to such officers or directors of the Corporation to such extent and in such manner as may be set out in the by-law.

Nothing herein limits or restricts the borrowing of money by the Corporation on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the Corporation.

VIII

The by-laws of the Corporation shall be those filed with the application for letters patent until repealed, amended, altered or added to. (Please ensure that by-laws deal with each matter set out in subsection 155(2) of the Canada Corporations Act.)

IX

The Corporation is to carry on its operations without pecuniary gain to its members and any profits or other accretions to the Corporation are to be used in promoting its objects.

DATED at the City of Bytown in the Province of Ontario, this
_____ day of _____, 19 .

Signature of Applicants

CANADA

PROVINCE OF _____

REGIONAL MUNICIPALITY

OF _____

IN THE MANNER OF the application

of _____ and others

for incorporation under Part II of the

Canada Corporations Act under the name

of _____ (corporate name)

TO WIT:

I, _____, of the City of _____ in the
Province of _____, do solemnly declare this:

1. I am one of the applicants herein.

2. I have knowledge of the matter, and that the statements
in the annexed application contained are, to the best of my knowledge and belief,
true in substance and in fact.

3. I am informed and believe that each applicant signing
the said application is of the full age of twenty-one years and has power under
law to contract and that his or her name and description have been accurately
set out in the preamble thereto.

4. The proposed corporate name of the company is not on any
public grounds objectionable and that it is not that of any known company, incor-
porated or unincorporated, or of any partnership or individual, or any name under
which any known business is being carried on, or so nearly resembling the same
as to deceive.

5. I have satisfied myself and am assured that no public or
private interest will be prejudicially affected by the incorporation of the
company aforesaid.

AND I make this solemn declaration conscientiously belie-
ving it to be true and knowing that it is of the same force and effect as if made
under oath and by virtue of the Canada Evidence Act.

SWORN before me at _____

in the Regional Municipality of

_____ this _____ day of _____

_____, 19 .

A commissioner, etc.

SAMPLE BY-LAWS FOR A C.C.A. PART II CORPORATION

CORPORATE SEAL

1. The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the _____.
(corporate name)

CONDITIONS OF MEMBERSHIP

2. Membership in the corporation shall be limited to persons interested in furthering the objects of the corporation and shall consist of anyone whose application for admission as a member has received the approval of the board of directors of the corporation.
3. There shall be no membership fees or dues unless otherwise directed by the board of directors.
4. Any member may withdraw from the corporation by delivering to the corporation a written resignation and lodging a copy of the same with the secretary of the corporation.
5. Any member may be required to resign by a vote of three-quarters (3/4) of the members at an annual meeting.

HEAD OFFICE

6. * The Head Office of the corporation shall be in the (City - Municipality) of _____,
(province)

* (Please do not include a postal address here; only municipality and province should be noted).

BOARD OF DIRECTORS

7. The property and business of the corporation shall be managed by a board of _____ directors of whom _____ shall constitute a quorum. The board of directors may on literature of the corporation be designated as a board of governors.

8. The applicants for incorporation shall become the first directors of the corporation whose term of office on the board of directors shall be for _____.

9. Successors to the first directors shall be elected for a term of one (1) year by the members at an annual meeting of members.

10. The office of director shall be automatically vacated:

- a) if a director shall resign his office by delivering a written resignation to the secretary of the corporation;
- b) if he is found to be a lunatic or become of unsound mind;
- c) if he becomes bankrupt or suspends payment or compounds with his creditors;
- d) if at a special general meeting of members a resolution is passed by _____ of the members present at the meeting that he be removed from office;
- e) on death;

provided that if any vacancy shall occur for any reason in this paragraph contained, the board of directors by majority vote, may, by appointment, fill the vacancy with a member of the corporation.

11. Meetings of the board of directors may be held at any time and place to be determined by the directors provided that seven (7) clear days notice of such meeting shall be sent in writing to each director, provided there shall be at least one (1) meeting per year of the board of directors. No error or omission in giving notice of any meeting of the board of directors or any adjourned meeting of the board of directors of the corporation shall invalidate such meeting or make void any proceedings taken thereat and any director may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat.

12. Directors and executive committee members, as such, shall not receive any stated remuneration for their services, but, by resolution of the board of directors, expenses of their attendance may be allowed for their attendance at each regular or special meeting of the board of directors. Nothing herein contained shall be construed to preclude any director from serving the corporation as an officer or in any other capacity and receiving compensation therefor. The directors shall serve as such without remuneration and no director shall directly or indirectly receive any profit from his position as such; provided that a director may be paid reasonable expenses incurred by him in the performance of his duties; and provided further that any director who is engaged in or is a member of a firm engaged in any business or profession may act in and be paid the usual professional costs and charges for any professional business required to be done in connection with the administration of the affairs of the corporation.

13. A retiring director shall remain in office until the dissolution or adjournment of the meeting at which his retirement is accepted and his successor is elected. A director shall hold office until the next annual meeting of members following his election or appointment.
14. At the first meeting of members, the board of directors then elected shall replace the provisional directors named in the Letters Patent of the corporation as provided for in paragraph 8 hereof.
15. The board of directors may appoint such agents and engage such employees as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the board of directors at the time of such appointment.
16. The remuneration of all officers, agents and employees and committee members shall be fixed by the board of directors by resolution. Such resolution shall have force and effect only until the next meeting of members when such resolution shall be confirmed by resolution of the members, or in the absence of such confirmation by the members, then the remuneration to such officers, agents or employees shall cease to be payable from the date of such meeting of members.

INDEMNITIES TO DIRECTORS AND OTHERS

17. Every director or officer of the corporation or other person who has undertaken or is about to undertake any liability on behalf of the corporation or any company controlled by it and their heirs, executors and administrators, and estate and effects, respectively, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the corporation, from and against;
 - a) all costs, charges and expenses whatsoever which such director, officer or other person sustains or incurs in or about any action, suit or proceedings which is brought, commenced or prosecuted against him, or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office or in respect of any such liability;
 - b) all other costs, charges and expenses which he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

EXECUTIVE COMMITTEE

18. The board of directors may provide for the creation of an executive committee comprising of _____, who shall be appointed by the board of directors and which committee shall exercise such powers as are authorized by the board of directors. Any executive committee member may be removed by a majority vote of the board of directors.
19. Meetings of the executive committee may be held at any time and place to be determined by the members of such committee provided that forty-eight (48) hours notice of such meeting shall be sent in writing to each member of such committee. Members of such committee shall constitute a quorum. No error or omission in giving notice of any meeting of the executive committee or any adjourned meeting of the executive committee of the corporation shall invalidate such meeting or make void any proceedings taken thereat and any member of such committee may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat.

POWERS OF DIRECTORS

20. The directors of the corporation may administer affairs of the corporation in all things and make or cause to be made for the corporation, in its name, any kind of contract which the corporation may lawfully enter into and, save as hereinafter provided, generally, may exercise all such other powers and do all such other acts and things as the corporation is by its charter or otherwise authorized to exercise and do.
21. The directors shall have power to authorize expenditures on behalf of the corporation from time to time and may delegate by resolution to an officer or officers of the corporation the right to employ and pay salaries to employees. The directors shall have the power to make expenditures for the purpose of furthering the objects of the corporation. The directors shall have the power to enter into a trust arrangement with a trust company for the purpose of creating a trust fund in which the capital and interest may be made available for the benefit of promoting the interest of _____
(corporate name)
in accordance with such terms as the board of directors may prescribe.
22. The board of directors shall take such steps as they may deem requisite to enable the corporation to acquire, accept, solicit or receive legacies, gifts, grants, settlements, bequests, endowments and donations of any kind whatsoever for the purpose of furthering the objects of the corporation.

OFFICERS

23. The officers of the corporation shall be a president, vice-president, secretary and treasurer and any such other officers as the board of directors may by by-law determine including, but without restricting the foregoing, an executive secretary. Any two offices may be held by the same person.
24. The president shall be elected at the annual meeting of the members. Officers other than president of the corporation shall be appointed by resolution of the board of directors at the first meeting of the board of directors following each annual meeting of the members.
25. The officers of the corporation shall hold office for one (1) year from the date of appointment or election or until their successors are elected or appointed in their stead.

DUTIES OF OFFICERS

26. All officers shall be directors of the corporation and they shall cease to be officers if they cease to be directors or if they are removed by a majority of the board of directors.
27. The president shall be the chief executive officer of the corporation. He shall preside at all meetings of the corporation and of the board of directors. He shall have the general and active management of the affairs of the corporation. He shall see that all orders and resolutions of the board of directors are carried into effect.
28. The vice-president shall, in the absence or disability of the president, perform the duties and exercise the powers of the president and shall perform such other duties as shall from time to time be imposed upon him by the board of directors.
29. The treasurer shall have the custody of the funds and securities of the corporation and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the corporation in the books belonging to the corporation and shall deposit all monies, securities and other valuable effects in the name and to the credit of the corporation in such chartered bank or trust company, or, in the case of securities, in such registered dealer in securities as may be designated by the board of directors from time to time. He shall disburse the funds of the corporation as may be directed by proper authority taking proper vouchers for such disbursements, and shall render to the president and directors at the regular meeting of the board of directors, or whenever they may require it, an accounting of all the transactions and a statement of the financial position, of the corporation. He shall also perform such other duties as may from time to time be directed by the board of directors.

30. The executive secretary may be empowered by the board of directors, upon resolution of the board of directors, to carry on the affairs of the corporation generally under the supervision of the officers thereof and shall attend all meetings and act as clerk thereof and record all votes and minutes of all proceedings in the books to be kept for that purpose. He shall give or cause to be given notice of all meetings of the members and of the board of directors, and shall perform such other duties as may be prescribed by the board of directors or president, under whose supervision he shall be. He shall be custodian of the seal of the corporation, which he shall deliver only when authorized by a resolution of the board of directors to do so and to such person or persons as may be named in the resolution.
31. The duties of all other officers of the corporation shall be such as the terms of their engagement call for or the board of directors required of them.

EXECUTION OF DOCUMENTS

32. Contracts, documents or any instruments in writing requiring the signature of the corporation, shall be signed by any two officers and all contracts, documents and instruments in writing so signed shall be binding upon the corporation without any further authorization or formality. The directors shall have power from time to time by resolution to appoint an officer or officers on behalf of the corporation to sign specific contracts, documents and instruments in writing. The directors may give the corporation's power of attorney to any registered dealer in securities for the purposes of the transferring of and dealing with any stocks, bonds, and other securities of the corporation. The seal of the corporation when required may be affixed to contracts, documents and instruments in writing signed as aforesaid or by any officer or officers appointed by resolution of the board of directors.

MEETINGS

33. The annual or any other general meeting of the members shall be held at the head office of the corporation or at any place as the board of directors may determine and on such day as the said directors shall appoint.
34. At every annual meeting, in addition to any other business that may be transacted, the report of the directors, the financial statement and the report of the auditors shall be presented and a board of directors elected and auditors appointed for the ensuing year. The members may consider and transact any business either special or general at any meeting of the members. The board of directors or the president or vice-president shall have power to call, at any time, a general meeting of the members of the corporation.

35. Fourteen (14) days' prior written notice shall be given to each member of any annual or special general meeting of members. Members present in person at a meeting shall constitute a quorum. Each member present at a meeting shall have the right to exercise one vote.
36. No error or omission in giving notice of any annual or general meeting or any adjourned meeting, whether annual or general, of the members of the corporation shall invalidate such meeting or make void any proceedings taken thereat and any member may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For purpose of sending notice to any member, director or officer for any meeting or otherwise, the address of the member, director or officer shall be his last address recorded on the books of the corporation.

MINUTES OF BOARD OF DIRECTORS AND EXECUTIVE COMMITTEES

37. The minutes of the board of directors or the minutes of the executive committee shall not be available to the general membership of the corporation but shall be available to the board of directors, each of whom shall receive a copy of such minutes.

VOTING OF MEMBERS

38. At all meetings of members of the corporation every question shall be determined by a majority of votes unless otherwise specifically provided by statute or by these by-laws.

FINANCIAL YEAR

39. Unless otherwise ordered by the board of directors the fiscal year-end of the corporation shall be _____.
40. The board of directors may appoint committees whose members will hold their offices at the will of the board of directors.

AMENDMENT OF BY-LAWS

41. The by-laws of the corporation may be repealed or amended by by-law enacted by a majority of the directors at a meeting of the board of directors and sanctioned by an affirmative vote of at least two-thirds (2/3) of the members at a meeting duly called for the purpose

of considering the said by-law, provided that the enactment, repeal or amendment of such by-law shall not be enforced or acted upon until the approval of the Minister of Consumer & Corporate Affairs has been obtained.

AUDITORS

42. The members shall at each annual meeting appoint an auditor to audit the accounts of the corporation to hold office until the next annual meeting provided that the directors may fill any casual vacancy in the office of auditor. The remuneration of the auditor shall be fixed by the board of directors.

BOOKS AND RECORDS

43. The directors shall see that all necessary books and records of the corporation required by the by-laws of the corporation or by any applicable statute or law are regularly and properly kept.

RULES AND REGULATIONS

44. The board of directors may prescribe such rules and regulations not inconsistent with these by-laws relating to the management and operation of the corporation as they deem expedient, provided that such rules and regulations shall have force and effect only until the next annual meeting of the members of the corporation when they shall be confirmed, and failing such confirmation at such annual meeting of members shall at and from that time cease to have any force and effect.

INTERPRETATION

45. In these by-laws and in all other by-laws of the corporation hereafter passed unless the context otherwise requires, words importing the singular number or the masculine gender shall include the plural number or the feminine gender, as the case may be, and vice versa, and references to persons shall include firms and corporations.

IN WITNESS WHEREOF we have hereunto set out hands at _____
_____, _____ on the _____ day of _____
_____, _____.

(signatures)

SAMPLE OF BY-LAWS FOR A RENOVATION WARRANTY COMPANY

BY-LAWS OF (insert company name)

1. These By-Laws shall be construed with reference to the provisions of the Canada Corporations Act and terms used in these By-laws shall be taken as having the same respective meanings as they have when used in that Act.

- (a) Words importing the singular number only shall include the plural number and words importing the plural number only shall include the singular number;
- (b) Words importing the masculine gender shall include the feminine;
- (c) (This section is to be used to define Renovator and the types of organization which can be members)

- (d) (This section names the Company)

- (e) (This section defines a representative of a Member)

- (f) The headings used throughout these By-Laws are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions of any By-law nor to be deemed in any way to qualify, modify, or explain the effect of any such provisions or terms.

CORPORATE SEAL

2. The seal, an impression whereof is stamped in the margin hereof shall be the seal of the

CONDITIONS OF MEMBERSHIP

3. Membership in the Corporation shall be limited to bona fide in Canada who are interested in furthering the objects of the Corporation and shall consist of anyone whose application for admission as a member has received the approval of the Board of Directors of the Corporation.
4. The Board of Directors may from time to time direct the payment by all members of membership fees or dues.
5. Any member may withdraw from the Corporation by delivering to the Corporation a written resignation and lodging a copy of the same with the Secretary of the Corporation.
6. Membership or associate membership in the Company shall continue at the pleasure of the Board of Directors of the Company and a membership or associate membership in the Company may be determined ipso facto as follows:
 - (a) by a resolution of the Board of Directors of the Company;
 - (b) by a vote of three-quarters of the members attending an Annual Meeting of the Company;
 - (c) by the bankruptcy, commission of an act of bankruptcy, or insolvency or any arrangement made with the creditors of a member or associate member;
 - (d) by failure or default in complying with any contractual obligation which a member or associate member may have with the Company;
 - (e) by default in payment of any fees or dues to the Company or in failing to comply with any reasonable request from the Company for information or documentation required;
 - (f) by commission of any act which in the unanimous opinion of the Board of Directors of the Company would bring the industry or any of the Company's aims or objectives into public disrepute or controversy;
 - (g) by failure to comply with the decision of a properly constituted conciliation proceeding under the unless such decision is before the Courts for final determination.

Members and associate members who are removed or disqualified under this By-law shall have the right of recourse to the Courts of Canada, or any province thereof, or any other legal remedies which might be available to it under the laws of Canada or any province thereof for an adjudication with respect to the merits of the said removal or disqualification proceedings, both as to facts and law.

MEMBERSHIP AND REPRESENTATIVES

7. (a) The applicants for incorporation shall become the first members of the Corporation and thereafter such other persons as shall be admitted to membership in accordance with these By-laws and none others shall be members of the Company and shall be entitled to be entered in the Register of Members accordingly.

(b) Members shall be restricted to bona fide

(c) Representatives shall be persons designated by a corporate member who may serve on the Board of Directors of the Company and represent the said member at all General Meetings of the Company. A memorandum in writing verifying the appointment of a representative or associate representative, and stating for what term the appointment is made, shall be received by the Company or one or more of its officers before the appointee may act. A representative shall cease to represent a member upon the happening of any one of the following events:

- (i) the period of his appointment has expired;
- (ii) the member represented revokes the appointment and gives the Company notice of revocation of the appointment;
- (iii) the representative becomes adjudged a mental incompetent;
- (iv) the member that he represents withdraws or is removed from the Company;
- (v) if he becomes convicted of an indictable offence;
- (vi) if he resigns the office by notice in writing.

RIGHTS OF MEMBERS

8. Except as provided herein, all members shall be entitled to one vote at all properly constituted meetings of the Company and to all such information and advice with regard to the affairs of the Company as the Company or its officers and Directors may be able to supply, provided however in the case of a Special General Meeting of the members called to consider any By-law which will have the effect of changing the provisions of the Letters Patent of the Company then in every such case a minimum of fifty (50%) percent of the votes cast by both manufacturer and dealer members of the Company.

9. No right or privilege of any member shall in any way be transferable or transmissible but all such rights and privileges shall cease upon the member ceasing to be such, whether by death, retirement, removal or otherwise.

ADMISSION OF FURTHER MEMBERS

10. The members may, by majority agreement of the Board of Directors or any committee duly authorized thereunder, invite any person or corporation to become members of the Company who qualify under these By-laws and which member, on acceptance by the Company, shall be entitled to full rights and privileges of all kinds including voting rights.

ASSOCIATE MEMBERS

11. The members may, by majority agreement of the Board of Directors of the Company or any committee duly authorized thereunder, invite any person or persons or corporations to become associate members of the Company, but such associate members shall serve in an advisory capacity only and shall have no rights or privileges of any kind including voting rights.

HEAD OFFICE

12. The head office of the Corporation shall be

VOTING AND PROCEEDINGS AT GENERAL MEETINGS OF MEMBERS

13. The annual or other general meeting of the members shall be held at the head office of the Corporation, or at any place that the Board of Directors may determine and on such day as the said Directors shall appoint.

14. Voting privileges shall be confined to the members only and

associate members may participate fully in the discussions in general and committee meetings and in bringing matters to the resolution stage.

15. A mail vote may be taken in the event of urgent matters which cannot reasonably await the next regular meeting of the members. The procedure for taking a mail vote shall be as may be decided by the Board of Directors or if they have not done so then by the Chairman, or failing him, by the Secretary. Such procedures shall include adequate notice to each member and shall otherwise also be in accordance with natural justice or fairness.

16. Subject to the provisions relating to Special General Meetings dealing with alterations to the Letters Patent of the Company as set forth in By-law 8. hereof, in any General Meeting of the Company a resolution may be passed by a simple majority vote other than those matter requiring a three-fourths vote of the members for determination as might be set forth in these By-laws, or a two-thirds vote of the members as set forth in any other statute or regulation which might apply.

17. A vote may be given in person or by proxy at General Meetings of the Company. A member may appoint a proxy to represent him at a General Meeting of the Company and every instrument appointing a proxy, whether for the specified meeting or otherwise, shall as nearly as circumstances will permit be in writing in the form or to the effect of the following:

"I, _____ of _____ being
the representative of _____,
being a member of _____,
hereby appoint _____, and failing him
_____ of _____, as my proxy to
vote for me on my behalf at the meeting of the Company
to be held on the _____ day of _____, A.D. _____,
and at every adjournment thereof and at every poll which
may take place in consequence thereof.

As witness my hand this _____ day of _____, A.D. 19 ____.

Witness

The decision of the Chairman at any General Meeting as to the validity of any instrument of proxy shall be final and conclusive.

18. (a) At every General Meeting every question shall be decided in the first instance by a show of hands, unless before or upon the declaration of the result of the show of hands, a poll be demanded by at least two (2) members present personally or by proxy and entitled to vote, or as may in special instances be required by the statutes. A declaration by the Chairman that a resolution has been carried or carried by a particular majority,

or lost, shall be conclusive and an entry to that effect in the book of proceedings of the Company shall be conclusive evidence thereof, without proof of the number of proportion of the votes recorded in favour of, or against, such resolution;

(b) If a poll be demanded in the manner above mentioned, it shall be taken at such time and place and in such manner as the Chairman may direct, and the result of such poll shall be deemed to be the resolution of the General Meeting at which the poll was demanded. In the case of an equality of votes at any General Meeting, whether upon a show of hands or at a poll or a mail vote, the Chairman shall be entitled to a second or casting vote. In case of any dispute as to the admission or rejection of any vote, the Chairman shall determine the same, and such determination made in good faith shall be final and conclusive. A demand for a poll may be withdrawn;

(c) At every General Meeting:

- (i) upon show of hands every member present in person or by proxy, and entitled to vote shall have one (1) vote only and the Chairman shall not be entitled to a casting vote; and
- (ii) upon a poll every member present in person or by proxy and entitled to vote shall have one (1) vote and a Chairman shall not have a casting vote;

(e) At any General Meeting, if all the members entitled to vote thereat are present, either in person or by proxy, they may waive the necessity of the giving of any previous notice of such meeting and an entry in the minutes of such meeting of such waiver shall be sufficient evidence of the due convening of the meeting;

(f) Members present and entitled to vote thereat shall be a quorum at a General Meeting for the choice of a Chairman and the adjournment of the meeting. For all other purposes the quorum for a General Meeting shall be members personally present and entitled to vote thereat, not being less than six in number. No business shall be transacted at a General Meeting unless the quorum requisite shall be present at the commencement of the business;

(g) If fifteen (15) minutes after the time appointed for the holding of a General Meeting a quorum be not present, the meeting, if convened upon a requisition of members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week at the same time and place; and if at such adjourned meeting a quorum be no present, those members who are present and entitled to vote thereat shall be deemed to be a quorum and may transact all business which a full quorum might have done;

(h) The Chairman of the Company shall preside as Chairman at every General Meeting and in his absence the Vice-Chairman, and if neither of these be present, or if at any meeting they be not present within fifteen (15) minutes after the time appointed for holding the meeting, the members present and entitled to vote thereat shall choose one of the Board, present and willing to take the chair, to be Chairman;

(i) Following a resolution of adjournment of the members passed by a simple majority of those present and entitled to vote, the Chairman may adjourn the General Meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place;

(j) Notwithstanding anything to the contrary in these By-laws, a resolution assented to and adopted in writing under the hands of all members entitled to vote thereon, though not passed at a General Meeting, shall be of the same force and effect as if it had been duly passed at a General Meeting duly convened, and no previous notice, or convening of any General Meeting for the purpose of passing such resolution shall in such case be deemed to have been necessary whether the business transacted thereat is special or not, and a member may signify his assent to such resolution in writing under his hand or by telegram or cable, provided that if the resolution be signed or assented to in writing or by telegram or cable by a member, it need not be signed or so assented to by any representative of such member;

(k) Ten (10%) percent or more of the total number of members in good standing registered as members of the Company at any time may require a General Meeting of the Company. The Secretary or Chairman (whichever is applicable) must thereafter serve on all of the members of the Company a notice of a meeting to be held within a period of seven (7) days next following the receipt of the said memorandum, stipulating a time and place of the meeting. The Chairman may call a General Meeting of the Company at any reasonable time.

BOARD OF DIRECTORS

19. (a) The affairs of the Company shall be managed by a Board of Directors of not less than five (5) Directors nor more than fifty (50) Directors and in the event of the number of Directors being less than the minimum aforesaid they shall do no act other than to call a General Meeting of the Company until the number of Directors has been made up to the said minimum.

(b) The Directors shall be selected from the members or representatives in good standing of the Company from time to time. The Company empowers the executive committee of

(This section will define the selection process for Directors)

(c) The term of office for Directors shall be a term of two years from the date of their appointment, with the exception of the first Board of Directors in which case one-half of the first Directors representing manufacturer members shall be appointed for a term of one year and one-half of the first Directors representing dealer members shall be appointed for a term of one year and the balance of the Board of Directors for a term of two years. Thereafter Directors whose term of office has expired shall be elected for a term of office for two years.

(d) A retiring Directors shall be eligible for re-election to the Board of Directors.

(e) Directors and executive committee members as such shall not receive any stated remuneration for their services but, by resolution of the Board of Directors, expenses of their attendance may be allowed for their attendance at each regular or special meeting of the Board of Directors. Nothing herein contained shall be construed to preclude any Director from serving the Corporation as an officer or in any other capacity and receiving compensation therefor. The Directors shall serve as such without remuneration and no Director shall directly or indirectly receive any profit from his position as such, provided that a Director may be paid reasonable expenses incurred by him in the performance of his duties and provided further that any Director who is engaged in, or is a member of a firm engaged in, any business or profession may act in and be paid the usual professional costs and charges for any professional business required to be done in connection with the administration of the affairs of the Corporation.

(f) A retiring Director shall remain in office until the dissolution or adjournment of the meeting at which his retirement is accepted and his successor is elected. A Director shall hold office until the next annual meeting of members following his election or appointment.

(g) The persons signing the application for incorporation shall be the Provisional Directors of the Company. At the first Annual Meeting of the members the Board of Directors then elected shall replace the Provisional Directors named in the Letters Patent of the Corporation as provided for herein.

(h) The Board of Directors may appoint such agents and engage such employees as it shall deem necessary from time to time and such persons shall have authority and shall perform such duties as shall be prescribed by the Board of Directors at the time of such appointment.

(i) The remuneration of all officers, agents and employees and committee members shall be fixed by the Board of Directors by resolution. Such resolution shall have force and effect only until the next meeting of members, when such resolution shall be confirmed by resolution of the members, or in the absence of such confirmation by the members, then the remuneration for such officers, agents or employees shall cease to be payable from the date of such meeting of members.

POWERS OF DIRECTORS

20. The Directors of the Corporation may administer the affairs of the Corporation in all things and make or cause to be made for the Corporation in its name any kind of contract which the Corporation may lawfully enter into and save as hereinafter provided generally may exercise all such other powers and do such other acts and things as the Corporation is, by its Charter or otherwise, authorized to exercise and do.

21. The Directors shall have the power to authorize expenditures on behalf of the Corporation from time to time and may delegate by resolution to an officer or officers and employees of the Corporation the right to employ and pay salaries to employees. The Directors shall have the power to make expenditures for the purpose of furthering the objects of the Corporation.

22. The Board of Directors shall take such steps as they may deem requisite to enable the corporation to acquire, accept, solicit or receive legacies, gifts, grants, settlements, bequests, endowments and donations of any kind whatsoever for the purpose of furthering the objects of the Corporation.

DISQUALIFICATION OF DIRECTORS

23. The office of a Director shall be ipso facto vacated:

- (a) if he becomes of unsound mind or is found to be a lunatic;
- (b) if he becomes convicted of an indictable offence;
- (c) if, by notice in writing, he resigns his office;
- (d) if he shall cease to hold his qualification as a representative of a member of the Company; or
- (e) if he is recalled by a two-thirds vote of the members in region which the Director represents in the first instance.

PROCEEDINGS OF DIRECTORS

24. (a) The Board of Directors may meet together for the dispatch of business, adjourn or otherwise regulate its meetings as it shall think fit. For the transaction of business a majority of the Board of Directors shall constitute a quorum. Questions arising at any meeting shall be decided by a majority of votes. The Chairman of the meeting shall have an ordinary vote similar to all members, however the Chairman of a meeting shall not cast his ordinary vote unless there is an equality of votes whereupon the Chairman shall then be entitled to cast his ordinary vote as a casting vote.

(b) A properly constituted meeting of the Board of Directors for the time being at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions by or under these By-laws for the time being vested or exercisable by the Board or the members of the Company.

(c) Meetings of the Board of Directors may be summoned by the Secretary at the request of the Chairman and, failing him, at the request of a Vice-Chairman or a Director. A meeting of the Board of Directors may be held at any time the Board may deem necessary and expedient and may be summoned on seven (7) days' notice verbally or in writing, and whether by means of telephone or telegraph or any other reasonable means of communication.

(d) Meetings of the Board of Directors shall be held at the head office of the Company or with the consent of the majority of the Board at any other place.

(e) No error or omission in giving notice of any meeting of the Board of Directors or any adjourned meeting shall invalidate such meeting or make void any proceedings taken thereat and any Director may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For the purpose of sending notice to any member, Director or officer for any meeting or otherwise, the location, address or telephone number of any such member, Director or officer shall be his last address, location or telephone number recorded on the books of the Corporation.

(f) A resolution signed by all of the members of the Board of Directors as such shall be as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted, and shall be entered in the minute book of the Company accordingly and shall be held to relate back to any date therein stated to be the date thereof.

MINUTES OF BOARD OF DIRECTORS AND EXECUTIVE COMMITTEES

25. The minutes of the Board of Directors or the minutes of the executive committee shall not be available to the general membership of the Corporation, but shall be available to the Board of Directors each of whom shall receive a copy of such minutes.

EXECUTIVE COMMITTEE AND OFFICERS

26. The executive committee and the officers of the Company shall consist of a Chairman, two Vice-Chairmen, a Secretary and a Treasurer, together with any additional members at large which the Board may wish to appoint from time to time. The said executive committee is hereby vested with authority to exercise the powers as by the statutes are required to be exercised by the Board of Directors. The said executive committee may meet at stated times or on notice to all or any of their own number and such committee shall advise and aid the Board of Directors in all matters concerning the Company's interest and in the management of its business and affairs and generally perform such duties and exercise such powers as may be directed or delegated to such committee by the Board from time to time. A quorum of the executive committee shall consist of not less than three (3) of their number and the executive committee may act by the written consent of a quorum thereof, although not formally convened. The executive committee shall keep minutes of its proceedings and report the same to the Board at the next meeting thereof. The said officers of the Corporation shall be elected from time to time from among the members of the Board of Directors and shall be given such duties as the Board of Directors may from time to time direct. The officers of the Corporation shall hold office for one (1) year from the date of election or until their successors are elected or appointed in their stead.

DUTIES OF OFFICERS

27. All officers shall be Directors of the Corporation and they shall cease to be officers if they cease to be Directors or if they are removed by a majority of the Board of Directors.

28. The Chairman shall be the Chief Executive Officer of the Corporation and shall preside at all meetings of the Corporation and of the Board of Directors. He shall have the general and active management of the affairs of the Corporation and he shall see that all orders and resolutions of the Board of Directors are carried into effect. The Chairman shall be ex officio a member of all standing committees of the Board of Directors.

29. A Vice-Chairman may, in the absence or disability of the Chairman, perform the duties and exercise the powers of the Chairman and shall perform such other duties as shall from time to time be imposed on him by the Board of Directors.

30. The Secretary, or an Assistant Secretary if elected, shall attend the meetings of the Board of Directors and the General Meetings of the Company and record the proceedings thereof and may appoint a Recording Secretary if necessary to record the proceedings thereof of all matters transacted and dealt with and shall prepare and keep minutes of all such meetings and record all votes and the minutes of all proceedings in a book or books to be kept for that purpose and shall perform like duties for any standing or executive committee when required. The Secretary or an Assistant Secretary, if named, shall give or cause to be given notice of

all General Meetings and of all meetings of the Board of Directors and shall perform such other duties as may be prescribed by the Board.

31. The Treasurer shall have custody of the funds and securities of the Corporation and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the Corporation in the books belonging to the Corporation and shall deposit all monies, securities and other valuable effects in the name and to the credit of the Corporation in such chartered bank or trust company, or in the case of securities in such registered dealer in securities, as may be designated by the Board of Directors from time to time. He shall disburse the funds of the Corporation as may be directed by proper authority taking proper vouchers for such disbursements and shall render to the Chairman and Directors at the regular meeting of the Board, or whenever they may require it, an accounting of all the transactions and a statement of the financial position and affairs of the Corporation. He shall also perform such other duties as may from time to time be directed by the Board of Directors.

32. Contracts, documents or any instruments in writing requiring the signature of the Corporation shall be signed by any two (2) officers and all contracts, documents and instruments in writing so signed shall be binding on the Corporation without any further authorization or formality. The Directors shall have the power from time to time by resolution to appoint an officer or employee on behalf of the Corporation to sign specific contracts, documents and instruments in writing. The Directors may give the Corporation power of attorney to any registered dealer in securities for the purpose of the transferring of and dealing with any stocks, bonds or other securities of the Corporation. The seal of the Corporation when required may be affixed to contracts, documents and instruments in writing signed as aforesaid or by any officer or employee appointed by resolution of the Board of Directors.

ANNUAL GENERAL MEETING

33. The Annual General Meeting of the members shall be held at the head office of the Corporation or at any place as the Board of Directors may determine, and on such day as the Directors shall appoint within the requirement of the Canada Corporations Act.

34. At every Annual Meeting, in addition to any other business that may be transacted, the report of the Directors, the financial statement and the report of the auditors shall be presented and a Board of Directors elected and the auditors appointed for the ensuing year. The members may consider and transact any business, either special or general, at any

meeting of the members. The Board of Directors or the Chairman or Vice-Chairman shall have the power to call at any time a General Meeting of the members of the Corporation. Fourteen (14) days' prior written notice shall be given to each member of any Annual or special General Meeting of members. Members present in person at a meeting shall constitute a quorum and each member present at a meeting, in person or by proxy, shall have the right to exercise one (1) vote.

FINANCIAL YEAR

35. Unless otherwise ordered by the Board of Directors the fiscal year-end of the Corporation shall be

36. The Board of Directors may appoint committees whose members will hold their offices at the will of the Board of Directors.

INDEMNITY TO DIRECTORS AND OFFICERS

37. Every Director or officer of the Corporation or other person who has undertaken, or is about to undertake, any liability on behalf of the Corporation or any company controlled by it and their heirs, executors and administrators and estate and effects respectively shall from time to time and at all times be indemnified and saved harmless out of the funds of the Corporation from and against:

- (a) all costs, charges and expenses whatsoever which such Director, officer or other person sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him in or about the execution of the duties of his office, or in respect of any such liability;
- (b) all other costs, charges and expenses which he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect, fraud or default.

AMENDMENTS OF BY-LAWS

38. The By-laws of the Corporation may be repealed or amended by By-law enacted by a majority of the Directors at a meeting of the Board of Directors and sanctioned by an affirmative vote of at least two-thirds (2/3) of the members at a meeting duly called for the purpose of considering the said By-law, provided the enactment, repeal or amendment of such By-law shall not be enforced or acted upon until the approval of the Minister of Consumer and Corporate Affairs has been obtained.

AUDITORS

39. The members shall at each Annual General Meeting appoint an auditors to audit the accounts of the Corporation, to hold office until the next Annual Meeting, provided the Directors may fill any casual vacancy in the office of an auditors. The remuneration of the auditors shall be fixed by the Board of Directors.

BOOKS AND RECORDS

40. The Directors shall see that all necessary books, accounts and records of the Corporation required by the By-laws of the Corporation, or by any applicable statute or law, are regularly and properly kept.

RULES AND REGULATIONS

41. The Board of Directors may prescribe such rules and regulations not inconsistent with these By-laws, relating to the management and operation of the Corporation as they deem expedient, provided that such rules and regulations shall have force and effect only until the next Annual Meeting of the members of the Corporation when they shall be confirmed and, failing such confirmation at such Annual Meeting of members, shall and from that time cease to have any force and effect.

WINDING UP

42. The Company may be wound up voluntarily whenever a resolution approved by two-thirds (2/3) of the members is passed requiring the Company to be so wound up.

43. It is especially provided that in the event of dissolution or winding up of the Corporation all of its remaining assets, after payment of its liabilities, shall be distributed to one or more organizations in Canada having cognate or similar objects.

NOTICE

44. (a) A notice may be served by the Company on any member entitled thereto, either personally or by sending it through the post in a prepaid envelope or wrapper to such member at his registered place of address.

(b) If a member has no registered place of address, notice served on the member at his last known address, according to the records of the Company, shall be deemed good notice on such member at the expiration of 48 hours following the posting of any such notice to the member.

(c) The signature to any notice to be given by the Company may be lithographed, written, printed or otherwise mechanically reproduced.

(d) Notwithstanding anything to the contrary in these By-laws, any member or Director entitled to receive notice may by instrument in writing signed by such member or Director waive any such notice on such terms and conditions if any as such member or Director may deem fit.

IN WITNESS WHEREOF we have hereunto set our hands at
 , on the day of , A.D. 19 .

9.2.8 PERFORMANCE STANDARDS

All performance standards used in North America originated with the New Home Warranty Programs in Canada. As the first New Home Warranty Program, Alberta developed the first published standards and they have been updated and revised by the other New Home Warranty Programs in Canada and by the Home Owners Warranty in the United States for use in both a new home and a renovation context.

The standards included in this report were produced by the Renovators Council of the Nova Scotia Home Builders' Association for use by the voluntary warranty program they are establishing. Since these standards are the most recent in origin and have been adapted to use in a renovation context they have been included here.

HOUSING AND URBAN DEVELOPMENT ASSOCIATION
OF CANADA

HUDAC - NOVA SCOTIA - ACHDU

RENOVATORS COUNCIL

INTRODUCTION

The Renovations Council of the Nova Scotia Chapter of the Housing and Urban Development Association of Canada has developed the Renovator's Limited Warranty and the industry accepted performance standards which accompany the Limited Warranty Certificate.

Your HUDAC Renovator/Contractor shall provide your renovations work with the Limited Warranty Certificate that is extended to you and to subsequent owners of the home during the period the Limited Warranty is in force.

These standards are intended to specify the minimum performance standards for renovation of homes and to set forth the basis for determining the validity of all home owner complaints related to defective materials and workmanship during the period of the Limited Warranty.

Only the most frequent defects of concern to the home owner have been enumerated in the standards set forth in the pages that follow. If a specific defect has not been enumerated, this indicates only that a performance standard for such defect has not yet been adopted and approved.

To the extent that minimum performance standards for construction have not been enumerated in these standards,

the Renovator shall perform the work in accordance with the National Building Code of Canada, Part #9, where the National Building Code of Canada, Part #9, has been adopted and enforced by the Municipal or Provincial district having jurisdiction.

In the event that the National Building Code of Canada, Part #9, has not been adopted and/or is not enforced, then the Renovator shall perform the work in accordance with the Building By-Laws enforced by the Municipal or Provincial district having jurisdiction.

In the event that the National Building Code of Canada, Part #9, has not been adopted and/or enforced; and the Municipal or Provincial district either has not adopted or does not enforce Building By-laws, then the Renovator shall perform the work in accordance with the building practice prevailing from time to time in the district in which the home was constructed.

The validity of any home owner complaints for defects, for which a standard has not been enumerated herein, shall be determined on the basis of good industry practice which assures quality of materials and workmanship and any arbitration of such complaints shall be conducted accordingly.

The arbitrator's role during the course of an arbitration is to decide whether or not the material and/or workmanship is in accordance with legal building standards and/or conforms to normal industry practice and whether the renovator or purchaser has performed satisfactorily.

Where no minimum performance standards has been enumerated the arbitrator must use his own judgment in determining whether corrective action is or is not required.

The following Guide Lines are expressed in terms of performance standards. Non-compliance with the performance standards calls for corrective action by the renovator. The format is designed for easy comprehension by both layman and renovator as follows:

1. Possible Deficiency - a brief statement in simple terms of the problems to be considered.
2. Performance Standard - a performance standard relating to a specific deficiency.
3. Renovator Responsibility - a statement of the corrective action required of a renovator to repair the deficiency or any other damage resulting from making the required repair.

WORKMANSHIP AND MATERIALS

TOPIC: SITE WORK

SITE GRADING

POSSIBLE DEFICIENCY	Setting of ground around foundation, utility trenches or other areas.
PERFORMANCE STANDARD	Setting of ground around foundation walls, utility trenches or other fill areas shall not interfere with water drainage away from the home.
RESPONSIBILITY	If the renovator has provided final grading upon request by the owner, renovator shall fill settled areas affecting proper drainage, one time only, during the Warranty period. Owner shall be responsible for removal and replacement of shrubs or other landscaping affected by placement of such fill.

SITE DRAINAGE

POSSIBLE DEFICIENCY	Improper drainage of the site.
PERFORMANCE STANDARD	The necessary grades and swales shall have been established by the renovator to insure proper drainage away from the home. Standing or ponding water shall not remain for extended periods in the immediate area of the house after a rain (generally no more than 24 hours) except that 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 by the Home Owner. No grading determination shall be made while there is frost or snow on the ground, or while the ground is saturated.
RESPONSIBILITY	The renovator 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.

TOPIC: CONCRETE

EXPANSION AND CONTRACTION JOINTS

POSSIBLE DEFICIENCY	Separation or movement of concrete slabs within the structure at expansion and contraction joints.
PERFORMANCE STANDARD	Concrete slabs within the structure are designed to move at expansion and contracting joints.
RESPONSIBILITY	None.

CAST-IN-PLACE CONCRETE

POSSIBLE DEFICIENCY	Basement or foundation wall cracks.
PERFORMANCE STANDARD	Shrinkage cracks are not unusual in concrete foundation walls. Such cracks greater than 1/8 inch in width shall be repaired.
RESPONSIBILITY	Renovator will repair cracks in excess of 1/8 inch width.

POSSIBLE DEFICIENCY	Cracking of basement floor.
PERFORMANCE STANDARD	Minor cracks in concrete basement floors are normal. Cracks exceeding 3/16 inch in width or 1/8 inch in vertical displacement shall be repaired.
RESPONSIBILITY	Renovator will repair cracks exceeding maximum tolerances by surface patching or other methods as required.

POSSIBLE DEFICIENCY	Cracking of slab in attached garage.
PERFORMANCE STANDARD	Cracks in garage slabs in excess of 1/4 inch in width or 1/4 inch in vertical displacement shall be repaired.
RESPONSIBILITY	Renovator will repair cracks exceeding maximum tolerances by surface patching or other methods as required.

POSSIBLE DEFICIENCY	Uneven concrete floors/slabs.
PERFORMANCE STANDARD	Except for basement floors or where a floor or portion of floor has been designed for specific drainage purposes, concrete floors in rooms designed for habitability shall not have pits, depressions or areas of unevenness exceeding 1/4 inch in 32 inches.
RESPONSIBILITY	Renovator will correct or repair to meet the Performance Standard.
POSSIBLE DEFICIENCY	Cracks in concrete slab-on-grade floors with finish flooring.
PERFORMANCE STANDARD	Cracks which rupture the finish flooring material shall be repaired.
RESPONSIBILITY	Renovator will repair cracks, as necessary, so as not to be readily apparent when the finish flooring material is in place.
POSSIBLE DEFICIENCY	Pitting, scaling or spalling of concrete work covered by Warranty.
PERFORMANCE STANDARD	Concrete surfaces shall not disintegrate to the extent that the aggregate is exposed and loosened under normal conditions of weathering and use.
RESPONSIBILITY	Renovator will take whatever corrective action necessary to repair or replace defective concrete surfaces. Renovator is not responsible for deterioration caused by salt, chemicals, mechanical implements and other factors beyond its control.
POSSIBLE DEFICIENCY	Setting, heaving, or separating of stoops, steps, or garage floors.
PERFORMANCE STANDARD	Stoops, steps or garage floors shall not settle, heave, or separate in excess of 1 inch from the house structure.
RESPONSIBILITY	Renovator will take whatever corrective action is required to meet the Performance Standard.

POSSIBLE DEFICIENCY	Standing water on steps and platforms.
PERFORMANCE STANDARD	Water should drain from outdoor steps and platforms.
RESPONSIBILITY	Renovator shall take corrective action to assure drainage of steps and stoops.

TOPIC: MASONRY

UNIT MASONRY

POSSIBLE DEFICIENCY	Basement or foundation wall cracks.
PERFORMANCE STANDARD	Small cracks not affecting structural stability are not unusual in mortar joints of masonry foundation walls. Cracks greater than 1/8 inch in width shall be repaired.
RESPONSIBILITY	Renovator will repair cracks in excess of 1/8 inch by pointing or patching. These deficiencies shall be reported and repairs made during the Warranty period.

POSSIBLE DEFICIENCY	Cracks in masonry walls or veneer.
PERFORMANCE STANDARD	Small hairline cracks due to shrinkage are common in mortar joints in masonry construction. Cracks greater than 3/8 inch in width are considered excessive.
RESPONSIBILITY	Renovator will repair cracks in excess of Performance Standard by pointing or patching. These repairs shall be made during the Warranty period. Renovator will not be responsible for color variation between old and new mortar.

TOPIC: WOOD AND PLASTIC

ROUGH CAPENTRY

POSSIBLE DEFICIENCY	Floors squeak or subfloor appears loose.
PERFORMANCE STANDARD	Floor squeaks and loose subfloor are often temporary conditions common to new construction, and a squeak-proof floor cannot be guaranteed.
RESPONSIBILITY	Renovator will correct the problem only if caused by an underlying construction defect.

POSSIBLE DEFICIENCY	Uneven wood floors.
PERFORMANCE STANDARD	Floors shall not have more than 1/4 inch ridge or depression within any 32 inch measurement when measured parallel to the joists. Allowable floor and ceiling joist deflections are governed by Approved building code.
RESPONSIBILITY	Renovator will correct or repair to meet Performance Standard only in cases where the contractor constructed or replaced the entire floor system..
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 wall's finished surface. Walls should not bow more than 1/4 inch out of line within any 32 inch horizontal or vertical measurement.
RESPONSIBILITY	Renovator will repair to meet Performance Standard.
POSSIBLE DEFICIENCY	Out-of-plumb walls.
PERFORMANCE STANDARD	Walls should not be more than 1/4 inch out of plumb for any 32 inch vertical measurement.
RESPONSIBILITY	Renovator will repair to meet the Performance Standard.

TOPIC: THERMAL AND MOISTURE PROTECTION

WATERPROOFING

POSSIBLE DEFICIENCY	Leaks in basement.
PERFORMANCE STANDARD	Leaks resulting in actual trickling of water are not acceptable and shall be repaired. Leaks caused by improper landscaping installed by owner, or failure of owner to maintain proper grades are not covered by the Warranty. Dampness of the walls or floors may occur in new construction and is not considered a deficiency.
RESPONSIBILITY	Renovator will take such action as necessary to correct basement leaks except where the cause is determined to result from owner action or negligence.

POSSIBLE DEFICIENCY

Insufficient insulation.

PERFORMANCE STANDARD

Insulation shall be installed in accordance with applicable energy and building code requirements.

RESPONSIBILITY

Renovator will install insulation in sufficient amounts to meet Performance Standard.

POSSIBLE DEFICIENCY

Leaks due to snow or rain driven into the attic through louvers or vents.

PERFORMANCE STANDARD

Attic vents and/or louvers must be provided in order to properly ventilate your house.

RESPONSIBILITY

None.

ROOFING AND SIDING

POSSIBLE DEFICIENCY

Ice build-up on roof.

PERFORMANCE STANDARD

During prolonged cold spells, ice build-up is likely to occur at the eaves of a roof. This condition occurs when snow and ice accumulate and gutters and downspouts freeze up.

RESPONSIBILITY

Prevention of ice build-up on the roof is an owner maintenance item.

POSSIBLE DEFICIENCY

Roof or flashing leaks.

PERFORMANCE STANDARD

Roofs or flashing shall not leak under normally anticipated conditions, except where cause is determined to result from ice build-up or owner actions or negligence.

RESPONSIBILITY

Renovator will repair any verified roof or flashing leaks not caused by ice build-up or owner actions or negligence.

POSSIBLE DEFICIENCY

Standing water on flat roof.

PERFORMANCE STANDARD

Water shall drain from flat roof except for minor ponding immediately following rainfall or when the roof is specifically designed for water retention.

RESPONSIBILITY

Renovator will take corrective action to assure proper drainage of roof.

POSSIBLE DEFICIENCY

Delamination of veneer siding or joint separation.

PERFORMANCE STANDARD

All siding shall be installed according to the manufacturer's and industry's accepted standards. Separations and delaminations shall be repaired or replaced.

RESPONSIBILITY

Renovator will repair or replace siding as needed unless caused by owner's neglect to maintain siding properly. Repaired area may not match in color and/or texture. For surfaces requiring paint, renovator will paint only the new materials. The owner can expect that the newly painted surface may not match original surface in color.

SHEET METAL

POSSIBLE DEFICIENCY

Gutters and/or downspouts leak.

PERFORMANCE STANDARD

Gutter and downspouts shall not leak but gutters may overflow during heavy rain.

RESPONSIBILITY

Renovator will repair leaks. It is the home owner's responsibility to keep gutters and downspouts free of leaves and debris which could cause overflow.

POSSIBLE DEFICIENCY

Water standing in gutters.

PERFORMANCE STANDARD

When gutter is unobstructed by debris, the water level shall not exceed 1 (one) inch in depth. Industry practice is to install gutter approximately level. Consequently, it is entirely possible that small amounts of water will stand in certain sections of gutter immediately after a rain.

RESPONSIBILITY

Renovator will correct to meet Performance Standard.

SEALANTS

POSSIBLE DEFICIENCY	Leaks in exterior walls due to inadequate caulking.
PERFORMANCE STANDARD	Joints and cracks in exterior wall surfaces and around openings shall be properly caulked to exclude the entry of water.
RESPONSIBILITY	Renovator will repair and/or caulk joints or cracks in exterior wall surfaces as required to correct deficiencies once, during the Warranty period. Even properly installed caulking will shrink and must be maintained by the home owner during the life of the home.

TOPIC: DOORS AND WINDOWS

WOOD AND PLASTIC DOORS

POSSIBLE DEFICIENCY	Warpage of exterior doors.
PERFORMANCE STANDARD	Exterior doors will warp to some degree due to temperature differential on inside and outside surface. However, they shall not warp to the extent that they become inoperable or cease to be weather resistant or exceed 1/4 inch, measured diagonal from corner to corner.
RESPONSIBILITY	Renovator will correct or replace and refinish defective doors to match existing doors as nearly as possible, during the Warranty period.
POSSIBLE DEFICIENCY	Warpage of interior passage and closet doors.
PERFORMANCE STANDARD	Interior doors (full openings) shall not warp in excess of 1/4 inch measured diagonally from corner to corner.
RESPONSIBILITY	Renovator will correct or replace and refinish defective doors to match existing doors as nearly as possible, during the Warranty period.

POSSIBLE DEFICIENCY	Shrinkage of insert panels show raw wood edges.
PERFORMANCE STANDARD	Panels will shrink and expand, and may expose unpainted surface.
RESPONSIBILITY	None.

POSSIBLE DEFICIENCY	Split in door panel.
PERFORMANCE STANDARD	Split panels shall not allow light to be visible through the door.
RESPONSIBILITY	Renovator will, if light is visible, fill split and match paint or stain as closely as possible, one time in Warranty period.

GLASS

POSSIBLE DEFICIENCY	Broken glass.
PERFORMANCE STANDARD	None.
RESPONSIBILITY	Broken glass not reported to the renovator prior to closing is the home owner's responsibility.

GARAGE DOORS ON ATTACHED GARAGE

POSSIBLE DEFICIENCY	Garage doors fail to operate properly, under normal use.
PERFORMANCE STANDARD	Garage doors shall operate properly.
RESPONSIBILITY	Renovator will correct or adjust garage doors as required, except where the cause is determined to result from owner actions or negligence.

POSSIBLE DEFICIENCY	Garage doors allow entrance of snow or water.
PERFORMANCE STANDARD	Garage doors shall be installed as recommended by the manufacturer. Some entrance of the elements can be expected under abnormal conditions.
RESPONSIBILITY	Renovator will adjust or correct garage doors to meet manufacturer's recommendations.

WOOD, PLASTIC AND METAL WINDOWS

POSSIBLE DEFICIENCY	Malfunction of windows.
PERFORMANCE STANDARD	Windows shall operate with reasonable ease, as designed.
RESPONSIBILITY	Renovator will correct or repair as required.

POSSIBLE DEFICIENCY	Condensation and/or frost on windows.
PERFORMANCE STANDARD	Windows will collect condensation on interior surfaces when extreme temperature difference and high humidity levels are present. Condensation is usually the result of climatic/humidity conditions, created by the home owner within the home.
RESPONSIBILITY	Unless directly attributed to faulty installation window condensation is a result of conditions beyond the Renovator's control. No corrective action is required.

WEATHERSTRIPPING AND SEALS

POSSIBLE DEFICIENCY	Air infiltration around doors and windows.
PERFORMANCE STANDARD	Some infiltration is normally noticeable around doors and windows, especially during high winds. Poorly fitted weatherstripping shall be adjusted or replaced. It may be necessary for the owner to have storm doors and windows installed to provide satisfactory solutions in high wind areas.
RESPONSIBILITY	Renovator will adjust or correct poorly fitted doors, windows, or poorly fitted weatherstripping.

TOPIC: FINISHES

LATH AND PLASTER

POSSIBLE DEFICIENCY	Cracks in interior wall and ceiling surfaces.
PERFORMANCE STANDARD	Hairline cracks are not unusual in interior wall and ceiling surfaces. Cracks greater than 1/8 inch in width shall be repaired.
RESPONSIBILITY	Renovator will repair cracks exceeding 1/8 inch in width as required, one time only, during Warranty period. (See also painting).

GYPSUM WALLBOARD

POSSIBLE DEFICIENCY

Defects which appear during the Warranty period such as nail pops, blisters in tape, or other blemishes.

PERFORMANCE STANDARD

Slight "imperfections" such as nail pops, seam lines and cracks not exceeding 1/8 inch in width are common in gypsum wallboard installations and are considered acceptable.

RESPONSIBILITY

Renovator will repair only cracks exceeding 1/8 inch in width, one time only, during the Warranty period. (See also "Painting").

CERAMIC TILE

POSSIBLE DEFICIENCY

Ceramic tile cracks or becomes loose.

PERFORMANCE STANDARD

Ceramic tile shall not crack or become loose.

RESPONSIBILITY

Renovator will replace cracked tiles and re-secure loose tiles unless the defects were caused by the owner's action or negligence. Renovator will not be responsible for discontinued patterns or color variations in ceramic tile.

POSSIBLE DEFICIENCY

Cracks appear in grouting of ceramic tile joints or at junctions with other material such as a bathtub.

PERFORMANCE STANDARD

Cracks in grouting of ceramic tile joints are commonly due to normal shrinkage conditions.

RESPONSIBILITY

Renovator will repair grouting if necessary; one time only, during the Warranty period. Renovator will not be responsible for color variations or discontinued colored grout. Regrouting of these cracks is a maintenance responsibility of the home owner within the life of the home.

FINISHED WOOD FLOORING

POSSIBLE DEFICIENCY

Cracks developing between floor boards.

PERFORMANCE STANDARD

Cracks in excess of 1/8 inch in width shall be corrected.

RESPONSIBILITY

Renovator will repair cracks in excess of 1/8 inch within the Warranty period, by filling or replacing, at renovator's option.

RESILIENT FLOORING

POSSIBLE DEFICIENCY

Nail pops appear on the surface of resilient flooring.

PERFORMANCE STANDARD

Readily apparent nail pops shall be repaired.

RESPONSIBILITY

Renovator will correct nail pops which have broken the surface. Renovator will repair or replace, at Renovator's option, resilient floor covering in the affected area with similar material. Renovator will not be responsible for discontinued patterns or color variations in the floor covering.

POSSIBLE DEFICIENCY

Depressions or ridges appear in the resilient flooring due to subfloor irregularities.

PERFORMANCE STANDARD

Readily apparent depressions or ridges exceeding 1/8 inch shall be repaired. 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 defect, held tightly to the floor.

RESPONSIBILITY

Renovator will take corrective action as necessary to bring the defect within acceptable tolerance so that the affected area is not readily visible. Renovator will not be responsible for discontinued patterns or color variations in floor covering.

POSSIBLE DEFICIENCY

Resilient flooring loses adhesion.

PERFORMANCE STANDARD

Resilient flooring shall not lift, bubble or become unglued.

RESPONSIBILITY

Renovator will repair or replace, at Renovator's option, the affected resilient flooring as required. Renovator will not be responsible for discontinued patterns of color variation of floor covering, or for problems caused by owner neglect or abuse.

POSSIBLE DEFICIENCY

Seams or shrinkage gaps show at resilient flooring joints.

PERFORMANCE STANDARD

Gaps shall not exceed 1/16 inch in width in resilient floor covering joints. Where dissimilar materials abut, a gap not to exceed 1/8 inch is permissible.

RESPONSIBILITY

Renovator will repair or replace, at Renovator's option, the affected resilient flooring as required. Renovator will not be responsible for discontinued patterns or color variation of floor covering, or for problems caused by owner neglect or abuse.

PAINTING

POSSIBLE DEFICIENCY

Exterior paint or stain peels, deteriorates or fades.

PERFORMANCE STANDARD

Exterior paints or stains should not fail during the Warranty period. However, fading is normal and the degree is dependent on climatic conditions.

RESPONSIBILITY

If paint or stain is defective, renovator will properly prepare and refinish affected areas, matching color as close as possible. Where finish deterioration affects the majority of the wall area, the whole area will be refinished.

POSSIBLE DEFICIENCY

Painting required as corollary repair because of other work.

PERFORMANCE STANDARD

Repairs required under this Warranty shall be finished to match surrounding area as closely as practicable.

RESPONSIBILITY

Renovator will finish repair areas as indicated, exact color match cannot be guaranteed.

POSSIBLE DEFICIENCY	Deterioration of varnish or lacquer finishes
PERFORMANCE STANDARD	Natural finishes on interior woodwork shall not deteriorate during the first year of ownership. However, varnish type finishes used on the exterior will deteriorate rapidly and are not covered by the Warranty.
RESPONSIBILITY	Renovator will retouch affected areas of natural finish interior woodwork, matching the color as closely as possible.

POSSIBLE DEFICIENCY	Mildew or fungus on painted surfaces.
PERFORMANCE STANDARD	Mildew or fungus will form on a painted surface if the structure is subject to abnormal exposures (i.e., rainfall, ocean, lake, or river front).
RESPONSIBILITY	Mildew or fungus formation is a condition, Renovator cannot control and is a home owner maintenance item, unless it is a result of non-compliance with other sections of the quality standards.

WALL COVERING

POSSIBLE DEFICIENCY	Peeling of wall covering.
PERFORMANCE STANDARD	Peeling of wall covering shall not occur.
RESPONSIBILITY	Renovator will repair or replace defect wall covering applications.

POSSIBLE DEFICIENCY	Edge mis-matching in pattern of wall covering.
PERFORMANCE STANDARD	None.
RESPONSIBILITY	None.

CARPETING

POSSIBLE DEFICIENCY	Open carpet seams.
PERFORMANCE STANDARD	Carpet seams will show. However, no visible gap is acceptable.
RESPONSIBILITY	Renovator will correct.

POSSIBLE DEFICIENCY	Carpeting becomes loose, seams separate or stretching occurs.
PERFORMANCE STANDARD	Wall to wall carpeting, installed as the primary floor covering, when stretched and secured properly shall not come up, become loose, or separate from its point of attachment.
RESPONSIBILITY	Renovator will re-stretch or re-secure carpeting as needed, if original installation was performed by Renovator.

POSSIBLE DEFICIENCY	Spots on carpet, minor fading.
PERFORMANCE STANDARD	Exposure to light may cause spots on carpet and/or minor fading.
RESPONSIBILITY	None.

SPECIAL COATINGS

POSSIBLE DEFICIENCY	Cracks in exterior stucco wall surfaces.
PERFORMANCE STANDARD	Cracks are not unusual in exterior stucco wall surfaces. Cracks greater than 1/8 inch in width shall be repaired.
RESPONSIBILITY	Renovator will repair cracks exceeding 1/8 inch in width, one time only, during the Warranty period.

TOPIC: SPECIALITIES

LOUVERS AND VENTS

POSSIBLE DEFICIENCY	Inadequate ventilation of attics and crawl spaces.
PERFORMANCE STANDARD	Attic and crawl spaces shall be ventilated as required by the approved building code.
RESPONSIBILITY	Renovator shall provide for adequate ventilation. Renovator will not be responsible for home owner alterations to the original system.

FIREPLACES

POSSIBLE DEFICIENCY

Fireplace or chimney does not draw properly.

PERFORMANCE STANDARD

A properly designed and constructed fireplace and chimney shall 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

Renovator will determine the cause of malfunction and correct, if the problem is one of design or construction of the fireplace.

POSSIBLE DEFICIENCY

Chimney separation from structure to which it is attached.

PERFORMANCE STANDARD

Newly built fireplaces will often incur slight amounts of separation. Separation shall not exceed 1/2 inch from the main structure in any 10 foot vertical measurement.

RESPONSIBILITY

Renovator will determine the cause of separation and correct if standard is not met. Caulking is acceptable.

POSSIBLE DEFICIENCY

Firebox paint changed by fire.

PERFORMANCE STANDARD

None.

RESPONSIBILITY

None. Heat from fires will alter finish.

POSSIBLE DEFICIENCY

Cracked firebrick and mortar joints.

PERFORMANCE STANDARD

None.

RESPONSIBILITY

None. Heat and flames from "roaring" fires will cause cracking.

TOPIC: EQUIPMENT

RESIDENTIAL EQUIPMENT

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 shall not delaminate.

RESPONSIBILITY

Renovator will replace delaminated coverings to meet specified criteria. Renovator will not be responsible for chips and cracks noted following occupancy.

POSSIBLE DEFICIENCY

Kitchen cabinet malfunctions.

PERFORMANCE STANDARD

Warpage not to exceed 1/4 inch as measured from face frame to point of furthest warpage with door or drawer front in closed position.

RESPONSIBILITY

Renovator will correct or replace doors or drawer fronts.

POSSIBLE DEFICIENCY

Gaps between cabinets, ceiling or walls.

PERFORMANCE STANDARD

Acceptable tolerance 1/4 inch in width.

RESPONSIBILITY

Renovator will correct to meet Performance Standard.

TOPIC: MECHANICAL

WATER SUPPLY SYSTEM

POSSIBLE DEFICIENCY

Plumbing pipes freeze and burst.

PERFORMANCE STANDARD

Drain, waste and vent, and water pipes shall be adequately protected, as required by applicable code, during normally anticipated cold weather to prevent freezing.

RESPONSIBILITY

Renovator will correct situations not meeting the code. It is the home owner's responsibility to drain or otherwise protect lines and exterior faucets exposed to freezing temperatures.

PLUMBING

POSSIBLE DEFICIENCY

Faucet or valve leak.

PERFORMANCE STANDARD

No valve or faucet shall leak due to defects in material or workmanship.

RESPONSIBILITY

Renovator will repair or replace the leaking faucet or valve.

POSSIBLE DEFICIENCY

Defective plumbing fixtures, appliances or trim fittings.

PERFORMANCE STANDARD

Fixtures, appliances or fittings shall comply with their manufacturer's standards.

RESPONSIBILITY

Renovator will replace any defective fixture or fitting which does not meet acceptable standards, as defined by the manufacturer.

POSSIBLE DEFICIENCY

Noisy water pipes.

PERFORMANCE STANDARD

There will be some noise emitting from the water pipe system, due to the flow of water. However, water hammer shall be eliminated.

RESPONSIBILITY

Renovator cannot remove all noises due to water flow and pipe expansion. Renovator will correct to eliminate "water hammer".

POSSIBLE DEFICIENCY

Cracking or chipping of porcelain or fiberglass surfaces.

PERFORMANCE STANDARD

Chips and cracks on surfaces of bathtubs and kitchen sinks can occur when surface is hit with sharp or heavy objects.

RESPONSIBILITY

Renovator will not be responsible for repairs unless damage has been reported to renovator prior to occupancy.

HEATING

POSSIBLE DEFICIENCY

Inadequate heating.

PERFORMANCE STANDARD

Heating system shall be capable of producing an inside temperature of 70°F, as measured in the center of each room at a height of 5 feet above the floor, under local outdoor winter design conditions as specified in ASHRAE handbook. Local energy codes shall supersede this standard where such codes have been locally adopted.

RESPONSIBILITY

Renovator will correct heating system to provide the required temperatures. However, owner shall be responsible for balancing dampers, registers and other minor adjustments

REFRIGERATION

POSSIBLE DEFICIENCY

Inadequate cooling.

PERFORMANCE STANDARD

Where air-conditioning is provided, the cooling system shall 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°F from the outside temperature will be maintained. Local energy codes shall supersede this standard where such codes have been locally adopted.

RESPONSIBILITY

Renovator will correct cooling system to meet temperature conditions, in accordance with specifications.

CONDENSATION LINES

POSSIBLE DEFICIENCY

Condensation lines clog up.

PERFORMANCE STANDARD

None.

RESPONSIBILITY

Condensation lines will clog eventually under normal use. This is a home owner maintenance item. Renovator shall provide unobstructed condensation lines at time of occupancy.

EVAPORATIVE COOLING

POSSIBLE DEFICIENCY	Improper mechanical operation.
PERFORMANCE STANDARD	Equipment shall function properly at temperature standard set.
RESPONSIBILITY	Renovator will correct and adjust so that blower and water system operate as designed.

AIR DISTRIBUTION

POSSIBLE DEFICIENCY	Noisy ductwork.
PERFORMANCE STANDARD	When metal is heated it expands and when cooled it contracts. The result is "ticking" or "cracking" which is generally to be expected.
RESPONSIBILITY	None.

TOPIC: ELECTRICAL

ELECTRICAL CONDUCTORS, FUSES, AND CIRCUIT BREAKERS

POSSIBLE DEFICIENCY	Fuses blow or circuit breakers (excluding ground fault interruptors) "kick out".
PERFORMANCE STANDARD	Fuses and circuit breakers shall not activate under normal usage.
RESPONSIBILITY	Renovator will check wiring circuits for conformity with local or approved national electrical code requirements. Renovator will correct circuitry not conforming to code specifications.

OUTLETS, SWITCHES AND FIXTURES

POSSIBLE DEFICIENCY	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 problem is normal in new home construction
RESPONSIBILITY	None.

POSSIBLE DEFICIENCY	Malfunction of electrical outlets, switches or fixtures.
PERFORMANCE STANDARD	All switches, fixtures and outlets shall operate as intended.
RESPONSIBILITY	Renovator will repair or replace defective switches, fixtures and outlets.

SERVICE AND DISTRIBUTION

POSSIBLE DEFICIENCY	Ground fault interruptor trips frequently.
PERFORMANCE STANDARD	Ground fault interruptors are sensitive safety devices installed into the electrical system to provide protection against electrical shock. These sensitive devices can be tripped very easily.
RESPONSIBILITY	Renovator shall install ground fault interruptor in accordance with approved electrical code. Tripping is to be expected and is not covered, unless due to a construction defect.

SYSTEMS

TOPIC: MECHANICAL

WATER SUPPLY SYSTEM

POSSIBLE DEFICIENCY	Water supply system fails to deliver water.
PERFORMANCE STANDARD	All on-site service connections to municipal water main and private water supply shall be the Renovator's responsibility. Private systems shall be designed and installed in accordance with all approved building, plumbing and health codes.
RESPONSIBILITY	Renovator will repair if failure is the result of defective workmanship or materials. If conditions beyond renovator's control disrupt or eliminate the sources of the supply the renovator has not responsibility.

SEPTIC TANK SYSTEM

POSSIBLE DEFICIENCY

Septic system fails to operate properly.

PERFORMANCE STANDARD

Septic system shall be capable of properly handling normal flow of household effluent. Septic system shall be designed and installed to comply with building, plumbing and health codes.

RESPONSIBILITY

Renovator will repair if failure is the result of defective workmanship or materials. Renovator will not be responsible for malfunctions which occur through owner negligence or abuse or from conditions that are beyond renovator's control, such as freezing, soil saturation, increase in water table, excessive use, etc. Owner shall be responsible for septic system maintenance.

PLUMBING

POSSIBLE DEFICIENCY

Leakage from any piping.

PERFORMANCE STANDARD

No leaks of any kind shall exist in any soil, waste, vent or water pipe. Condensation on piping does not constitute leakage, and is not covered.

RESPONSIBILITY

Renovator will make repairs to eliminate leakage

POSSIBLE DEFICIENCY

Stopped up sewers, fixtures and drains.

PERFORMANCE STANDARD

Sewers, fixtures and drains shall operate properly.

RESPONSIBILITY

Renovator will not be responsible for sewers, fixtures and drains which are clogged through the owner's negligence. If a problem occurs, the owner should consult renovator for a proper course of action. Where defective construction is shown to be the cause, Renovator will assume the cost of the repair, where owner negligence is shown to be the cause, the owner shall assume all repair costs.

POSSIBLE DEFICIENCY

Refrigerant lines leak.

PERFORMANCE STANDARD

Refrigerant lines shall not develop leaks during normal operation.

RESPONSIBILITY

Renovator will repair leaking refrigerant lines and re-charge unit, unless damage was caused by owner.

TOPIC: MECHANICAL

AIR DISTRIBUTION

POSSIBLE DEFICIENCY

Ductwork separates or becomes unattached.

PERFORMANCE STANDARD

Ductwork shall remain intact and securely fastened.

RESPONSIBILITY

Renovator will re-attach and re-secure all separated or unattached ductwork.

TOPIC: ELECTRICAL

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

Renovator will check wiring for conformity with local or approved national electrical code requirements. Renovator will repair wiring not conforming to code specifications.

9.3 ALTERNATIVES IN DOCUMENTATION

There are a number of alternatives in the formats of the documentation package that may better meet the requirements in some areas.

The list below outlines some of the alternatives:

1. It is possible to have only one document given to the consumer to form the contract which offers protection on the part of the warranty program. This document could be given to the consumer when the enrollment is confirmed. The coverage would change in nature from deposit to warranty and then to major structural coverage upon the happening of specified events. If this method is followed care must be taken that the consumer is not confused by the different coverages offered and understands any limitations which may apply.
2. An alternative format for the Certificate of Completion and the Limited Warranty Certificate is that they can be printed on the same form and be delivered to the consumer by the renovator upon completion of the project.
3. If a renovation warranty program wishes to require its members to use a standard contract form it may wish to make the enrollment and the contract one form.

9.4 LIMITATIONS IN USE OF DOCUMENTS

The documents included in this report have been reviewed by Mr. W. A. Johnson, the legal consultant to the project, but are not intended for use in any jurisdiction without detailed review by legal counsel to insure conformity with applicable statutes.

ÉTUDE DE FAISABILITÉ
D'UN RÉGIME DE GARANTIE
DES TRAVAUX DE RÉNOVATION
RÉSIDENTIELLE
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Étude réalisée pour le
Conseil national de garantie de
l'Association canadienne des constructeurs d'habitations
et la Société canadienne d'hypothèques et de logement par

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CHAPITRE I

SOMMAIRE - RECOMMANDATION

1.1 CONTEXTE

En 1983, le président de l'Association canadienne des constructeurs d'habitation (ACCH, anciennement, l'Association canadienne de l'habitation et du développement urbain) acceptait de fournir au ministre fédéral responsable du logement, un rapport préliminaire sur la faisabilité d'un régime de garantie des rénovations résidentielles.

Le rapport préliminaire, rendu public en octobre 1983, concluait qu'il serait aussi possible que pratique d'instaurer un programme de garantie-rénovation, à des conditions particulières, et qu'il faudrait poursuivre l'étude, afin de régler un certain nombre de détails en suspens.

La Société canadienne d'hypothèques et de logement acceptait par la suite de financer le Conseil national de garantie de l'Association canadienne des constructeurs d'habitations, pour qu'il complète l'analyse de faisabilité et prépare un modèle pouvant servir à la mise en oeuvre d'une garantie-rénovation.

Un comité permanent composé de représentants du comité de rénovation de l'ACCH, du Conseil national de garantie de l'ACCH et de la Société canadienne d'hypothèques et de logement était ensuite créé pour travailler avec les experts-conseils choisis.

La faisabilité ne peut être établie que par l'évaluation d'un certain nombre d'éléments. Le rapport principal les énonce en détail, et nous en donnons ici les grandes lignes:

- Les besoins du public en matière de protection. L'objectif visé est celui de déceler les problèmes que les consommateurs ont rencontrés quand ils ont entrepris de faire rénover leur maison, ainsi que l'origine de ces problèmes et la nature des pertes financières subies, si ces renseignements sont connus. Cet élément permettra d'établir la protection requise et de déterminer si une garantie pourra répondre aux besoins du public.
- Le désir que manifestent les consommateurs et les entrepreneurs en rénovation de souscrire une protection. Cet élément se fonde sur le besoin, tel que le conçoivent les consommateurs qui projettent des travaux de rénovation, sur le volume des plaintes que reçoivent divers organismes au sujet de travaux de rénovation, et sur l'examen de l'expérience des Programmes de garantie des maisons neuves, au Canada, et du Home Owners Warranty Remodeler Program, aux États-Unis. Cette étape vise l'estimation du besoin, s'il en est, de l'appui des prêteurs, des assureurs hypothécaires et des gouvernements pour un programme de garantie protégeant les consommateurs qui ne se protégeront pas d'eux-mêmes.

- La quantité et la valeur des travaux de rénovation entrepris ou projetés dans un avenir rapproché, au Canada. C'est dire qu'il faut évaluer l'activité dans ce secteur, et en établir la relation avec les besoins et la demande publique, pour mesurer le marché éventuel d'un programme de garantie-rénovation et fixer le niveau minimal sans lequel celui-ci ne peut être rentable.
- L'importance des pertes qu'un programme de garantie-rénovation risque d'essuyer. Il faut extrapoler les pertes à l'aide des données connues sur les Programmes de garantie des maisons neuves, et estimer le coût d'une assurance couvrant ce risque. Ces étapes débouchent sur un coût unitaire de gestion des risques, lequel peut servir à l'analyse de faisabilité.
- Projection quant à l'exploitation rentable d'une garantie-rénovation. Il est possible d'établir le coût d'une garantie par projet, au moyen d'un certain nombre de scénarios et à divers niveaux d'activité. Cette étape nous permettra de connaître les circonstances favorables à la faisabilité du régime, le cas échéant. Aux fins de l'analyse, le comité permanent a fixé à 50 \$ le droit d'inscription moyen, parce qu'il jugeait que ce montant stimulerait la demande.

En plus des aspects financiers, nous avons aussi examiné les aspects structuraux du régime. Les structures juridiques des Programmes de garantie des maisons neuves ont aussi été examinées, tout comme les incidences, en matière d'impôt sur le revenu, d'un certain nombre d'autres structures.

Le mandat relatif à l'étude comprenait aussi la préparation d'un ensemble de documents modèles pouvant servir de base à un programme de garantie-rénovation. D'abord semblables à ceux utilisés pour les Programmes de garantie des maisons neuves, les documents ont été modifiés ensuite d'après ceux qu'utilisent le Home Owners Warranty Remodeler Program des États-Unis et le programme non assuré et facultatif que le comité de rénovation de l'association des constructeurs d'habitations de la Nouvelle-Écosse met actuellement en oeuvre. Des documents modèles ont été produits dans la plupart des cas; dans d'autres circonstances, les dispositions particulières portant précisément sur la garantie-rénovation ont été détaillées afin qu'elles puissent être intégrées aux formules de contrat existantes. Ces documents ne sont pas définitifs, mais sont offerts en guise de modèles et de point de départ à la conception d'un ensemble de documents qui répondront aux besoins d'un programme donné.

Le Comité permanent devra compléter les données limitées qu'il a obtenu au sujet de la nature exacte des plaintes exprimées par les consommateurs et des pertes qu'ils ont subies, avant de déterminer la protection exactement requise, quel que soit le domaine.

Les projections financières ont été préparées à partir d'hypothèses très générales, qui ne tiennent pas compte des différents facteurs logistiques et structuraux de l'industrie, car il faudrait un agencement de frais généraux différent, pour chaque région du Canada. Il faudra laisser au groupe provincial ou régional intéressé la tâche d'aborder ces aspects avant l'adoption d'un programme.

Depuis la première réunion du Comité permanent tenue en avril 1984, le programme Garantie-Rénovation a vu le jour au Québec (1^{er} janvier 1985). Ce programme établira les paramètres relatifs à la protection et servira de modèle à tout programme subséquent. Le programme du Québec diffère du programme "autonome" de notre étude, en ce qu'il fonctionne comme une division de l'Association provinciale des constructeurs d'habitations du Québec, de pair avec le Programme de garantie des maisons neuves, et qu'il partage les frais généraux des deux organisations existantes.

L'étude n'a pas donné lieu à une recherche inusitée, mais s'est limitée à la collecte de données pertinentes obtenues d'une variété de sources reconnues. L'origine des données et les contraintes suscitées par l'absence de données sont précisées dans chaque chapitre du rapport. Le comité permanent a examiné et discuté en détail toutes les données recueillies. Il a émis ses recommandations et conclusions après quatre réunions tenues en 1984, et qui ont abouti à un accord général.

1.2 RECOMMANDATIONS ET CONCLUSIONS CONCERNANT LA FAISABILITÉ

Le Comité en est venu à la conclusion qu'il n'est actuellement pas possible d'instituer des programmes provinciaux ou régionaux de garantie-rénovation facultatifs, pour les raisons suivantes:

1. D'après les indications actuelles de la demande du marché, on ne peut raisonnablement s'attendre que le revenu des inscriptions couvre les frais d'administration et les demandes d'indemnités rattachés à ce programme.
2. Les souscripteurs d'assurance hésitent à offrir une protection pour un programme distinct et facultatif, sans témoignage que le programme pourra répondre à ses obligations financières.
3. Il n'existe pas assez de preuves concrètes du besoin de protection des consommateurs.

1.3 MODÈLE DE GARANTIE-RÉNOVATION

Le Comité permanent a relevé plusieurs formes de protection, pour le cas où la garantie devait plus tard se révéler souhaitable.

La protection décrites plus loin provient de données incomplètes (voir la partie 4 du chapitre 3). Elle est conçue pour permettre des rajustements correspondant aux besoins, qui seraient mieux circonscrits une fois expérimentées et étayées les plaintes et demandes d'indemnités des consommateurs.

La protection requise varie d'une région à l'autre du pays. Tout programme de garantie-rénovation doit prévoir des limites et des formes de protection précises satisfaisant des besoins particuliers.

D'après l'expérience des Programmes de garantie de maisons neuves et le peu de données connues, le programme de garantie-rénovation pourrait offrir les formes de protection suivantes:

1. Protection des acomptes

Il faudrait une protection limitée des acomptes, comme façon d'encourager les consommateurs à agir avec sérieux, quand ils avancent des fonds aux entrepreneurs en rénovation. La protection pourrait se limiter à un pourcentage de la valeur du contrat de rénovation, jusqu'à concurrence d'un montant maximal.

2. Garantie du travail et des matériaux

Cette protection durerait un an et protégerait le rénovateur; c'est dire qu'elle ne prendrait effet que si le rénovateur négligeait de respecter les dispositions de sa garantie.

Il faudra adopter, en matière d'exécution, des lignes de conduite que les rénovateurs devront respecter.

Les dispositions de la garantie devront tenir compte des répercussions possibles des nouveaux travaux et matériaux sur la structure existante. Pour préciser la protection, il serait par exemple possible de la limiter aux nouveaux travaux et matériaux énoncés dans le contrat liant le rénovateur et son client.

3. Vices de construction importants

Cette protection prolongerait d'autant, la période de garantie d'un an sur le travail et les matériaux. Elle pourrait faire l'objet des mêmes limites de protection financière que pour la première année de garantie. La garantie contre les vices de construction importants offrirait une protection contre les défaillance des éléments porteurs de la charpente de la maison, par suite de modifications ou d'ajouts précisés dans le contrat de rénovation.

Il faudra élaborer des directives visant précisément la nature des vices de construction importants et les obligations du rénovateur.

Les garantie relèverait des responsabilités prévues par le programme de garantie, sauf dans les cas de négligence de la part du rénovateur. À cette fin, fait preuve de négligence le rénovateur dont les actes risquent vraisemblablement de causer des vices et qui, le sachant, ne prend aucune mesure pour redresser la situation.

4. Règlement des plaintes

La garantie comprendrait aussi un processus de conciliation que le propriétaire ou le rénovateur pourrait amorcer en versant un droit remboursable, une fois prouvé le sérieux du grief.

5. Agrément des entrepreneurs en rénovation

Des méthodes devront être élaborées, qui permettront de déterminer si les rénovateurs possèdent les compétences requises pour être agréés à un programme de garantie, compte tenu de leurs capacités techniques et financières et de certaines données pertinentes.

L'ampleur et la diversité de cette industrie si complexe rendront le tri difficile.

Les points suivants doivent être envisagés préalablement à la mise en oeuvre d'un programme de garantie-rénovation:

1. Chaque programme établi doit faire l'objet de projections visant l'exploitation et les pertes, afin que le montant nécessaire au financement de l'administration, des pertes et des primes d'assurance soit réservé sur chaque droit d'inscription perçu.
2. Dans la mesure du possible, les programmes de garantie-rénovation devront prévoir une entente d'assurance générale qui réduira le montant des primes versées pour chaque programme, en offrant à l'assureur, une prime totale plus élevée. Puisque des personnes morales distinctes verront vraisemblablement le jour à des moments différents, dans les diverses régions du pays, ce concept n'est réalisable qu'après le lancement de deux programmes de garantie-rénovation. La participation d'un certain nombre de programmes à une entente d'assurance globale réduirait le montant de la prime totale, accroîtrait l'étalement du risque et, partant, représenterait une épargne considérable pour les participants, tout en offrant une formule encore aussi attrayante pour l'assureur.
3. L'entente d'assurance favorisée est celle qui stipule que seul le coût de l'assurance, et non le montant des pertes, doit être versé aux assureurs. En conséquence, le programme de garantie-rénovation sera en mesure de gagner de l'intérêt sur les fonds réservés aux pertes éventuelles.
4. Tout programme de garantie-rénovation devra viser au moins 5 000 inscriptions par année pour offrir un barème de droits acceptable.

Le programme ne pourra atteindre ce niveau minimum d'activité sans l'appui total de l'industrie.

5. Des sociétés constituées selon les lois fédérales devront être utilisées pour assurer la cohérence dans l'ensemble du pays.

La Partie 2 de la Loi sur les corporations canadiennes correspondant au libellé de la Loi de l'impôt sur le revenu, en ce qui concerne les sociétés sans but lucratif, les risques de problèmes reliés au statut fiscal devaient s'en trouver réduits.

Le comité reconnaît qu'il a été difficile de chercher à créer un régime national de garantie des maisons neuves et recommande, comme étant la solution la plus pratique, le recours, régionalement, à des sociétés constituées en vertu de lois fédérales.

1.4 AUTRES RECOMMANDATIONS ET OBSERVATIONS

Les efforts déployés pour informer le public, dont témoigne la publication des brochures "Les relations avec l'entrepreneur" de la Société canadienne d'hypothèques et de logement, et "Plans, Permits & Payments - Home Renovations and Improvements" du Ministère des affaires municipales et du logement de l'Ontario, doivent être poussés plus loin et coordonnés en vue de l'utilisation maximale des ressources disponibles dans l'ensemble du pays.

Les organismes qui reçoivent les plaintes des consommateurs concernant des travaux de rénovation, doivent penser à classer les plaintes d'une façon qui démontrera le besoin de protection du consommateur dans des domaines particuliers. Avec ces preuves à l'appui, il sera possible d'évaluer plus précisément le besoin d'un régime de garantie.

La série de cours de formation conçus par la Société canadienne d'hypothèques et de logement et actuellement au programme de bon nombre de collèges communautaires canadiens devraient être ouverts au plus grand nombre d'entrepreneurs en rénovation possible, et coordonnés aux autres cours offerts, dans le but de maximiser l'utilisation des ressources.

Il faudrait envisager, pour tout programme de garantie établi, d'adopter les cours comme critère d'adhésion, afin d'encourager les membres de l'industrie à les suivre.

Le Comité est d'avis que, de préférence, l'industrie doit se réglementer elle-même, avec l'appui et la collaboration du gouvernement, plutôt que d'être assujettie à un programme de garantie ayant force de loi et qu'elle n'appuierait pas entièrement.

Il faut tenir compte, dans la rédaction des contrats de vente destinés aux rénovateurs, du texte des lois provinciales applicables aux ventes conclues chez les consommateurs, par opposition à celles qui se déroulent dans les bureaux des rénovateurs. Les règles diffèrent d'une province à l'autre, et les formules de contrat doivent y correspondre.

Les documents compris dans ce rapport ont été examinés par M. W.A. Johnson, expert-conseil juridique pour le projet, mais ne doivent pas être utilisés dans quelque circonscription que ce soit, sans que le conseiller juridique ne les examine en détail pour en vérifier la conformité avec les lois applicables.