JELD-WEN, INC.'S RESPONSE TO ALLIANCE BUILDING PRODUCTS, INC.'S REQUESTS FOR ADMISSIONS (SET NUMBER ONE)

Defendant/Cross-Defendant/Cross-Complainant JELD-WEN, inc. dba Summit Window & Patio Door (hereinafter "JELD-WEN" or "responding party") hereby responds to the Requests for Production of Documents (Set Number One) served by Defendant/Cross-Defendant/Cross-Complainant Alliance Building Products, Inc. (hereinafter known as "ABP") as follows:
I.

GENERAL CONDITIONS AND OBJECTIONS

1. Object to the request to the extent they call for attorney-client privileged matters, other legally privileged information, or documents subject to the attorney-work product exemption, and shall not produce such documents. All correspondence and notes between Defendants and their counsel shall be withheld on this basis.

2. Object that documents are not organized according to the subject matter categories specified in the request, and reserve the right to produce pertinent files in their normal business order rather than locating specific documents containing the requested subject matter. Documents shall not be organized in response to specific categories in the request, which categories are overlapping and broad. The requesting parties can as easily compile and order such documents upon production.

3. A full or partial response to any request is not to be deemed a waiver of the general conditions and specified objections to such request, nor does it imply that any documents actually exist in the category requested.

4. Responses to each request are based upon presently known information.

5. Object to certain request, specified below, based upon the "right of privacy" which refers to those rights held under the California Constitution, California case law, and such other legal basis as give rise to such protections.

6. Responding party further objects to each and every request to the extent that it seeks documents from persons or entities other than this responding party, and on the ground that such request is costly, burdensome, oppressive, and unreasonable and on further grounds that the law does not require a party to locate documents or compile information in the possession of others.

7. Responding party's research, investigation, discovery and analysis is continuing and thus, responding party makes the responses set forth herein based upon facts and information presently known and available to it.

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8. The following responses are provided without prejudice to responding party's right to rely on different or additional evidence at the time of trial.

9. Responding party further reserves the right to supplement and/or amend the enclosed responses based upon evidence obtained through discovery, and to offer such evidence at the time of trial.

10. The following responses should not be taken as an admission that "facts" assumed or stated in the request or the response exist.

11. Each of the foregoing conditions and objections is incorporated into each of the following responses.

   Based upon the above, responding party responds as follows:

II.

RESPONSE TO REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Admit that JELD-WEN entered into a written contract with WESTERN related to the SUBJECT PROPERTY.

("JELD-WEN" shall refer to JELD-WEN, INC. dba SUMMIT WINDOW & PATIO DOOR, its agents, employees, affiliates, attorneys, accountants, investigators, and anyone else acting on JELD-WEN'S behalf.

"WESTERN" shall refer to defendant WESTERN NATIONAL CONSTRUCTION, its agents, employees, affiliates, subsidiaries, attorneys, accountants, investigators, and anyone else acting on WESTERN NATIONAL CONSTRUCTION'S behalf.

"SUBJECT PROPERTY" shall refer to the apartment project that is the subject of this action and is located at One Pearl Place, 5230 Terner Way, San Jose, CA 95136.)

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. This request is not reasonably calculated to lead to the discovery of admissible evidence. This request calls for a legal conclusion and/or opinion. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Admit.
REQUEST FOR ADMISSION NO. 2:  Admit the written contract between JELD-WEN and WESTERN calls for JELD-WEN to install sliding glass doors.

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. This request calls for a legal conclusion and/or opinion. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Admit.

REQUEST FOR ADMISSION NO. 3:  Admit that the document attached as Exhibit 1 is a true and correct copy of JELD-WEN’s proposal dated August 18, 2000, as it relates to the SUBJECT PROPERTY.

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Admit.

REQUEST FOR ADMISSION NO. 4:  Admit that JELD-WEN’S proposal dated August 18, 2000, included prices for installation of the patio doors.

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. The document speaks for itself and is the best evidence of its own contents. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Deny as phrased.

REQUEST FOR ADMISSION NO. 5:  Admit that the document attached as Exhibit 2 is a true and correct copy of JELD-WEN’s proposal dated August 23, 2000, as it relates to the SUBJECT PROPERTY.

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is
unintelligible. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Admit.

REQUEST FOR ADMISSION NO. 6: Admit that JELD-WEN'S proposal dated August 23, 2000, included prices for installation of the patio doors.

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. The document speaks for itself and is the best evidence of its own contents. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Deny as phrased.

REQUEST FOR ADMISSION NO. 7: Admit that the document attached as Exhibit 3 is a true and correct copy of JELD-WEN's proposal dated May 8, 2002, as it relates to the SUBJECT PROPERTY.

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Admit.

REQUEST FOR ADMISSION NO. 8: Admit that JELD-WEN'S proposal dated May 8, 2002, included prices for installation of the patio doors.

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Deny as phrased.

REQUEST FOR ADMISSION NO. 9: Admit that payment YOU received as it relates to the SUBJECT PROPERTY encompassed installation of sliding glass doors.

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is
unintelligible. This request calls for a legal conclusion and/or opinion. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Deny.

**REQUEST FOR ADMISSION NO. 10:** Admit that there were no modifications to JELD-WEN's contract with WESTERN to remove the requirement to install sliding glass doors.

**RESPONSE:** Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. This request calls for a legal conclusion and/or opinion. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: After diligent search, responding party is unable to admit or deny this request as the information known or readily obtainable is insufficient to enable responding party to admit the matter.

**REQUEST FOR ADMISSION NO. 11:** Admit that there were no change orders removing the installation of sliding glass doors from JELD-WEN's contract with WESTERN.

**RESPONSE:** Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. This request calls for a legal conclusion and/or opinion. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: After diligent search, responding party is unable to admit or deny this request as the information known or readily obtainable is insufficient to enable responding party to admit the matter.

**REQUEST FOR ADMISSION NO. 12:** Admit that there were no verbal modifications to JELD-WEN's contract with WESTERN to remove the requirement to install sliding glass doors.

**RESPONSE:** Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is...
unintelligible. This request calls for a legal conclusion and/or opinion. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: After diligent search, responding party is unable to admit or deny this request as the information known or readily obtainable is insufficient to enable responding party to admit the matter.

**REQUEST FOR ADMISSION NO. 13:** Admit that no one from WESTERN told JELD-WEN that YOU did not need to comply with the contract provision to install sliding glass doors.

**RESPONSE:** Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. This request calls for a legal conclusion and/or opinion. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: After diligent search, responding party is unable to admit or deny this request as the information known or readily obtainable is insufficient to enable responding party to admit the matter.

**REQUEST FOR ADMISSION NO. 14:** Admit that JELD-WEN is in breach of JELD-WEN’S contract with WESTERN as it relates to the provision to install sliding glass doors at the SUBJECT PROPERTY.

**RESPONSE:**

Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. This request calls for a legal conclusion and/or opinion. This request also seeks information protected by the attorney-client and work product privilege. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Deny.

**REQUEST FOR ADMISSION NO. 15:** Admit that JELD-WEN installed sliding glass doors at the SUBJECT PROPERTY.

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RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. This request is unreasonably cumulative and duplicative since the same discovery request has already been propounded upon responding party. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Deny.

REQUEST FOR ADMISSION NO. 16: Admit that JELD-WEN performed warranty REPAIRS to the windows at the SUBJECT PROPERTY.

("REPAIR" or "REPAIRS" includes general repairs performed at the SUBJECT PROPERTY)

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. This request calls for a legal conclusion and/or opinion. This request is not reasonably calculated to lead to the discovery of admissible evidence. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Admit that JELD-WEN performed limited warranty related service work and inspections of its products, when requested.

REQUEST FOR ADMISSION NO. 17: Admit that JELD-WEN performed warranty REPAIRS to the sliding glass doors at the SUBJECT PROPERTY.

RESPONSE: Objection. This request is vague and ambiguous. This request is overbroad and thus unduly burdensome upon responding party. This request is unintelligible. This request is unreasonably cumulative and duplicative since the same discovery request has already been propounded upon responding party. This request is not reasonably calculated to lead to the discovery of admissible evidence. However, without waiving these objections or the preliminary statement of objection and conditions stated above, responding party responds as follows: Admit that JELD-WEN performed limited warranty related service work and inspections of its products, when requested.

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DATED: May 10, 2016

THE SIEVING LAW FIRM, A.P.C.

By:  

LUKE G. PEAR-PEARS-DICKSON
Attorney for Defendant/Cross-Defendant/Cross-Complainant
JELD-WEN, inc. dba SUMMIT WINDOW & PATIO DOOR (erroneously sued herein as separate entities "SUMMIT WINDOW & PATIO DOOR" and "Doe 3: Jeld-Wen, Inc. dba Summit Window & Patio Door")