



homefirst

builders guarantee



**NEW ZEALAND'S
MOST QUALIFIED
BUILDERS**

10 YEAR GUARANTEE
FOR NEW HOMES, ALTERATIONS & ADDITIONS

Table of Contents

This booklet contains:

Introduction

Provides an overview of this product

Guarantee application process

Details the handling of your Guarantee Application by Builtin New Zealand Limited

Builders information and checklist

Provides a checklist of supporting documentation required to be submitted with the Guarantee Application at the time deposit is paid or prior to work commencing, whichever is the earlier.

Guarantee Application

Two page Application requiring information on:

- Parties to the Building Contract
- Dwelling to be constructed

(N.B: We require the Application to be completed in full, and signed by the parties to the Building Contract, otherwise it will be returned.)

Certificate of Practical Completion

Document to be signed by the parties to the Building Contract on completion of the works as agreed under the terms of the Building Contract

Guarantee Wording

Complete copy of the Homefirst[®] Certified Builders 10 Year Guarantee wording
(Any Conditions or Exclusions to the wording will be advised on the Guarantee Certificate.)

Should you have any queries, please contact:



Builtin New Zealand Limited
PO Box 13405
Tauranga 3140
Phone : 0800 237 843
Fax : 07 579 6258
Email : guarantee@builtin.co.nz



The Homefirst® Certified Builders 10 Year Guarantee is provided by Bultin New Zealand Limited and is independently underwritten by CBL Insurance Limited

CBL Insurance Limited (CBL) is New Zealand's largest and oldest established specialist bonding, financial risk & surety company. Established in 1973, CBL is a licensed New Zealand insurer and is regulated by the Reserve Bank of New Zealand. CBL have more than one million homes under guarantee worldwide.

Trust your builder. But get an independent guarantee.

The Homefirst® Certified Builders 10 Year Guarantee is designed to provide you with complete peace of mind when building a new house (or doing alterations or additions), covering:

Loss of deposit

Non-completion of the dwelling

Structural defects for 10 years

Weathertightness for 10 years

Non-structural defects for 2 years

Alternative accommodation

We recommend that you read the terms and conditions of the Guarantee carefully, you are welcome to contact Bultin New Zealand Limited to discuss any questions you might have.

The Guarantee is only available to clients of Homefirst Accredited Builders, who must first meet our criteria for financial solvency, qualifications and experience, ensuring that the building of your home will be undertaken by a highly competent professional builder.

The Homefirst Accredited Builder must use an NZIA Standard Conditions of Contract or other suitable professional Building Contract approved by Bultin New Zealand Limited. These contracts clearly outline the terms and conditions of the relationship between you and the builder, your payment schedule and the terms and conditions of the contract.

You should not:

- ◇ make a payment to the builder in excess of what is stated in the Building Contract;
- ◇ make a payment before the completion of the stage as determined by the Building Contract;
- ◇ commence building without a Building Consent;
- ◇ commence building without an Approved Building Contract;
- ◇ breach any of the terms and conditions contained within the Building Contract.

If you undertake any of the work yourself, engage any sub-trades directly or purchase any materials and/or services directly, the terms of the Guarantee exclude such undertakings.

The Builder must provide to Bultin New Zealand Limited:

The completed Application form, payment of the fee, a copy of the quote/scope of works and a copy of the payment schedule from the Building Contract.

To make a Claim:

For Claims for Non-Completion or Loss of Deposit, telephone Bultin New Zealand Ltd on 0800 BUILTIN (284 584). For Claims for Defects (quality and/or materials) you must first give notice to the builder requiring them to remedy the Defect as well as notifying us.

If the builder fails to do so within a reasonable time please telephone us on 0800 BUILTIN (284 584).

Please Note

Cover under the Guarantee applies from the time that the Application for the Guarantee is accepted by Bultin New Zealand Limited and a Certificate of Guarantee is issued to you.

The Guarantee can be transferred to a future owner if application is made within thirty days of settlement.

We recommend that you and your legal advisors read the terms and conditions of the Guarantee carefully.

Guarantee Application Process

The Builder must provide to Bultin New Zealand Limited the Guarantee Application and supporting documents prior to a deposit being paid, and if no deposit, prior to work commencing.

When you complete the Building Contract with your client, also complete the two page Application form from this Guarantee Booklet.

Immediately upon signing the Building Contract

Please provide the following:

- Original completed Application form;
 - A photocopy of the Building Contract;
 - A photocopy of the detailed Quote / Scope of Works
 - A photocopy of the Building Consent;
- (If you have not uplifted at the time of lodging the Guarantee Application, we will contact you for a copy once the expected date on the Application to uplift the Building Consent form has passed.)
- A cheque for the premium as shown (payable to Bultin New Zealand Limited).

(Please refer to the Checklist in this Guarantee Booklet for any further information.)

We will send to your client:

- covering letter;
- Homefirst[®] Certified Builders 10 Year Certificate of Guarantee;
- Guarantee Wording

We will send to you:

- covering letter;
- Homefirst[®] Certified Builders 10 Year Certificate of Guarantee;
- GST invoice for the fee;
- Statement confirming receipt of the fee.

N.B: If you have not had a response from us within 10 days of sending your Application, please do not hesitate to contact us.

Before construction commences, sent to us:

- A copy of the Building Consent (form 5) if not previously provided

When the house is completed, send to us:

- A copy of the Code Compliance Certificate;
- The original Certificate of Practical Completion (from this Guarantee Booklet).

Information and Checklist for the Builder

1. Complete the Guarantee Application form when signing the Building Contract

2. Post to us the following:

a	Original completed Application form	<input type="checkbox"/>	Date Sent	<input type="text"/>
b	Copy of the Building Consent (Form 5) (if uplifted)	<input type="checkbox"/>	Date Sent	<input type="text"/>
c	Copy of your detailed Quote/Scope of Works	<input type="checkbox"/>	Date Sent	<input type="text"/>
d	Copy of the Building Contract	<input type="checkbox"/>	Date Sent	<input type="text"/>
e	Payment of the Guarantee fee (payable to Bultin New Zealand Limited)	<input type="checkbox"/>	Date Sent	<input type="text"/>
Cost of Guarantee (make sure you have included this cost in the Building Contract				\$ <input type="text"/>

3. When the Contract is completed send us:

- a Original Certificate of Practical Completion
- b Copy of the Code Compliance Certificate

Schedule of Guarantee Fees (incl GST at 15%)

Contract Value (incl GST)		Guarantee Fee (inc GST)	
		Alterations/Additions	New Homes
\$0 to	\$50,000	\$600.00	\$600.00
\$50,001 to	\$100,000	\$700.00	\$700.00
\$100,001 to	\$150,000	\$800.00	\$800.00
\$150,001 to	\$200,000	\$900.00	\$900.00
\$200,001 to	\$250,000	\$1,000.00	\$1,000.00
\$250,001 to	\$300,000	\$1,100.00	\$1,100.00
\$300,001 to	\$350,000	\$1,225.00	\$1,225.00
\$350,001 to	\$400,000	\$1,350.00	\$1,350.00
\$400,001 to	\$500,000	\$1,500.00	\$1,500.00
\$500,001 to	\$600,000	POA	\$1,650.00
\$600,001 to	\$750,000		\$1,825.00
\$750,001 to	\$1,000,000		\$2,000.00
\$1,000,001 to	\$1,500,000		\$2,250.00
\$1,500,001	and above		POA

Note: Any late applications will require a Late Declaration to be signed and may incur an additional fee.

Payment can be made by cheque or direct debit: Bank Account Number: 06 0433 0371966 02

Please post to: Bultin New Zealand Limited
PO Box 13405
TAURANGA 3140





Homefirst Certified Builders 10 Year Guarantee Application



Please ensure this Application is completed in full and submitted prior to building work commencing.

Job No.

Contracting Parties

Builder

Legal Name of Builder

Trading Name (if different to above)

Construction Manager / Supervisor for this Contract

Building Owner

Full Name as Stated in the Building Contract

(IF A TRUST, PLEASE PROVIDE FULL NAMES OF ALL TRUSTEES)

Trust/Company Name	<input type="text"/>			
Mr	Mrs	Ms	Miss	<input type="text"/>
Mr	Mrs	Ms	Miss	<input type="text"/>
Mr	Mrs	Ms	Miss	<input type="text"/>

Postal Address

Post Code

Email Address

Contact Number/s

Intended Use of Domestic Building

Home / Work: Mobile

Self Occupancy Rental Other (SPECIFY)

Contract Site

Situation – Lot No.

DPS

Street Address

Suburb

Town / City

Contract Details

Contract Price \$

Deposit \$

Date Contract Signed

Estimated start date

Estimated completion date

Type of work

Type of Building Contract

<input type="checkbox"/> New	<input type="checkbox"/> Alteration / Addition
<input type="checkbox"/> CBANZ Fixed Price+	<input type="checkbox"/> CBANZ Cost & Margin
<input type="checkbox"/> NZ Standards	<input type="checkbox"/> NZIA
<input type="checkbox"/> Other (SPECIFY) <input type="text"/>	<input type="checkbox"/> CBANZ Design & Build
	<input type="checkbox"/> Spec (no Contract)

If an alteration:

Does Your Contract Include Any Remedial Work No Yes

- If Yes, please advise details of work

Age of Existing Domestic Building years

Construction Details

Type of Roof Pitched Flat Round

Roof Material

Exterior Cladding

1. Are you using logs, straw, mudbricks or blocks or bricks containing elements other than clay or concrete? No Yes

2. Is the exterior cladding to be plastered? No Yes

If yes - 2a. is the plaster over brick or block substrate? No Yes

2b. is the plaster system reinforced? No Yes

How Many Storeys (if more than 2, please provide plans)

How Many Domestic Buildings on the Building Footprint (if more than 1, please provide plans)

Size of Each Domestic Building sqm

Building Consent Authority

Name of Building Consent Authority

Date Building Consent Issued

- If Consent not attached, advise expected uplift date

Who is to uplift Code Compliance Certificate

Builder

Owner

Details of Work Undertaken by the Owner

(All subcontractors, services, material and work arranged, supplied or paid for directly by the owner, are the owner's responsibility and are excluded from the Guarantee. Please list all such work with estimated values.)

	\$
	\$
	\$
	\$
	\$
	\$

Agreements and Declaration

The Building Owner and Builder agree that:

This Application forms the basis of and will be incorporated into the Homefirst[®] Certified Builders 10 Year Guarantee now being applied for by the Builder for the benefit of the Building Owner.

CBL Insurance Limited ("the Company") and/or its representatives are authorised to obtain from any other party information about me/us they consider relevant for the assessment of this Application, which the Company may retain.

The Company and/or its representatives are authorised to disclose information contained in this Application, together with any other information obtained in assessing the Application.

The Homefirst[®] Builders Guarantee being applied for is not effective until the Application has been accepted and the Company has received the appropriate fee. An acceptance letter and Homefirst[®] Certified Builders 10 Year Guarantee Certificate will be sent to the Building Owner as confirmation that the Homefirst[®] Certified Builders 10 Year Guarantee is available to the Building Owner.

The Building Owner agrees that:

The Owner will perform all of the Building Owner's obligations under the Building Contract, and acknowledges that the Building Owner has read and agrees to be bound by the terms and conditions of the Homefirst[®] Certified Builders 10 Year Guarantee.

The Builder agrees that;

The Builder will perform all of the Builders obligations under the Building Contract, and acknowledges that the Builder has read and agrees to be bound by the terms and conditions of the Guarantee and Indemnity.

The Builder will perform all of the Builder's obligations set out under any existing, ongoing, or future regulations or statute relating to the building of this house.

The Building Owner by its authorised signatory declares that all of the information being supplied under this Application is true and correct, and no information has been withheld which may affect the acceptance of this Application.

Company or Trust Name:

Signatories Full Name:

Signatories Full Name:

Signatories Full Name:

Date:

Signature:

Signature:

Signature:

The Builder by its authorised signatory declares that all of the information being supplied under this Application is true and correct, and no information has been withheld which may affect the acceptance of this Application.

Position Within Business:

Signatories Full Name:

Date:

Signature:

**This is an Application only for the Homefirst Certified Builders 10 Year Guarantee.
Should this meet our requirements, acceptance will be by written notification to the Builder and Building Owner.**



Builtin New Zealand Limited
PO Box 13405
Tauranga 3140
Phone: 0800 237 843
Fax: 07 579 6258
Email: guarantee@builtin.co.nz



Certificate of Practical Completion

Guarantee No. Job No.

The Period of Cover under the Guarantee becomes effective from the date possession is taken. However once possession has been taken no Claim can be made under the Guarantee for Workmanship and Building Defects until the Building Owner and the Builder have signed this Certificate. This Certificate must be sent to Bultin New Zealand Limited in order to validate the Guarantee, together with a copy of Code Compliance Certificate (CCC) as issued by the Building Consent Authority (Territorial Authority or Council) where the Builder is required to uplift under the terms of the Building Contract.

Contracting Parties

Builder

Legal Name of Builder Trading Name (if different to above)

Building Owner

Full Name as stated in the Building Contract (IF A TRUST, PLEASE PROVIDE FULL NAMES OF ALL TRUSTEES)

Trust/Company Name

Mr	Mrs	Ms	Miss	<input type="text"/>
----	-----	----	------	----------------------

Mr	Mrs	Ms	Miss	<input type="text"/>
----	-----	----	------	----------------------

Mr	Mrs	Ms	Miss	<input type="text"/>
----	-----	----	------	----------------------

Postal Address (If different to site details) Post Code Preferred contact number Email address

Contract Site

Lot No. DPS Street address Suburb Town / City Is Code Compliance Certificate (CCC) attached Yes No- If No, who is to uplift CCC Builder Owner- When do you expect CCC to be issued

Date of Possession

Possession has been taken on

Agreements and Declaration

The Building Owner by its authorised signatory declares that:

I/We hereby certify that I/we have no knowledge of any action taken by myself or any other party, which might invalidate the Guarantee.

I/We confirm that all payments have been made that are due to the Builder under the terms of the Building Contract.

I/We confirm that there are no disputes or outstanding issues with the Builder.

Company or Trust Name: Date: Signatories Full Name: Signature: Signatories Full Name: Signature: Signatories Full Name: Signature:

The Builder by its authorised signatory declares that:

I/We hereby certify that I have no knowledge of any action taken by myself or any other party, which might invalidate the Guarantee.

I/We confirm that all payments have been made by the Building Owner that are due under the terms of the building contract.

I/We confirm that there are no disputes or outstanding issues with the Building Owner.

Position within business: Date: Signatories Full Name: Signature: **Bultin New Zealand Limited**

PO Box 13405

Tauranga 3140

Phone: 0800 237 843

Fax: 07 579 6258

Email: guarantee@bultin.co.nz



Homefirst[®] Certified Builders 10 Year Guarantee



In consideration of the payment by the Builder of the amount specified in the Application, CBL Insurance Limited ("CBL") will guarantee and indemnify the Builder's obligations to the Building Owner, on the terms and conditions set out herein, subject to the acceptance by CBL of the Application for the benefits provided under this Guarantee & Indemnity. This Guarantee & Indemnity consists of this wording, the Application and the Certificate of Guarantee.

SECTION A: COVERAGE

CBL will, during the Period of Cover specified in Clause 5, guarantee and indemnify the Building Owner named in the Certificate of Guarantee attaching to this Guarantee & Indemnity for loss or damage suffered in respect of the Works as a result of:

- (a) the death, disappearance, or legal incapacity of the Builder;
- (b) the Builder becoming Insolvent (as defined);
- (c) the cancellation or suspension of the Builder's registration under any statutory requirement;
- (d) the early termination of the Building Contract, due to the Builder's wrongful failure or refusal to complete the Works; or
- (e) the Builder's wrongful failure or refusal to rectify Defects,

and arising from any of the following:

1. LOSS OF DEPOSITS

Loss of all or any part of any deposit paid by the Building Owner, provided the Builder has not commenced the Works (excluding site preparation).

Prior to the commencement of the Works on the Building site (excluding site preparation), the liability of CBL shall be limited to any monies paid to the Builder pursuant to the Building Contract, subject however to the limitations herein.

Any Claim for the loss of a deposit, or part thereof, shall be limited to the value of the difference (if any) between the deposit actually paid, and the value of any Works carried out by the Builder pursuant to the Building Contract including the value of any plans, permits, and consents obtained.

The liability of CBL as a result of the loss of all or any part of any deposit paid by the Building Owner to the Builder, pursuant to Clause 1, shall not exceed twenty per cent (20%) of the Contract Price, or \$50,000, whichever is the lesser.

OR

2. NON-COMPLETION

The failure by the Builder to complete the Works.

The liability of CBL as a result of Non-Completion of the Works by the Builder shall be limited to the cost of completing the Works after payment of the Contract Price by the Building Owner, but in any event shall not exceed twenty per cent (20%) of the Contract Price, or \$100,000, whichever is the lesser.

OR

3. DEFECTS & WEATHERTIGHTNESS

The failure by the Builder:

- (a) to supply materials used in construction of the Works that are in good order, suitable for the purpose for which they will be used, and new, unless otherwise stated in the Building Contract;
- (b) to carry out the Works with reasonable care and skill, in a proper and competent manner, and in accordance with the plans, standards, quality, specifications, including manufacturers specifications, laid down under the Building Contract, and will be completed by the date (or within the period) specified in the Building Contract, or, if no date is so specified, within a reasonable time;
- (c) to carry out the Works in accordance with and in compliance with all relevant laws and regulations, including inter alia the Building Act 2004 and the regulations, and the relevant Building Consent;
- (d) to ensure that the Domestic Building, if it is to be occupied on completion of the Works will be suitable for occupation at the time of completion of the Works; and
- (e) where the Building Contract states the particular purpose for which the Works are required, so as to show that the Building Owner relies on the Builder's skill and judgment, then to carry out the Works and to utilise materials that might reasonably be required to achieve that purpose, and be of such a nature and quality that they might reasonably be expected to achieve that result.

The liability of CBL as a result of a breach of the Builder's obligations referred to in Clause 3 shall not exceed fifty per cent (50%) of the Contract Price, or \$1,000,000, whichever is the lesser.

AND

4. ALTERNATIVE ACCOMMODATION

CBL will also reimburse the Building Owner for the cost of alternative accommodation and removal and storage costs that are reasonably and necessarily incurred by the Building Owner as a result of an event referred to in Clauses 2 and 3 – up to a maximum period of 30 days.

PERIOD OF COVER

5. The period of cover will commence on the date of the signing of the Building Contract or Commencement of the Works (whichever is the earlier) and will end:

in the event of loss arising under:

(a) **Section A 1:**

Loss of Deposit – until commencement of the Works.

(b) **Section A 2:**

Non-Completion – until the Completion Date of the Works.

(c) **Section A 3: Defects**

A Non-Structural Defect - Two (2) years from the Possession Date of the Works;

or

A Structural Defect – from the Possession Date of the Works until the Expiry Date shown in the Certificate of Guarantee.

SECTION B: LIMITATIONS

6. CBL shall not be liable for any legal costs or expenses.
7. CBL shall not be liable for any additional loss or damage caused by the delay on the part of the Building Owner in notifying CBL or the Builder of a fact or circumstance giving rise to a possible Claim.
8. CBL shall not incur any liability under Clauses 1 or 2 due to Loss of Deposits or Non-Completion of the Works, or for any loss arising from non compliance with any regulations where the Building Owner is a Developer, and any other liability incurred by CBL shall be limited to liability under Clause 3 but only in respect of any subsequent owner (not being a developer), of the building or land in respect of which the Works are being carried out.
9. Where the loss or damage under this Guarantee & Indemnity is also covered by any other policies of insurance or indemnity agreements, then the liability under this Guarantee & Indemnity shall only provide indemnity in excess of the amount for which the Building Owner is entitled to indemnity under such other policies or indemnity agreements.
10. If the land on which the Works are being carried out are subject to multiple titles under the Unit Titles Act 2010 or to cross leasing or otherwise in multiple ownership, and a Claim is paid by CBL in respect of common property of the property or multiple complex, then the amount of cover shall be reduced by an amount equal to the amount paid under the Claim, divided by the number of homes comprising the complex.
11. CBL will not be liable for any fines, penalties, or liquidated damages arising from the actions or conduct of the Builder.
12. CBL shall not be liable for any loss arising from Structural Defect or Non-Structural Defect that does not meet the requirements of the "Guide to Acceptable Tolerances" as published from time to time.

SECTION C: CLAIMS

13. The Building Owner must:
 - (a) notify both the Builder or CBL or its appointed representative promptly in writing upon becoming aware of some fact or circumstance that may give rise to a Claim under this Guarantee & Indemnity, and CBL will not be liable for any loss or damage where the Building Owner does not make a Claim within 90 days of first becoming aware of the fact or circumstance giving rise to the possible Claim;
 - (b) comply with the reasonable directions of CBL or its appointed representative, and take reasonable precautions to avoid or minimise loss or damage under this Guarantee & Indemnity;
 - (c) not undertake any remedial or rectification works without first notifying CBL or its appointed representative, unless the works are necessary to prevent further loss or damage;
 - (d) provide CBL (or any person appointed by CBL) reasonable access to the Domestic Building or Building site for the purpose of inspection and rectification or completion of the Works;
 - (e) facilitate the subrogation of its rights to CBL and, if required by CBL, shall prosecute any Claim for indemnity or damages to recover amounts paid by CBL to the Building Owner, or any other party;
 - (f) not admit, exclude, or limit its rights against CBL or any other party, or settle or defend any Claims without the prior written approval of CBL;
 - (g) allow CBL (at the option of CBL), to take full conduct of any proceedings on behalf of, or against the Building Owner, and must provide all information and assistance, which CBL may reasonably require, for such proceedings.
14. The Building Owner may not make a Claim under this Guarantee & Indemnity unless:
 - (a) all sums properly due and payable under the Building Contract (including release of any retentions) have been paid by the Building Owner to the Builder; and

- (b) at any time after Possession Date a Certificate of Practical Completion has been signed by the Builder and the Building Owner, and where the Builder is a Residential Property Developer under section 7 of the Building Act 2004, the Building Consent Authority has issued a Code Compliance Certificate or the Building Owner and the Builder have entered into a separate agreement under Section 364(2) of the Building Act 2004.
15. The Building Owner, CBL, and the Builder agree that:
- (a) The terms of this Agreement and any disputes arising under it, are confidential to the Parties; and
- (b) They will not make any announcements or disclosures relating to this Agreement or any Claims, liens, or circumstances arising under this Agreement without the prior written approval of the others unless the law requires otherwise.
16. The Excess payable by the Building Owner in respect of each Claim where the Claim is made under:
- | | | |
|----------|--|------------|
| Clause 1 | | NIL |
| Clause 2 | | NIL |
| Clause 3 | (a) Within three months of the Possession Date; | NIL |
| | (b) After three months, but within twelve months of Possession Date; | \$ 500.00 |
| | (c) After one year, but within three years of Possession Date; | \$ 750.00 |
| | (d) After three years of Possession Date; | \$1,000.00 |
| Clause 4 | | NIL |

Where any one Claim under Clause 3, relates to more than one Defect, then the Excess will only be applied once in respect of that Claim. Any Claim made under this Guarantee & Indemnity must be made within the Period of Cover specified in Clause 5.

SECTION D: EXCLUSIONS

17. CBL shall not be liable for any Claim for loss or damage:
- (a) where the Works are completed by a Builder who is not an Approved Builder as defined under this Guarantee & Indemnity;
- (b) arising from any malfunction in any electrical or mechanical appliances except where the malfunction is attributable to the workmanship or other fault of the Builder as part of the Works;
- (c) to retaining structures, unless such Works are integral to the Domestic Building construction, and require the issue of a Building Consent under the Building Act 2004, and the loss or damage to the Works;
- (i) could result in water penetration into a Building;
- (ii) could adversely affect health or safety; or
- (iii) are not completed for a reason listed under Section A;
- (d) for Works outside the Building Envelope, including but not limited to any landscaping, fencing, driveways or paths, swimming pools, spas or saunas, and any main supply services or drains including septic tank systems, other than those which are not completed for a reason listed under Section A:2 – Non Completion;
- (e) from an event which is normally covered by a policy of general insurance or appliance warranty;
- (f) where the Works are carried out using framing timber for exterior walls that is not treated against decay to a standard of at least H1 Plus, unless the cladding is brick veneer with a ventilated drained cavity of at least 40mm.
- (g) where a water drying or drainage system is not in place (where face-fixed and sealed wall claddings are used);
- (h) arising from any seepage, pollution, mould, contamination, war (whether declared or not), invasion, rebellion, nuclear radiation, or expropriation, confiscation or nationalisation by or under order of any Government, Public, or Local authority;
- (i) arising from exposure of natural timbers, or the normal drying out, or any other fair wear and tear of the Works;
- (j) aesthetic variance due to inability to match materials, colours or finishes in remedial work or between remedial work and existing work;
- (k) arising from, or made worse by, the failure of the Building Owner to employ and maintain reasonable action or protection measures to minimise any loss or damage from borer or other pest infestation;
- (l) arising from an act of God, earthquake, or act of nature, the force of which exceeds that allowed for under any New Zealand Standard;
- (m) arising from any personal injury;
- (n) for loss of use, or any consequential loss of any kind, including but not limited to fines, penalties, liquidated damages, except as provided under Clause 4;
- (o) arising from the failure to obtain Producer Statements in respect of work completed prior to the making of any claim under this Guarantee and Indemnity;
- (p) arising from a Contractual dispute between the Builder and the Building Owner;
- (q) demolition of any kind;
- (r) for Variations to the Building Contract amounting to more than 10% (ten per cent) in total of the Contract Price, as set out on the Certificate of Guarantee, unless expressly agreed to by CBL;
- (s) where specified exclusions have been added to the Certificate of Guarantee.
- (t) arising from the use of any product, process, system or service that has been specifically excluded and notified to the Building Owner prior to the Acceptance of the Application (Specified Exclusion Schedule).
- (u) where the failure of product or products to meet the specifications for which they were designed has occurred.
- (v) where the Building Owner has overpaid the Builder by more than 20% (twenty per cent) of the value of completed works.

SECTION E: GENERAL

19. The liability of CBL under this Guarantee & Indemnity shall extend to any acts or omissions of any party contracted to the Builder in performing the Works, resulting in the loss or damage referred to under Clauses 1 to 3.
20. CBL may, at its sole option, meet its obligations or any part of them, by arranging an alternative builder to carry out or complete the Works.
21. CBL may decline any claim hereunder, or, on the giving of 30 days notice in writing, cancel the cover provided under this Guarantee & Indemnity to the Building Owner if the Building Owner;
 - (a) makes a false, fraudulent or misleading Claim under this Guarantee & Indemnity;
 - (b) breaches its duty of utmost good faith to CBL;
 - (c) agrees to the cancellation following termination of the Building Contract that required the issue of this Guarantee & Indemnity.The cancellation shall take effect thirty (30) days after CBL gives written notice.
22. CBL shall not cancel this Guarantee & Indemnity, or avoid liability, or otherwise refuse to make a payment under this Guarantee & Indemnity to the Building Owner on the grounds that the Builder:
 - (a) makes a false, fraudulent or misleading Claim under this Guarantee & Indemnity;
 - (b) breaches its duty of utmost good faith to CBL;
 - (c) fails to comply with a directive of CBL, or fails to comply with the provisions of this Guarantee & Indemnity.
23. Where CBL makes a payment under this Guarantee & Indemnity, CBL shall be entitled to recover any such payment made from the Builder and/or the Builder's sub-Contractors, agents, employees, architects, engineers or other advisors.
24. The benefits of this Guarantee & Indemnity may be transferred to a subsequent purchaser providing the prior approval of CBL is obtained, and payment of a transfer fee of \$250.00 is paid within thirty (30) days of the sale to the subsequent purchaser, and provided a statement of no known defects is provided to CBL by the Building Owner and the subsequent purchaser, immediately prior to the transfer.
25. The Builder warrants to the Building Owner and CBL that it will comply with each and all of the Builders obligations referred to or implied in this Guarantee & Indemnity.
26. Any notice to the Building Owner may be delivered or posted or sent by fax to the last known address of the Building Owner, and shall be deemed given in the case of posting, by the next working day after posting.
27. Every notice or communication to CBL shall be in writing to the office of the Agent of CBL:



Homefirst Builders Warranty Services
Builtin New Zealand Limited
104 Spring Street
P O Box 616
Tauranga 3140

Phone: (07) 579 6259
Fax: (07) 579 6258
Email: guarantee@builtin.co.nz

and shall not be deemed to be notice to or with the knowledge of CBL unless so given. If the address of CBL's Agent above ceases to be its address, then such replacement address as is published by the Agent will be the new address for notification or communication to CBL.

SECTION F: DEFINITIONS

- "Application"** means the Application made to CBL for a Guarantee & Indemnity and signed by both the Builder and the Building Owner.
- "Approved Builder"** means a Builder which has made application to, and been accepted by CBL for the issue of this Guarantee & Indemnity.
- "Builder"** means the Builder specified in the Certificate of Guarantee.
- "Building Consent"** means the Building Consent issued by the relevant Authority under the Building Act 2004 for the Works.
- "Building Contract"** means the Domestic Building Contract entered into between the Builder and the Building Owner for the carrying out of the Works, and is referred to in the Certificate of Guarantee.
- "Building Envelope"** means the assemblies, components and materials of a building that are intended to separate and protect the interior space of the building from the adverse effects of exterior climatic conditions
- "Building Footprint"** means the area of a Domestic Building formed by the perimeter of the foundation.
- "Building Owner"** means the person for whom the Domestic Building is being built under the Building Contract, and as named on the Certificate of Guarantee, and specifically excludes:
 - a) where the Builder is a natural person, the Builder or a relative of the Builder;
 - b) where the Builder is a partnership, a present (or former) partner of the Builder or a relative of a present (or former) partner of the Builder;
 - c) where the Builder is a company, the Builder or a related body corporate or a related entity of the Builder or a relative of any (past or present) director or shareholder of the Builder.

"Building Site" means the area where Domestic Building Works will be undertaken.

"Certificate of Guarantee" means the Certificate issued by CBL and attaching to this Guarantee & Indemnity.

"Certificate of Practical Completion" means a written statement confirming the date on which the Builder completed the work to the stage of Practical Completion.

"Claim" means where the context permits, a Claim made by the Building Owner under this Guarantee & Indemnity.

"Completion Date" means the date of Practical Completion of the Works.

"Contract Price" means the total price pursuant to the Building Contract, and stated in the Application, but excluding any project management fees.

"Developer" means any Building Owner who is building for the purpose of resale and not personal occupation.

"Disappearance" means cannot be found after due search or inquiry.

"Domestic Building" means the Domestic Building to be constructed under the Building Contract, but excludes:

- (a) three (3) or more Domestic Buildings on the same Building Footprint or under a common structure;
- (b) any Domestic Building in excess of three (3) stories, including any basement.

"Excess" means the part of each and every Claim that is the responsibility of the Building Owner.

"Goods & Services Tax" (GST) All limits, amounts or excesses shown are GST inclusive

"Guarantee & Indemnity Period" means the period of the Guarantee & Indemnity specified in Clause 5.

"Guide to Acceptable Tolerances" is an advisory resource to assist CBL and/or its agents to determine whether a particular issue is deemed to be a Structural Defect or Non-Structural Defect and to set out in a single document a reasonable position on tolerances that a building professional will consider in determining whether a building element has been installed and/or constructed to an acceptable standard that will be applied to non-regulated aspects of domestic building construction. The Guide is available to the Building Owner upon request.

"Insolvent" is where the Builder becomes bankrupt, or is put into Receivership, Liquidation or Administration, or enters into a scheme of arrangement or a New Zealand High Court sanctioned compromise of the Builder's creditors.

"Non-Structural Defect" in relation to a Domestic Building, means a Defect in the Works other than a Structural Defect.

"Personal Injury" means bodily injury, death, sickness, disease, shock, fright, mental anguish, false arrest or imprisonment, wrongful eviction, wrongful detention, malicious prosecution, humiliation, libel, slander, or assault or battery.

"Possession Date" means the date the Builder gives Possession of the Domestic Building to the Building Owner or Completion Date, whichever is the earlier.

"Practical Completion" means when the Works have been completed except for minor defects and/or omissions which do not prevent the Works from being used for their intended purpose; and which can be remedied in the defects period or at such other agreed time by the Builder without causing unnecessary inconvenience to the Building Owner.

"Structural Defect" in relation to a Domestic Building, means any Defect in a Structural Element of the Domestic Building that is attributable to defective design, defective or faulty workmanship or defective materials (or any combination of these) that:

- (a) results in, or is likely to result in, the Domestic Building or any part of the Domestic Building being required by or under any law to be closed or prohibited from being used; or
- (b) prevents, or is likely to prevent, the continued practical use of the Domestic Building or any part of the Domestic Building; or
- (c) results in, or is likely to result in the destruction of the Domestic Building or any part of the Domestic Building;
- (d) results in, or is likely to result in, a threat of imminent collapse that may reasonably be considered to cause destruction of the Domestic Building or physical damage to the Domestic Building or any part of the Domestic Building; or
- (e) permits unintended penetration of water materially and adversely affecting the habitability of the Domestic Building.

"Structural Element" in relation to a Domestic Building, means:

- (a) any internal or external load-bearing component of the Domestic Building that is essential to the stability of the Domestic Building or any part of it, including (but not limited to), foundations, floors, walls, roofs, columns and beams; or
- (b) any component (including weatherproofing) that forms part of the external walls or roof of the Domestic Building.

"Variation" means any change to the quantity, character, method, sequence or quality of any part of the Work; any work that is added or omitted by oral or written instruction or request of the Building Owner or their representative; any work required but not called for in the plans and drawings or specification forming part of the Building Contract documents; or any other circumstance described in Building Contract which is, or is to be treated as, a Variation.

"Works" means the Domestic Building Work required pursuant to the Building Contract.



www.builtin.co.nz