



Master Build  
Services Ltd

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# Master Builders New Zealand 10 Year Standard - NCC

Master Build

10 Year Standard - NCC Guarantee

Certificate

*After Completion of the Building Contract*

Master Build Guarantee No **172189**

for the dwelling at 47 Lingarth Street, AUCKLAND

**Owner**

CY Lingarth Investment Ltd

**Builder**

Farrys Construction Limited

**Acceptance Date of Guarantee**

06 Oct 2017

**Guarantee cover after completion of the Building Contract:**

- **Defects in Workmanship and Materials** - expires on 07 Aug 2020
- **Structural, including Rot and Fungal Decay** - expires on 06 Oct 2027

**Guarantee expiry date**

06 Oct 2027

**Maximum Aggregate Cover**

The maximum aggregate cover provided for the duration of this guarantee is \$400,000.00

***This is a summary only and does not provide all inclusions and exclusions of the Guarantee. Please refer to the Terms and Conditions for more detailed information.***

# The 10 Year Master Build Guarantee

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WELCOME

[masterbuild.org.nz](http://masterbuild.org.nz)



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## Disclosure information

There is debate and uncertainty as to if and when the Consumer Guarantees Act 1993 remedies apply to building work, and if and when the Fair Trading Act 1986 "extended warranty agreement" provisions apply to building guarantees. In any event, the Master Build Guarantee does not impact on the types of remedies provided by that legislation. The purpose of the Master Build Guarantee is that you have a third party, MBS, standing behind the builders' obligations.

The Owner may cancel their Master Build Guarantee within 5 working days of receiving written confirmation of Acceptance of the Guarantee, in which case, the purchase price of the Guarantee will be refunded by MBS, and any cancellation refund made by MBS will be made to the person that made payment of the Guarantee purchase price to MBS.

The Owner may cancel their Master Build Guarantee (within 5 working days of receiving written confirmation from MBS of Acceptance of the Guarantee) by sending notice of cancellation to MBS. That notice should set out the Owner's name, the address of the property, the Guarantee number and clearly state that the Owner wishes to thereby cancel the Guarantee.

Each guarantee product provides varying levels of cover over 10 years from Acceptance of the Guarantee and the purchase price of the Guarantees vary from \$500 – \$2950 depending on the Guarantee product chosen. The relevant rights and obligations of both the Owner and MBS are set out in this Guarantee document.



Master Build Services Limited  
PO Box 1796  
Wellington



Phone for advice  
0800 269 119



Email  
[info@masterbuild.org.nz](mailto:info@masterbuild.org.nz)

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# The Master Build Guarantee

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**Thank you for choosing a Master Build Guarantee. For more information ask your builder or go to [www.masterbuild.org.nz](http://www.masterbuild.org.nz).**

Master Build Services (MBS), which is a wholly owned subsidiary of the Registered Master Builders Association of New Zealand Incorporated (RMBA), provides the Guarantee. Only Registered Master Builders are able to offer Master Build Guarantees to their clients.

A number of different Master Build Guarantee products are available; please refer to the summary of cover provided by each Guarantee product on the next page. Each Guarantee product provides varying levels of cover and some of the products are applicable to certain types of building contracts only.

This summary of cover does not provide all of the detailed inclusions and exclusions of the Guarantee products and further details of cover are provided within the Terms and Conditions.

The Master Build Guarantee is neither a contract of insurance or indemnity; nor is it a maintenance contract.

## ***Guarantee Process***

As the Owner you must ensure that you:

- read and understand the Guarantee Terms and Conditions and cover provided for your selected product.
- sign a Guarantee Application and ensure it is sent to MBS prior to any work commencing. No Guarantee Application will be accepted after Practical Completion.
- receive confirmation of Acceptance from MBS within 14 days of signing the Guarantee Application.
- send a Notice of Practical Completion to MBS once the Dwelling or Works has been practically completed.
- apply for Transfer of the Guarantee within 90 days of settlement where the Property is sold.

## ***Owner to Notify/Contact MBS***

As the Owner you **must notify/contact MBS** on either 0800 269 119 or [info@masterbuild.org.nz](mailto:info@masterbuild.org.nz) if:

- you have not received confirmation of Acceptance from MBS within 14 days of signing the Guarantee Application or permanent works have not commenced within 5 months of Acceptance of the Guarantee.
- there is any significant change of circumstances with the Building Contract, e.g. a change of builder, payment conditions change, or scope of works.
- you have discovered any Defect which may give rise to a claim under the Guarantee. Prompt notification is required to both MBS and the Registered Master Builder.

## ***Owner must request written consent from MBS***

As the Owner you **must request written consent** from MBS if:

- you wish to make payments for more than the value of work received. An important guide to suggested deposits, staged payments and final payments is at the back of this Guarantee booklet.
- you wish to terminate the Building Contract (mutually or otherwise).

## Product Summary of Cover

All dollar values below are GST inclusive. Contract Price is exclusive of land and peripherals (e.g. landscaping)

GUARANTEE TYPE	Kiwi	Standard	Premium		
	Full Cover	Full Cover	Full Cover		
GUARANTEE COVER AVAILABILITY					
<b>Work Eligible</b> Where Contract Price is:	Less than \$100,000	Any price	More than \$200,000 required		
<b>Indicative Fee</b>	\$500	\$1300 (\$950 without Completion Cover)	\$2950 (\$2,250 without Completion Cover)		
GUARANTEE COVER PROVIDED				LEGISLATIVE PROTECTION PROVIDED	
				Building Act	Consumer Guarantees Act
<b>Loss of Deposit</b> Upon signing contract – the lesser of:	\$5,000 or 5% of Contract Price	\$20,000 or 5% of Contract Price	\$40,000 or 5% of Contract Price	No protection	No protection
<b>Non-Completion</b> Upon permanent work starting – the lesser of:	No Cover	\$40,000 or 10% of Contract Price	\$100,000 or 10% of Contract Price	No protection	No protection
<b>Remedial Works</b> Upon permanent work starting – the lesser of:	\$20,000 or 20% of Contract Price	\$20,000 or 5% of Contract Price	\$40,000 or 5% of Contract Price	No protection	No protection
<b>Defects in Workmanship</b> Upon Practical Completion:	2 years	2 years	3 years	1 year implied warranty	Possible limited cover
<b>Defects in Materials</b> Upon Practical Completion:	2 years	2 years	3 years	1 year implied warranty	Possible limited cover
<b>Structural Defects</b> From Acceptance of Guarantee:	10 years	10 years	10 years	10 year maximum with 6 year statute of limitation	No protection
<b>Rot and Fungal Decay</b> From Acceptance of Guarantee:	10 years	10 years	10 years	10 year maximum with 6 year statute of limitation	No protection
<b>Maximum Aggregate Cover</b> The lesser of:	\$100,000 or Contract Price	\$400,000 or Contract Price	\$1,000,000 or Contract Price		

NEW HOME GUARANTEE APPLICATION FORM		Guarantee No.
Guarantee Product required (select only one):		
<b>KIWI</b> <input type="checkbox"/>	<b>STANDARD</b> <input type="checkbox"/>	<b>PREMIUM</b> <input type="checkbox"/>
<b>WARNING</b>		
This is an application only. MBS shall not be liable for any claim unless this completed Guarantee Application has been accepted by MBS. Both the Owner and the Registered Master Builder should read all the Terms and Conditions (including Definitions) of the Guarantee prior to completing and signing this Guarantee Application.		
<b>REGISTERED MASTER BUILDER:</b> (use your RMBA name on this form and the Building Contract, not your trading name)		
RMBA Name:	ID No:	
<b>DWELLING or WORKS TO BE GUARANTEED:</b>		
Address/Location:	Lot No:	
	DP No:	
<b>CONTRACTED WORK</b>		
Contract Price (see definition) \$	Size (area of Dwelling or Works in m <sup>2</sup> ):	
Estimated Start Date:	Estimated Completion Date:	
Type of Contract: Full Contract <input type="checkbox"/> Labour Only <input type="checkbox"/> Spec/Showhome <input type="checkbox"/> Builder's Own Home <input type="checkbox"/>		
List any work being carried out either by the Owner or by Separate Contract: (continue on extra page if necessary)		
<b>OWNER OF THE DWELLING/WORKS:</b> (Names must match exactly with those in the Building Contract)		
Name(s): (Please list all Owners or Trustees, as per Building Contract)	Is the Owner a Developer? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Trust Name (if applicable):		
Postal Address:		
Phone:	Email:	Send notifications to: Email: <input type="checkbox"/> Postal: <input type="checkbox"/>
<b>OPTIONAL REMOVAL OF COMPLETION COVER:</b> (Only the Owner may select this)		
The optional Completion Cover components are to be <b>excluded</b> from the Terms & Conditions of the Guarantee. <b>This option is not available for the Kiwi Guarantee.</b> Tick and sign below <b>only if removing this Cover:</b>		
Yes, please remove this cover: <input type="checkbox"/> I understand and have read the terms and conditions		
<input checked="" type="checkbox"/> <b>Signed by each Owner:</b>		
<b>ACKNOWLEDGEMENT AND REPRESENTATION</b>		
This Application Form is part of the Guarantee. The Owner must not sign below unless they have received and read the Guarantee, including the Terms and Conditions of the Guarantee. By signing, the Owner acknowledges and represents that they have been given a copy of and have read the Guarantee and accepts the Terms and Conditions set out in the Guarantee.		
Both the Owner and the Registered Master Builder acknowledge and represent that all details included in this Application Form are true and correct and that there are no pending claims or unresolved disputes between the Owner and the Registered Master Builder.		
In signing this Guarantee application, the signatory thereby declares that the Registered Master Builder is solvent, and able to meet all their/its debts and obligations for the duration of the contract.		
<input checked="" type="checkbox"/> <b>Signed by the Registered Master Builder:</b> (or authorised signatory)	<b>Date:</b>	
<input checked="" type="checkbox"/> <b>Signed by the Owner(s):</b> (each Owner or Trustee named above and in the Building Contract must sign):	<b>Date:</b>	
<b>Owner 1:</b>	<b>Date:</b>	
<b>Owner 2:</b>	<b>Date:</b>	
<b>Other Owners:</b>	<b>Date:</b>	
<b>CHECKLIST AND PAYMENT</b> (Please ensure ALL information required above has been supplied)		
Building Contract attached? Yes <input type="checkbox"/> No <input type="checkbox"/>	Total Fee Paid: \$	MBS Bank Account No: 03 0518 0144252 00
Payment made: Yes <input type="checkbox"/> No <input type="checkbox"/>	Card No:	
Late Application Fee? Yes <input type="checkbox"/> No <input type="checkbox"/>	Name on Card:	Expiry Date: /
Please email this application and supporting documents to: info@masterbuild.org.nz	I authorise Master Build Services Limited to debit my card the total fee payable above.	
Or post to: PO Box 1796, Wellington 6011	Signed:	Date



ADDITIONS & ALTERATIONS GUARANTEE APPLICATION FORM		Guarantee No.
Guarantee Product required (select only one):		
<b>KIWI</b> <input type="checkbox"/>	<b>STANDARD</b> <input type="checkbox"/>	<b>PREMIUM</b> <input type="checkbox"/>
<b>WARNING</b>		
This is an application only. MBS shall not be liable for any claim unless this completed Guarantee Application has been accepted by MBS. Both the Owner and the Registered Master Builder should read all the Terms and Conditions (including Definitions) of the Guarantee prior to completing and signing this Guarantee Application.		
<b>REGISTERED MASTER BUILDER:</b> (use your RMBA name on this form and the Building Contract, not your trading name)		
RMBA Name:	ID No:	
<b>DWELLING or WORKS TO BE GUARANTEED:</b>		
Address/Location:	Lot No:	DP No:
<b>CONTRACTED WORK</b>		
Contract Price (see definition) \$	Size (area of Dwelling or Works in m <sup>2</sup> ):	
Estimated Start Date:	Estimated Completion Date:	
Type of Contract: Full Contract <input type="checkbox"/> Labour Only <input type="checkbox"/> Builder's Own Home <input type="checkbox"/>		
<b>Are the Works remedial works to a leaky building?</b> Yes <input type="checkbox"/> No <input type="checkbox"/> (Please submit elevation plans of the Works)		
List any work being carried out either by the Owner or by Separate Contract: (continue on extra page if necessary.)		
<b>OWNER OF THE DWELLING/WORKS:</b> (Names must match exactly with those in the building contract)		
Name(s): (Please list all Owners or Trustees, as per Building Contract)		
Trust Name (if applicable):		
Postal Address:		
Phone:	Email:	Send notifications to: Email: <input type="checkbox"/> Postal: <input type="checkbox"/>
<b>OPTIONAL REMOVAL OF COMPLETION COVER:</b> (Only the Owner may select this)		
The optional Completion Cover components are to be <b>excluded</b> from the Terms & Conditions of the Guarantee. <b>This option is not available for the Kiwi Guarantee.</b> Tick and sign below <b>only if removing this Cover:</b>		
Yes, please remove this cover: <input type="checkbox"/> I understand and have read the terms and conditions		
<input checked="" type="checkbox"/> <b>Signed by each Owner:</b>		
<b>ACKNOWLEDGEMENT AND REPRESENTATION</b>		
This Application Form is part of the Guarantee. The Owner must not sign below unless they have received and read the Guarantee, including the Terms and Conditions of the Guarantee. By signing, the Owner acknowledges and represents that they have been given a copy of and have read the Guarantee and accepts the Terms and Conditions set out in the Guarantee.		
Both the Owner and the Registered Master Builder acknowledge and represent that all details included in this Application Form are true and correct and that there are no pending claims or unresolved disputes between the Owner and the Registered Master Builder.		
In signing this Guarantee application, the signatory thereby declares that the Registered Master Builder is solvent, and able to meet all their/its debts and obligations for the duration of the contract.		
<input checked="" type="checkbox"/> <b>Signed by the Registered Master Builder:</b> (or authorised signatory)	<b>Date:</b>	
<input checked="" type="checkbox"/> <b>Signed by the Owner(s):</b> (each Owner or Trustee named above and in the Building Contract must sign):	<b>Date:</b>	
<b>Owner 1:</b>	<b>Date:</b>	
<b>Owner 2:</b>	<b>Date:</b>	
<b>Other Owners:</b>	<b>Date:</b>	
<b>CHECKLIST AND PAYMENT</b> (Please ensure ALL information required above has been supplied)		
Building Contract attached? Yes <input type="checkbox"/> No <input type="checkbox"/>	Total Fee Paid: \$	MBS Bank Account No: 03 0518 0144252 00
Payment made: Yes <input type="checkbox"/> No <input type="checkbox"/>	Card No:	
Late Application Fee? Yes <input type="checkbox"/> No <input type="checkbox"/>	Name on Card:	Expiry Date: /
<b>Scope of Works/Plans</b> Yes <input type="checkbox"/> No <input type="checkbox"/>		
Please email this application and supporting documents to: info@masterbuild.org.nz Or post to: PO Box 1796, Wellington 6011	I authorise Master Build Services Limited to debit my card the total fee payable above.	
Signed:	Date	





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# Definitions

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In this document:

**Advance Payment** means a payment where the value of the work completed is less than the amount paid to the Registered Master Builder, or is made before it is due, or any loss or cost arising from any such Advance Payment, unless the payment has been made with the prior written approval of MBS or in accordance with the Staged Payments Schedule contained herein or is a deposit covered under clause 18.1.

**Application** means the completed prescribed Guarantee Application Form contained in this Guarantee document, any required further documents and the Application fee (where applicable).

**Associate** has the meaning set out in Section 7 of the Construction Contracts Act 2002.

**Building Act** means the Building Act 2004 (and the regulations pursuant to this Act), and any subsequent amendments or re-enactments or equivalent replacement legislation. Likewise, terms used in this document that arise by reference to the Building Act and that are defined by the Building Act (including “code compliance certificate” and “building code”) shall be taken to include any equivalent certificate, form or process, or any equivalent rule or regulation, following such an amendment to or re-enactment or replacement of the Building Act.

**Building Contract** means the written and signed contract between the Owner and the Registered Master Builder for the Dwelling or Works and includes plans and specifications. The Building Contract shall be in the form of the appropriate residential building agreement (RBC1 or LOBC) published by RMBA or NZIA Standard Conditions of Contract SCC or NZIA Small Works Contract, or other form of recognised Building Contract approved by MBS for the purpose of the Guarantee.

**Completion Cover** means jointly Loss of Deposit cover as defined in clause 18, Non-Completion cover (if applicable to the Guarantee product) as defined in clause 19 and Remedial Works cover as defined in clause 20.

**Contract Price** means the price (including GST) stated in the Building Contract for the construction of the Dwelling or Works by the Registered Master Builder (excluding the value of any land and peripherals). Where the price is calculated on a cost-plus or charge-out basis, then the Registered Master Builder must give MBS a written estimate of the cost of the Dwelling or Works and this estimate shall be deemed to be the Contract Price for the purpose of the Guarantee. Where the price is for a labour-only contract then the Registered Master Builder must give MBS a written estimate of the price of its labour and this estimate shall be deemed to be the Contract Price for the purpose of the Guarantee.

**Contract Variation** means any change to the contract work under the Building Contract. Contract Variations shall be in writing (save that MBS may, at its discretion, elect to recognise verbal Contract Variations).

**Consequential Damage** means any consequential damage whatsoever, including by way of example only, any damage to the Dwelling or Works as a consequence of a Defect, irrespective of whether the consequential damage is as a result of the subject matter of a claim for Completion, Defect in Materials, Defect in Workmanship or Structural Defect and Rot and Fungal Decay covers.

**Consequential Loss** means any consequential loss whatsoever, including by way of example only, travel expenses, legal costs, rental or alternative accommodation costs, and any loss to the Dwelling or Works as a consequence of a Defect, irrespective of whether the consequential loss is as a result of the subject matter of a claim for Completion, Defect in Materials, Defect in Workmanship or Structural Defect and Rot and Fungal Decay covers.

**Defect** means an inadequacy or failure, relating to Defect in Materials or a Defect in Workmanship or a Structural Defect, each as defined in clauses 21.1, 21.2 and 22.1 respectively.

**Dwelling** means the Residential house, flat, apartment, townhouse, unit or building to be constructed in accordance with the Building Contract at the location nominated on this Guarantee Application.

**Emergency** means an event where a Defect or condition occurs that if not immediately repaired may cause danger to the Dwelling or Works or to its occupants.

**Guarantee** means the Master Build Guarantee applied for and provided on these Terms and Conditions.

**Late Application** means an application received by MBS after Permanent Works have commenced and prior to the Practical Completion Date.

**Leaky Building** means a Dwelling that has been identified as being or likely to be a Dwelling into which water has penetrated as a result of any aspect of the design, construction, or alteration of the Dwelling, or materials used in its construction or alteration.

**MBS** means Master Build Services Limited.

**Multi-Unit Development** means a development or building, or series of buildings, which includes six or more Dwellings which are erected by the Registered Master Builder, and irrespective of whether the Dwellings are erected on separate titles, or as part of a staged development project, or concurrently or over separate time periods.

**New Owner** means the person or persons named as Transferee in the Request for Transfer Form, when the context so requires this may also include the New Owner's duly authorised agent.

**Non-Approved Materials** includes materials that, in MBS's opinion, do not comply with an appropriate Australian or New Zealand standard, or materials which are second-hand or which have been recycled; and includes earth or straw based products and materials; unpainted exterior cladding, excluding brick veneer; and use of colours with a non-approved light reflective value.

**Owner** means the person or persons named in the Guarantee Application Form who own or lease the land on which the Dwelling is to be constructed or the Dwelling in which the Works are to be undertaken and who has entered into the Building Contract with the Registered Master Builder; or the person or persons named as Transferee in the Request for Transfer Form. When the context so requires "Owner" may also include the Owner's duly authorised agent (e.g. architect or project manager).

**Permanent Work** means any work that has been completed that is of a fixed and/or permanent nature.

**Practical Completion** occurs when the Dwelling or Works have been completed, except for minor Defects and/or omissions which do not prevent the Dwelling or Works from being used for their intended purpose, and which can be remedied in the maintenance period or at such other agreed time by the Registered Master Builder without causing unnecessary inconvenience to the Owner.

**Practical Completion Date** means the deemed Practical Completion Date as defined in clauses 29 to 32.

**Property** is the land and any building thereon, where the Works are being carried out or the Dwelling is constructed on, at the location nominated on the Guarantee Application Form.

**Registered Master Builder** means the Registered Master Builder named in the Guarantee Application Form.

**Residential** means work to be constructed under a Residential Building Contract and the intended purpose is primarily for domestic use.

**Scope of Works** means a definitive list of works, sufficiently detailing the works to be carried out under the Building Contract.

**Storey** means a level of a Dwelling when the Dwelling is constructed over more than one level (regardless of whether the level is built directly above or below another), and can include garages or basements in Dwellings of more than one level.

**Works** means the alterations and/or additions to be made to an existing residential dwelling in accordance with the Building Contract at the location nominated on the Guarantee Application.

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# Guarantee Terms and Conditions

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## **The Guarantee Products**

1. The Master Build Guarantee is available in three products; the Kiwi Guarantee, the Standard Guarantee and the Premium Guarantee. It is the Owners responsibility to ensure the correct Guarantee product has been selected on the Guarantee Application Form. Each product has different maximum payment values for various types of cover, with not all types of cover being applicable for each product.
2. The applicable types of cover and maximum payment values (inclusive of GST) for each product are as defined below:
  - 2.1 **Kiwi Guarantee**
    - 2.1.1. Loss of Deposit cover is applicable with a maximum payment value being the lesser of 5% of the Contract Price or \$5,000.
    - 2.1.2. Non-Completion cover is **not applicable** for this product.
    - 2.1.3. Remedial Works cover is applicable with a maximum payment value being the lesser of 20% of the Contract Price or \$20,000.
    - 2.1.4. Defect in Materials and Defect in Workmanship cover is applicable for this product.
    - 2.1.5. Structural Defect and Rot and Fungal Decay cover is applicable for this product.
    - 2.1.6. The maximum aggregate payment value in respect to all claims under this product is limited to the **lesser of the Contract Price or \$100,000.**
  - 2.2 **Standard Guarantee**
    - 2.2.1. Loss of Deposit cover is applicable (unless the option for removal of this cover is taken, in which case it is **not applicable**) with a maximum payment value being the lesser of 5% of the Contract Price or \$20,000.
    - 2.2.2. Non-Completion cover is applicable (unless the option for removal of this cover is taken, in which case it is **not applicable**) with a maximum payment value being the lesser of 10% of the Contract Price or \$40,000.
    - 2.2.3. Remedial Works cover is applicable (unless the option for removal of this cover is taken, in which case it is **not applicable**) with a maximum payment value being the lesser of 5% of the Contract Price or \$20,000.
    - 2.2.4. Defect in Materials and Defect in Workmanship cover is applicable for this product.
    - 2.2.5. Structural Defect and Rot and Fungal Decay cover is applicable for this product.
    - 2.2.6. The maximum aggregate payment value in respect to all claims under this product is limited to the **lesser of the Contract Price or \$400,000.**
  - 2.3 **Premium Guarantee**
    - 2.3.1. Loss of Deposit cover is applicable (unless the option for removal of this cover is taken, in which case it is **not applicable**) with a maximum payment value being the lesser of 5% of the Contract Price or \$40,000.
    - 2.3.2. Non-Completion cover is applicable (unless the option for removal of this cover is taken, in which case it is **not applicable**) with a maximum payment value being the lesser of 10% of the Contract Price or \$100,000.
    - 2.3.3. Remedial Works cover is applicable (unless the option for removal of this cover is taken in which case it is **not applicable**) with a maximum payment value being the lesser of 5% of the Contract Price or \$40,000.
    - 2.3.4. Defect in Materials and Defect in Workmanship cover is applicable for this product.
    - 2.3.5. Structural Defect and Rot and Fungal Decay cover is applicable for this product.
    - 2.3.6. The maximum aggregate payment value in respect to all claims under this product is limited to the **lesser of the Contract Price or \$1,000,000.**

## **Limitation of Liability**

3. If the option for removal of Completion Cover is selected in the Guarantee Application Form, the Loss of Deposit, Non-Completion and Remedial Works covers are excluded from the Guarantee and any subsequent clauses when referring to these covers are also excluded.
4. The Guarantee shall terminate and be of no further effect at the date of the expiry of ten years from the date of Acceptance.
5. No remedial work shall extend the term of the Guarantee.
6. For the avoidance of doubt, no Notice of Practical Completion provided after the expiry of ten years from the date of Acceptance shall extend the term of the Guarantee.

## **Guarantees Requiring Prior Approval**

7. The Guarantee is intended for **Residential Dwellings or Works**. Specific prior approval by MBS in writing is required in the circumstances set out below. Where prior approval has not been sought and granted the Guarantee will be cancelled.
  - 7.1. Any Dwellings or Works, where the building is in excess of three Storeys or in a building over three Storeys.
  - 7.2. Any Dwellings or Works, where the building is part of a Multi-Unit Development.
  - 7.3. Any Works to a Leaky Building.
  - 7.4. Any Dwelling constructed where it will be moved to another location.
  - 7.5. Any Dwelling where the intended purpose is not Residential.

## **Acceptance of Guarantee**

8. MBS will consider any Application and, in its discretion, may accept or decline the Application, including a Late Application.
9. The Guarantee will come into force ("**Acceptance**"), **when the Application is accepted by MBS and notice of acceptance is sent to the Owner and the Registered Master Builder.**
10. Receipt or banking of the Guarantee fee will not constitute Acceptance by MBS of the Application.
11. It is common for the subject of a Building Contract to be for more than one Dwelling. However, this Guarantee will apply to one Dwelling, or Works carried out at one Dwelling only.

## **Termination of the Building Contract**

12. **If the Owner terminates the Building Contract without the prior written consent of MBS, then the Guarantee will be cancelled.**
13. If the Registered Master Builder validly terminates the Building Contract as a result of the Owner breaching the Building Contract and provides evidence of this to the satisfaction of MBS, then the Guarantee will be cancelled.
14. If the Registered Master Builder invalidly terminates the Building Contract, and the option to remove Completion Cover has not been elected, then the Owner may make a claim under Completion Cover as provided for by their Guarantee product.
15. If a Receiver or Liquidator validly terminates the Building Contract, and the option to remove Completion Cover has not been elected, then the Owner may make a claim under Completion Cover as provided for by their Guarantee product.
16. Subject to the terms of the Building Contract, if MBS notifies the Owner that it requests that the Owner terminate the Building Contract, then the Owner is responsible for promptly ensuring that the Building Contract is terminated (for example, to enable any remedial work or completion work to proceed).
17. Where the option to remove Completion Cover has been elected in the Guarantee Application, if the Building Contract is terminated by the Registered Master Builder prior to Practical Completion, the Guarantee will be cancelled and payments made by the Owner to MBS will be refunded.

## Definition of Types of Guarantee Cover

18. **Loss of Deposit cover** applies from the date of Acceptance and expires at the date of commencement of Permanent Work under the Building Contract.
  - 18.1 **Loss of Deposit** means a situation where a deposit has been paid by the Owner to the Registered Master Builder under the Building Contract; and the Owner is entitled to recover the deposit; and the Building Contract has terminated under clause 14 or clause 15.
  - 18.2. The actual claim payment value under this cover is limited to the lesser of:
    - 18.2.1. the difference (if any) between the amount of the deposit actually paid and the value of any products or services provided to the Owner under the Building Contract, including the value of any plans prepared for and available to the Owner and the cost of obtaining any building consent for the Dwelling or Works; and
    - 18.2.2. the difference (if any) between the balance of the uncompleted contract price and the lowest price for completing that uncompleted work under the new Building Contract as priced by the replacement Registered Master Builder. For the avoidance of doubt, where more than one replacement Registered Master Builder has provided a price, the lowest price will be used.
19. **Non-Completion cover** applies from the date of commencement of Permanent Work under the Building Contract and expires on the Practical Completion Date.
  - 19.1. **Non-Completion** means a situation where the Building Contract has terminated under clause 14 or clause 15, and Practical Completion has not been achieved in the construction of the Dwelling or Works.
  - 19.2. The actual claim payment value under this cover is limited to and calculated as:
    - 19.2.1. the lowest price for completing that work under a new Building Contract as priced by the replacement Registered Master Builder (for the avoidance of doubt, where more than one replacement Registered Master Builder has provided a price, the lowest price will be used), minus,
    - 19.2.2. the value of the uncompleted work under the Building Contract (including any valid Contract Variations). Where the Building Contract does not provide for staged payments, the value of the uncompleted work will be determined using the Schedule of Staged Payments in this Guarantee.
20. **Remedial Works cover** applies from the date of commencement of Permanent Work under the Building Contract and expires on the Practical Completion Date.
  - 20.1. **Remedial Works** means a Defect in Workmanship under clause 21.2 which is identified prior to Practical Completion and where the Building Contract has terminated under clause 14 or clause 15 and Practical Completion has not been achieved in the construction of the Dwelling or Works.
21. **Defect in Materials and Defect in Workmanship cover** applies from the Practical Completion Date and expires for the Kiwi and Standard products on and including the second anniversary of that date, and for the Premium product on and including the third anniversary of that date.
  - 21.1. **Defect in Materials** means a substantial failure of any materials prematurely, having regard to recognised trade practice or expectation.
    - 21.1.1. Where there is a manufacturer or supplier warranty or guarantee on materials, the Owner must make a claim on such warranty or guarantee first.
    - 21.1.2. This cover is not available for labour-only building contracts.
  - 21.2. **Defect in Workmanship** means a Defect from any failure by the Registered Master Builder to:
    - 21.2.1. comply with the Building Contract and the building consent issued, and with regard to relevant building trade practices and standards in the construction of the Dwelling or Works that were applicable at the time of the issuing of the building consent; or

- 21.2.2. comply with any relevant laws relating to the building of the Dwelling or Works (applicable at the time of construction); or
- 21.2.3. comply with any relevant instruction or recommendation given by the manufacturer or supplier (applicable at the time of installation) regarding the installation or use of any materials incorporated in the Dwelling or Works.
22. **Structural Defect cover and Rot and Fungal Decay cover** applies from the Practical Completion Date up to and including the tenth anniversary of the date of Acceptance.
- 22.1. **Structural Defect** means actual physical damage to the foundation systems and footings; beams; girders; lintels; columns; load-bearing walls and partitions; roof framing systems and floor systems of the Dwelling or Works caused by failure of such load-bearing elements which affects their load-bearing functions to the extent that the Dwelling or Works become unsafe, unsanitary or otherwise uninhabitable.
- 22.2. **Rot and Fungal Decay** means actual physical damage to the foundation systems and footings; beams; girders; lintels; columns; load-bearing walls and partitions; roof framing systems and floor systems of the Dwelling or Works caused by water penetration into it due to some aspect of its design, construction, or of materials used in its construction to the extent that the Dwelling or Works become unsafe, unsanitary or otherwise uninhabitable.
- 22.3. **Rot and Fungal Decay** is covered where the design, materials and construction of the Dwelling or Works achieve a score of 12 or less using the "Building Envelope risk matrix" (table 3) in the Ministry of Business, Innovation & Employment's "Acceptable Solution E2/AS1" at the time of the building consent of the Dwelling or Works.
- 22.4. **The repair of a Structural Defect consists of and is limited to:**
- 22.4.1. repair or replacement of the defective load-bearing elements and/or removal of the elements affected by Structural Defect of the Dwelling or Works where such repair, replacement or removal is necessary to restore the load-bearing function; and
- 22.4.2. includes the consequential repair, replacement or removal of other elements in the Dwelling or Works that are required to make the Dwelling or Works safe, sanitary, weathertight or otherwise habitable.

## **The Guarantee Does NOT Cover**

23. The Guarantee does not cover and MBS shall not be liable for any:
- 23.1. **Advance Payment.**
- 23.2. **matters or claims where the Owner is either the Registered Master Builder or is an Associate of the Registered Master Builder.**
- 23.3. **matters or claims covered by insurance** (including contract works insurance, home and contents insurance and/or professional indemnity insurance).
- 23.4. **Consequential Damage or Consequential Loss.**
- 23.5. **damage or Defect that the Owner knew about or should have known about** (including any Defect which could have been discovered upon reasonable inspection prior to or at the date of possession or occupation of the Dwelling or Works).
- 23.6. **damage or Defect the Owner should have avoided or resultant from normal wear and tear** (including damage or deterioration that could reasonably have been minimised or avoided by the Owner by reasonable, regular and thorough inspections and maintenance by the Owner).
- 23.7. **damage or Defect beyond the reasonable control of the Registered Master Builder** (including subsidence, erosion or soil movement, condensation, shrinkage, contraction or expansion of any material, and act of God.)
- 23.8. **matters or claims that are not the Registered Master Builder's responsibility** (including work, services, materials or chattels not in the Building Contract OR arranged by or paid for directly by the Owner).

- 23.9. **damage or Defect due to design or engineering** (which is a result of error, omission or negligence in plans, specifications, drawings or engineering work, or otherwise attributable to the design or engineering, or the use of colours that are not within the manufacturer's recommended light reflective value).
- 23.10. **Non-Approved Materials.**
- 23.11. **unavoidable aesthetic variance** (including aesthetic variance due to it being not reasonably practicable to match materials. This also includes aesthetic variance between remedial work and existing work).
- 23.12. **peripherals** (including structures outside of the roofline of the Dwelling, not part of or directly connected to the main Dwelling, such as swimming pools, driveways, paths, lawns, gardens or fences, and retaining walls not part of the building's foundation).
- 23.13. **relocated Dwellings** (where the Dwelling has been moved from its original, permanent Property).
- 23.14. **managed labour-only contracts** (where the Registered Master Builder is managing the building site but does not provide the materials or labour, and/or other parties carrying out work are not doing so as the Registered Master Builder's sub-contractors or employees).
- 23.15. **agreed deviations** (where any Owner and Registered Master Builder agree to deviate from the Building Contract, and/or the building consent issued, and/or with regard to relevant building trade practices and standards in the construction of the Dwelling or Works).
- 23.16. **claim for Completion Cover** where the option to remove this Cover has been elected in the Guarantee Application.

## ***Permanent Work starting and Practical Completion***

- 24. Guarantees are issued by MBS in the expectation that:
  - 24.1. Permanent Work will commence promptly after the date of Acceptance; and
  - 24.2. There will generally be a Practical Completion Date within 5 months of the date of Acceptance.
- 25. If Permanent Work has **not commenced within 5 months of the date of Acceptance**, the Registered Master Builder or the Owner must inform MBS of this, and may request an extension of time for the commencement of that Permanent Work. MBS may (at its discretion) grant a written extension of the time for commencement of Permanent Work.
- 26. The Guarantee may be cancelled if Permanent Work has not commenced within 5 months of the date of Acceptance; and MBS has not received (and granted), within 5 months of the date of Acceptance, a written request from the Registered Master Builder or the Owner for an extension of time for the commencement of that Permanent Work.
- 27. The Guarantee may be cancelled if MBS has granted a written request for an extension of time for the commencement of that Permanent Work, but it has not received from the Registered Master Builder or the Owner written notice that Permanent Work has commenced within such further time as it allowed.
- 28. The Registered Master Builder OR the Owner **will send MBS notice that Practical Completion has occurred and specifying the date that it occurred.**
- 29. If, within 5 months of the date of Acceptance, MBS receives written notification of Practical Completion specifying the date that it occurred (provided that MBS accepts the specified Practical Completion date is correct), then the specified date will be the Practical Completion Date.
- 30. If the notice of Practical Completion has not been received by MBS within five months from the date of Acceptance, or if MBS has received a notice of Practical Completion under clause 29, but does not accept that the Practical Completion date specified therein is correct, then MBS may (at its discretion) adopt an alternative deemed Practical Completion Date.



31. If adopting an alternative deemed Practical Completion Date, MBS may (at its discretion) adopt either:
  - 31.1. A default date of 5 months from the date of Acceptance of the Guarantee; or
  - 31.2. A default date of 5 months from the date of commencement of Permanent Work; or
  - 31.3. The date MBS considers the Dwelling or Works achieved Practical Completion; or
  - 31.4. The date of possession (and the Owner will provide proof of the date of possession of the Dwelling, if so required by MBS); or
  - 31.5. The date of Practical Completion specified in a certificate of Practical Completion issued by an architect.
32. Such a deemed Practical Completion Date may (at MBS's discretion) be altered if a notice of Practical Completion is subsequently received by MBS from the Registered Master Builder or from the Owner.

### ***Building Consent and Code Compliance Certificate***

33. Where the Dwelling or Works require building consent, MBS may require proof of this to be supplied. If the Owner fails to obtain building consent (if applicable), MBS will not be liable for any claim made by the Owner for Structural Defect and Rot and Fungal Decay covers where the claim is based on non-compliance with the Building Code or the consent documents.
34. Immediately upon completion of the Dwelling or Works, the Owner shall apply for a Code Compliance Certificate (if applicable) under the Building Act. If the Owner fails to obtain a Code Compliance Certificate, MBS will not be liable for any claim made by the Owner under the Guarantee for Structural Defect and Rot and Fungal Decay covers where the claim is based on non-compliance with the Building Code or the consent documents.

### ***Guide to tolerances, materials and workmanship***

35. The Ministry of Business, Innovation & Employment has developed a "Guide to tolerances, materials and workmanship in new residential construction 2015" and this has been accepted and approved by MBS. It may be updated from time to time. In situations where it is otherwise unclear, this guide shall provide assistance to the Owner, the Registered Master Builder and to MBS as to whether or not a claimable Defect exists. The guide may be viewed at the Ministry of Business, Innovation & Employment website.

### ***Owner to Lodge a Claim for Completion Cover***

36. If the Owner believes that they may have a claim under Loss of Deposit cover, Non-Completion cover or Remedial Works cover the Owner must:
  - 36.1. **notify MBS within 30 days** of the date on which the Owner became aware or should have become aware of this matter; and
  - 36.2. **lodge a claim with MBS on the prescribed MBS claim application form** signed by the Owner, within 14 days of the date on which the Owner first notified MBS; and
  - 36.3. **obtain approval in writing** from MBS before making any further payment under the Building Contract.
37. Where MBS has been notified, and the Owner has not lodged a claim within 14 days of notification, MBS shall not be liable for any existing or future claims in regard to the matters notified.

### ***Owner to Lodge a Claim for Workmanship, Materials or Structural Defect Cover***

38. If the Owner believes that there is a Defect, which may lead to a claim under the Guarantee, then **the Owner must:**
  - 38.1. contact the **Registered Master Builder** in writing upon discovery of the Defect and take appropriate action to minimise any further loss or damage (see clauses 53 to 55); and

- 38.2. notify **MBS promptly** that a Defect exists and the Registered Master Builder has been contacted.
39. MBS shall not be required to take any steps in relation to any notification or communication from the Owner until the Owner has, in the reasonable opinion of MBS, taken all reasonable steps to induce the Registered Master Builder to make good the Defect.
40. Notwithstanding any agreement between the Registered Master Builder and Owner to rectify the Defect, unless the Registered Master Builder has completed all the remedial work, **the Owner must:**
- 40.1. **notify MBS within 90 days** of the date on which the Owner became aware or should have become aware of this matter; and
- 40.2. **lodge a claim with MBS on the prescribed MBS claim application form** signed by the Owner, within 14 days of the date on which the Owner has been sent a claim application form by MBS.
41. Where MBS has been notified, and the Owner has not lodged a claim within 14 days of having been sent a claim application form, MBS shall not be liable for any existing or future claims in regard to the matters notified.

### ***Claim Assessment/Investigation by MBS***

42. MBS shall assess and/or investigate the lodged claim and, where the lodged claim appears valid, shall instruct the Registered Master Builder (if applicable) to make good the Defect within a timeframe or any extension as set by MBS.
- 42.1. Where the Registered Master Builder agrees to complete the remedial work, MBS shall notify the Owner and advise a timeframe for completion. If the Registered Master Builder does not complete the remedial work within that timeframe or any extension set by MBS, the Owner must contact MBS, within 30 days of the date the remedial work was due to be completed; or
- 42.2. Where the Registered Master Builder is unwilling or unable to comply with the instruction, MBS may accept the claim.
43. MBS's assessment and/or investigation of a lodged claim is for MBS's benefit only and is solely for the purpose of determining whether the lodged claim appears to be valid. MBS shall not be liable, whether in contract, tort or otherwise, for any matter relating to or arising out of its investigation, save for its liability under the Guarantee.
44. A lodged claim shall be taken as having been accepted or declined when the acceptance or declination has been communicated in writing to the Owner.
45. As a condition of MBS accepting a claim, the Owner shall upon request assign to MBS all of their rights and remedies against any party or person connected with the construction of the Dwelling or Works, whether or not a party to the Building Contract. MBS may take any steps to enforce such rights and remedies. Further, the Owner shall give MBS all assistance that it might reasonably require.

### ***Claim Under Completion Cover***

46. Where a claim under Completion Cover is accepted by MBS, subject to clause 47, then:
- 46.1. MBS shall assist the Owner to select a replacement Registered Master Builder to complete the uncompleted work; and
- 46.2. MBS shall calculate the value of any claim payment; and
- 46.3. the Owner shall enter into a new Building Contract and new Guarantee Agreement with the replacement Registered Master Builder; and
- 46.4. MBS shall make any claim payment to the Owner as set out in clauses 18 to 20; and
- 46.5. the current Guarantee may be cancelled.
47. Where MBS and the Owner are unable to agree on a replacement Registered Master Builder, MBS shall make any claim payment to the Owner as set out in clauses 18 to 20 and the Guarantee will be cancelled.

### ***Claim Under Defect in Materials or Defect in Workmanship Cover***

48. Where a claim for Defect in Materials or Defect in Workmanship is accepted by MBS, subject to clause 49, then:
- 48.1. MBS shall assist the Owner to select a replacement Registered Master Builder to carry out any remedial work; and
  - 48.2. The Owner and MBS will agree a scope of work and a contract price and the Owner shall enter into a Building Contract with the replacement Registered Master Builder and may exercise all rights, powers and remedies under that contract to ensure that the remedial work is carried out in an appropriate manner. MBS shall not be liable for any additions to or variations to the works that it has not expressly approved in writing; and
  - 48.3. MBS shall make payment to the Owner or, at the Owner's discretion, the Registered Master Builder, upon receipt of valid invoices or payment claims from the replacement Registered Master Builder, up to the agreed contract price.
49. Where a claim is for Defect in Materials or Defect in Workmanship MBS may (at its discretion) decide whether to repair or replace the Defect in Materials or Defect in Workmanship. Where the cost to remedy any Defect in Materials or Defect in Workmanship is, in the opinion of MBS, out of all proportion to the loss or damage to the Owner, then MBS may, in its discretion, pay the reasonable value of the repair or replacement to the Owner in lieu of MBS remedying the Defect or assisting the Owner to select a Registered Master Builder.
50. The design, method and manner of any remedial work undertaken under this Guarantee shall be at the discretion of MBS.

### ***Claim Under Structural Defect or Rot and Fungal Decay Cover***

51. Where a claim for Structural Defect or Rot and Fungal Decay is accepted by MBS in accordance with clause 22, it may, in its discretion, decide whether to repair or replace the Structural Defect or Rot and Fungal Decay, or it may pay the Owner the reasonable value of the repair or replacement of the Structural Defect or Rot and Fungal Decay.
52. Where MBS decides to repair or replace a Structural Defect or Rot and Fungal Decay the design, method and manner of any work undertaken under this Guarantee shall be at the discretion of MBS.

### ***Guarantee Terminates if Owner Arranges or Undertakes Claims Work***

53. If the Owner undertakes any remedial work including the repair of any Defect, or engages another builder or contractor to undertake any remedial work and/or completion work on the Dwelling or Works, other than urgent remedial work in an Emergency, to mitigate damage or deterioration, without the prior written consent of MBS, then the Guarantee will be cancelled.
54. If an Emergency arises during the term of the Guarantee, the Owner must contact the Registered Master Builder immediately. If the Owner is unable to contact the Registered Master Builder they must contact MBS in order to receive authorisation to make any emergency repairs. Unauthorised repairs will not be reimbursed unless the Owner has followed this procedure.
55. MBS shall reimburse the reasonable costs of the emergency work approved by MBS where clause 54 has been met. The amount approved shall be at the discretion of MBS.

### ***Provision of All Relevant Information and Access***

56. The Owner must allow MBS, its inspectors and the Registered Master Builder or any replacement Registered Master Builder access to inspect the Dwelling or Works at any reasonable times.
57. The Owner must allow MBS, the Registered Master Builder or any replacement Registered Master Builder access to undertake any agreed remedial work at any reasonable times.
58. The Owner and the Registered Master Builder each are obliged to assist MBS by providing access to and/or copies of all relevant documentation that may be required by MBS to enable MBS to assess and/or meet its obligations under the Guarantee. Such documentation can include, but is not limited to, any financial arrangement or settlement made with or payment made or not made to the Registered Master Builder under the Building Contract, copies of Contract Variations, drawings, plans, consent documents, specifications, pricing calculations, payment schedules, quotations, and lists of sub-trades and suppliers.

59. If any failure by the Owner to comply with the Guarantee Terms and Conditions prejudices the ability of MBS to deal efficiently or economically with a claim or the underlying Defect, then MBS may (at its discretion), decline the claim in whole or in part, even where the claim has previously been accepted.

### **Transfer of the Guarantee**

60. The Guarantee is transferable upon sale of the Property at any time during the term of the Guarantee. For the avoidance of doubt, the sale of the Property does not extend the term of the Guarantee.
61. A transfer is subject to approval by MBS which may (at its discretion) approve or decline the transfer. Where MBS does not approve a transfer, the administration fee will be refunded.
62. Receipt or banking of the administration fee will not constitute approval by MBS of the Request for Transfer Form.
63. The New Owner shall be deemed to have made a full inspection of the Dwelling prior to purchase and the New Owner acknowledges that MBS will not be liable for any Defects that in its opinion were reasonably discoverable by the New Owner.
64. A request to transfer the Guarantee must be sent to MBS **within 90 days of settlement** of the purchase, and must consist of:
- 64.1. a completed and signed Request for Transfer Form contained herein; and
  - 64.2. a copy of the Sale and Purchase Agreement for the Property; and
  - 64.3. an administration fee as set out at **www.masterbuild.org.nz**.
65. The Guarantee will be transferred, when the transfer is accepted by MBS and notice is sent to the New Owner.

### **Failure of Owner to Make Scheduled Payment**

66. If the Owner fails to make a scheduled payment (including the release of any retentions) to the Registered Master Builder and the payment remains outstanding for not less than 21 days after it was due, then the Guarantee will be cancelled.
- 66.1. Save that the Guarantee will not be cancelled merely by reason of such overdue payment if:
- 66.1.1. the payment is overdue by reason of a genuine dispute where the Owner has promptly initiated legal proceedings; or
  - 66.1.2. the Owner has invoked the dispute resolution provisions of the Building Contract; or
  - 66.1.3. the Owner has invoked the Construction Contracts Act 2002; and
- 66.2. the Owner has promptly provided a copy of the relevant notices and documents to MBS.

### **Cancellation**

67. Whenever this document refers to certain events causing the result that “...**the Guarantee will be cancelled...**” (such as, without limitation, clauses 7, 12, 13, 17, 47, 53 or 67), then that shall mean that the Guarantee will be cancelled and will be deemed to be cancelled, regardless of notice by MBS to the Owner or to the Registered Master Builder. In those circumstances, MBS shall not be liable for any existing or future claims.
68. Whenever this document refers to certain events causing the result that “...**the Guarantee may be cancelled...**” (such as, without limitation, clauses 26, 27 or 46.5), then that shall mean that the party vested of the right to cancel may do so by sending notice to the other party or parties promptly upon becoming aware of the circumstances giving rise to the right to cancel. Following such notice being sent (in accordance with clause 81 [regarding notice] of this Guarantee), MBS shall not be liable for any existing or future claims.

## **No Agency**

69. The Registered Master Builder is not an agent of MBS in relation to this Guarantee (including in relation to any investigation and/or any remedial work). Except as is expressly provided in this document, MBS shall not be bound by or liable for (whether in contract, tort or otherwise) any statement or act or omission by the Registered Master Builder. No statement or claim or notice made by the Owner to the Registered Master Builder is to be construed as having been made to MBS.
70. From time to time MBS may appoint an inspector (including Regional Services Managers of RMBA or other inspectors) in relation to this Guarantee (including to provide some particular assistance in relation to any investigation and/or any dispute and/or any remedial work). MBS shall not be bound by or liable for (whether in contract, tort or otherwise) any statement or recommendation or act or omission made by any such inspector in such context. No statement or claim or notice made by the Owner to any such inspector is to be construed as having been made to MBS.

## **Disputes**

71. Where there is a dispute between the Owner and the Registered Master Builder (or replacement Registered Master Builder where applicable) in respect of their rights and obligations under the Building Contract, MBS is entitled to require that dispute be resolved prior to a claim being accepted or declined by MBS.
72. If, in relation to a claim, the Owner and MBS cannot agree on the contract price to be paid for remedial work, or for the reasonable value of the repair or replacement of a Defect or value of the uncompleted work under the Building Contract as against the Guarantee Schedule of Staged Payments, then MBS may (at its discretion) engage a registered quantity surveyor to determine the value of the work. Such determination shall be binding on the Owner and MBS. The cost of the registered quantity surveyor shall be shared equally by the Owner and MBS.
73. If the Owner disputes a decision by MBS to decline a claim (in whole, or in part), then the Owner must send notice of the dispute to MBS within 21 days of having been advised of MBS's decision.
74. If the Owner duly notifies MBS of such a dispute, then the Owner and MBS will, in good faith, communicate in an attempt to resolve the dispute.
75. If the dispute (as referred to above) is not resolved between the parties within 21 days of the Owner's notice to MBS of the dispute, then either party may notify the other that they request that the dispute be referred to mediation. The other party will consider such request in good faith and will not arbitrarily refuse such a request.
76. If the dispute (as referred to above) is not resolved between the parties within 42 days of the Owner's notice to MBS of the dispute (or, within 21 days of the conclusion of the mediation process, if the parties participate in a mediation), then either party may notify the other that they request that the dispute be referred to arbitration (under the Arbitration Act 1996). The other party will consider such request in good faith and will not arbitrarily refuse such a request.
77. If the parties cannot agree on the mediator or the arbitrator, then the mediator or arbitrator shall be appointed by the current President of the Arbitrators and Mediators Institute of New Zealand.
78. MBS shall have the right, in advance of any dispute resolution process, to re-inspect any Dwelling or Works which is the subject of the dispute.

## **Notices**

79. Any notice by MBS to the Owner or to the Registered Master Builder shall be deemed to be sufficiently given if it is handed to the Owner or the Registered Master Builder or delivered to their postal addresses provided to MBS in the Guarantee Application Form or is sent to the email address provided to MBS in the Guarantee Application Form. Where no postal address is provided, the notice may be delivered to the last known place of residence or business or registered office. Any notice by the Owner or the Registered Master Builder to MBS shall be deemed to be sufficiently given if delivered to MBS, PO Box 1796, Wellington.

## **No Waiver**

80. No failure or delay on the part of MBS in enforcing any of its rights or remedies under the Guarantee shall constitute a waiver of that right or remedy.

## **Guarantee Booklet**

81. All the documents in this booklet form part of the Guarantee. In the event of any conflict between these documents, then the Guarantee Terms and Conditions shall prevail.



# REQUEST FOR TRANSFER

## YOU MUST READ: The clauses relating to the Transfer of the Guarantee's Terms and Conditions

- This is a Request for Transfer only and is not an offer to transfer the Guarantee.
- The Transferee should read all the Terms and Conditions of the Guarantee prior to completing and signing this application.
- The following documents are required to process this transfer:
  - a copy of the Sale and Purchase Agreement;
  - this Request for Transfer completed by the New Owner.
- Please fill in all applicable areas. **(Please Print Clearly)**

## REQUEST FOR TRANSFER:

Guarantee Number:

Dwelling or Works Address:

## TRANSFeree

The New Owner (Transferee) warrants that all the following information is true and correct in each and every particular and acknowledges that any omission or misrepresentation shall result in the transfer being declined, or if discovered after a transfer has already been approved, will void the Guarantee.

- I, the undersigned Transferee, hereby confirm that I am the New Owner of the Dwelling or Works specified by the Guarantee Number above.
- I hereby certify that I have no knowledge of any existing damage or Defect to the Dwelling or Works that may give rise to a claim on the Guarantee.
- I hereby acknowledge acceptance of all the Terms and Conditions of the Guarantee.

Transferee Name(s): *(please list all Owners and Trustees)*

Trust Name: *(if applicable)*

Postal Address:

Phone:

Email:

Send notifications to: Email:  Postal:

**Signed by the Owner(s):** *(each Owner or Trustee named above and in the Building Contract must sign):*

**Date:**

**Owner 1:**

**Owner 2:**

**Date:**

**Other Owners:**

**Date:**

## PAYMENT

Payment Method *(please tick appropriate information)*

Total Fee Paid \$

Cheque

Payer Name:

Direct Credit

To Master Build Services Limited, Bank Account No: 03 0518 0144252 00

*(On the deposit slip, please include the Guarantee No and the Dwelling address)*

Credit Card

Card No:

Name on Card:

Expiry date: /

Please email this Request for Transfer and supporting documents to:  
info@masterbuild.org.nz

I authorise Master Build Services Limited to debit my credit card the total fee payable above.

Or post to:  
PO Box 1796, Wellington 6011

Signed:

Date:





## SCHEDULE OF STAGED PAYMENTS *(all amounts are GST inclusive)*

**\*Required\*** Contract Price: \$

### (A) CONTRACT DEPOSIT:

Guarantee Covered Deposit Value: \$ Agreed Deposit: \$

Payable on the date the Contract is executed Deposit: \$

*Note: The deposit is only protected when a separate Master Build Guarantee is provided, up to a maximum of 5% of the Contract Price or \$15,000 (including GST), whichever is the lesser.*

### (B) OTHER ITEM: as listed in the Special Conditions

Excavation or Site Works \$

Drainage + Power + Water \$

\$

\$

\$

\$

*Note: An 'Other Item' will be payable at any stage of the contract upon Substantial Completion of the Item*

**Total Of Other Items (B) = \$**

**\*Required Calculation\*** Sub-Total: Contract Deposit (A) + Total of Other Items (B) = \$

### (C) DWELLING COST: Contract Price (at top of page) – (minus) Sub-Total (above)

**Staged Payments:** are a percentage of the (C) Dwelling Cost (above) **Only** \$

Upon **Substantial Completion** of the following:

(i) Foundations and floor structure 10% \$

(ii) All wall framing 15% \$

(iii) All roof framing 5% \$

(iv) The roof and fascia 8% \$

(v) All exterior doors and windows 9% \$

(vi) All exterior wall linings and/or veneers 10% \$

(vii) All exterior decoration or coatings 2% \$

(viii) Installation of pre-wire, pre-plumb and insulation 6% \$

(ix) All interior linings 5% \$

(x) Interior doors, architraves and scotia 3% \$

(xi) Internal stopping, completed and sanded 3% \$

(xii) All interior decoration or coatings 4% \$

(xiii) Kitchens and bathrooms 6% \$

(xiv) Plumbing and electrical 6% \$

(xv) Hardware and tiling 3% \$

(xvi) **Final Payment** 5% \$

Upon completion of the Works, the balance of the Contract Price is payable before the Owner takes possession.

*Note: Failure to make the final payment may invalidate any Master Build Guarantee.*

**\*Check Calculation\*** Contract Price \$ = Sub-Total \$ + 100% Dwelling Cost \$

**Due Dates** Payments: All payments are due within seven (7) Working Days of the payment invoice.

Payment Schedule: Where a payment claim is served under the Construction Contracts Act 2002, the payment schedule and payment of the final payment are due within seven (7) Working Days of the date of the payment claim.

### (D) ADJUSTMENTS

The Registered Master Builder may include the cost of adjustments provided for in the Building Contract with any staged payment. In the event that any adjustments have not been invoiced at the time possession of the Works is given to the Owner, such adjustments shall be paid by the Owner within seven (7) Working Days of the date of the Registered Master Builder's invoice for such adjustments.

### IMPORTANT NOTE

*The percentages referred to under (C) may be inappropriate and are based on a single-storey house, using standard construction materials, built on flat stable land in an urban location. The suggested percentages may be inappropriate in your contract.*





Master Build Services Limited  
PO Box 1796  
Wellington

Phone for advice  
0800 269 119

[masterbuild.org.nz](http://masterbuild.org.nz)

