

New Zealand  
Certified  
Builders  
Association



# Homeowner *Handbook*

When you choose an approved NZCB builder you'll qualify to apply for Halo – our comprehensive 10-Year Residential Guarantee. You can also be assured that all of our builders have met stringent building qualification and financial business standards.

You're in good hands.

[nzcb.nz/halo](http://nzcb.nz/halo)



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# Build with complete peace of mind

**When you build with an approved member of New Zealand Certified Builders, and you get a Halo 10-Year Residential Guarantee, you're protected.**

# Disclosure Information

It is uncertain to what extent the Consumer Guarantees Act 1993 applies to building work. In any event, the Halo 10-Year Guarantee does not impact on your rights and remedies under that legislation. The Halo 10-Year Guarantee is a third party guarantee, the purpose of which is that you have Halo Guarantees Limited, standing behind the builder's obligations and agreeing (subject to the specific terms of the guarantee) to answer for the builder's default or liability in respect of those primary obligations owed to You by the builder.

## Your rights as a Consumer

To the extent that the Consumer Guarantees Act 1993 applies to goods and/or services provided to you.

### Goods must:

- be of acceptable quality
- be fit for a particular purpose that the consumer made known to the supplier, unless it was unreasonable for the consumer to rely on the supplier's skill when selecting the goods for that purpose
- match any description given to the consumer
- match any sample or demonstration model shown to the consumer
- be able to be legally sold to the consumer
- arrive on time and in acceptable condition
- have spare parts and repair facilities available for a reasonable time, unless the consumer is notified that the manufacturer does not undertake that repair facilities and parts will be available that comply with any express guarantee given by a manufacturer

### Services must:

- be carried out with reasonable care and skill
- achieve the result the consumer made known to the business that the consumer was seeking, unless it was unreasonable for the consumer to rely on the businesses' skill to expect that result
- be finished by the agreed date or within a reasonable time if no completion date was agreed
- be supplied at the agreed price or at a reasonable price if no price was agreed

## Your right to change your mind and cancel

You may let us know that you do not want the Halo 10-Year Guarantee within 5 working days of confirmation of the Guarantee, by giving written notice to Halo Guarantees Limited. By doing so, your Guarantee will be cancelled and the purchase price of the Guarantee will be refunded by Halo Guarantees Limited. In the event of cancellation of your Guarantee, the refund made by Halo Guarantees Limited will be made to the person that made payment of the Guarantee purchase price to Halo Guarantees Limited.

Notice of cancellation should set out your name, the address of the Property and clearly state that you want to cancel the Guarantee. The notice of cancellation must be sent to:

- Halo Guarantees Limited  
PO Box 13415, Tauranga Central, Tauranga 3141
- applications@halo.nz

The purchase price of the Guarantee ranges from \$300.00 - \$1,640.00 (excluding GST) depending on the Contract Price of the Project and varying levels of cover are provided for up to 10-Years after the Practical Completion Date of the Works.

All of the terms and conditions of the Guarantee and all rights and obligations of both you and Halo Guarantees Limited are set out in this document.

image - certifiedplans.co.nz



# SECTION 1

## Introduction

The Halo 10-Year Residential Guarantee Scheme has been developed in conjunction with and is tailor-made for and is exclusively available to members of New Zealand Certified Builders Association (NZCB).

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A Halo 10-Year Residential Guarantee protects you after the building process, and for the next 10-Years. It provides much greater protection than both the Building Act and Consumer Guarantees Act. While the vast majority of building projects will run smoothly, sometimes things do go wrong. The Guarantee provides protection when these issues arise. It may also be that your builder stops working as a builder during the 10-Years after completion. The Guarantee is there to protect your housing investment.

Regardless of what happens in the future, your Halo Guarantee will be there to help you for the next full 10-Years following completion – it's peace of mind, guaranteed.

It has key components which are considered essential for NZCB's flagship guarantee product:

- Halo has been developed to provide confidence and protection to homeowners
- Simple and flexible administration
- Competitive premiums
- If something does go wrong after the completion of your build, then provided the terms and conditions are met your Guarantee will cover it and we will step in to help you fix any agreed problems or pay you a cash settlement to enable you to do so
- It adds value to your property
- It's fully transferable if you decide to sell
- It helps finance your build, as many banks prefer that a guarantee be present
- It costs less than 1% of the total build cost to protect your biggest investment



## SECTION 2

# Important Information

### It is important that:

- You check Your Guarantee Schedule (if applicable) to ensure the details are correct
- You notify Us as soon as possible of any inaccuracies on Your Guarantee Schedule
- You comply with any obligations detailed under each section of this document and under the Guarantee Agreement as a whole
- You read the claims conditions in section 5 of this document. If You do not meet these conditions We may reject a claim

### What does it cost?

Generally, the cost of a Guarantee is less than 1% of the total build or renovation cost.

Building Contract Value (incl. 15% GST)	Guarantee Fee (excl. GST)	Guarantee Fee (incl. 15% GST)
Up to \$30,000	\$300.00	\$345.00
\$30,001 to \$150,000	\$520.00	\$598.00
\$150,001 to \$250,000	\$690.00	\$793.50
\$250,001 to \$400,000	\$910.00	\$1,046.50
\$400,001 to \$500,000	\$1,085.00	\$1,247.75
\$500,001 to \$750,000	\$1,160.00	\$1,334.00
\$750,001 to \$1,000,000	\$1,475.00	\$1,696.25
\$1,000,001 to \$1,750,000	\$1,640.00	\$1,886.00
over \$1,750,001	Price on Application	Price on Application

**Additional Guarantee Levy = \$20.00+GST per guarantee**

### Period of Cover

The period of cover under this Guarantee begins on the Practical Completion Date of the Works and ends 10-Years after that date, unless the Guarantee is cancelled earlier in accordance with the terms and conditions of this document.

Making a claim does not bring the Guarantee to an end.

### Maximum Limit of Guarantee Cover

Maximum total cover for all claims under the Guarantee = \$1,000,000 including GST or value of the Building Contract, whichever is the lesser.

Maximum total cover of any one claim under the Guarantee = \$250,000 including GST or value of the Building Contract, whichever is the lesser.

### Accuracy of Information

In deciding to offer/accept this Guarantee and in setting the terms and cost, We have relied on the information in the Guarantee Application Form or Guarantee Schedule, whichever is applicable.

If You become aware that any information You or the Builder has given is incomplete or inaccurate, you must contact Us as soon as possible. Any notice may be delivered to:

Halo Guarantees Limited  
PO Box 13415, Tauranga Central, Tauranga 3141 or  
applications@halo.nz

If the information in the Guarantee Application Form or Guarantee Schedule is not accurate, We may refuse to accept a claim and/or cancel the Guarantee.

# The Guarantee at a glance

If your NZCB builder is using an NZOB Building Contract online, your Halo Guarantee Application is automatically sent to Halo Guarantees Limited. If your NZOB Builder is using an NZOB hardcopy Building Contract or another type of Building Contract, then you will manually have to complete a Halo Guarantee Application form.

HALO 10-YEAR RESIDENTIAL GUARANTEE	COVER TIME FRAME	HOW MUCH ARE YOU COVERED FOR?
<b>Application process</b>		
Ensure your Halo Guarantee <b>Application</b> has been sent	You must apply before building work starts	
<p><b>Guarantee Acceptance</b></p> <p>We will let you know when your guarantee has been accepted (after processing your application and payment of the guarantee fee is received) in the form of an electronic letter</p>	The Halo Guarantee commences on the Possession Date or the Completion Date (whichever is the earlier) and ends on the 10th anniversary of that date	
<b>After building work is completed</b>		
Materials and Workmanship defects [Structural and Non Structural]	You are covered for 2 years after building work is completed	Maximum total for all claims over the life of the Guarantee = \$1,000,000 or value of Building Contract, whichever is the lesser*
Structural defects	You are covered for the next 8 years from Guarantee Acceptance	Maximum total for all claims over the life of the Guarantee = \$1,000,000 or value of Building Contract, whichever is the lesser*
Temporary accommodation during remedial work	During remedial work	Covered up to 26 weeks
<b>Selling your property</b>		
The Guarantee will be automatically transferred to a <b>new Owner</b> multiple times during the life of the Guarantee	Transferring the Guarantee does not extend any of the timeframes above	

\* Maximum single claim \$250,000 or value of the Building Contract, whichever is the lesser.

# What part of the build is covered?

Building a new home or making a significant alteration is probably the biggest investment you'll ever make, and if anything goes wrong it could be the most costly too. Build with peace of mind with a Halo 10-Year Residential Guarantee.

image - certifiedplans.co.nz



## Floors

[examples of structural elements]

- Concrete foundations, foundation walls and floor systems
- Piles and bracing elements, bearers, joists, subfloor framing
- Inter-story flooring
- Structural retaining and block walls

## Walls

[examples of structural elements]

- Structural framing e.g. beams, lintels
- Bracing elements and fixings e.g. Ridged air barriers which provide bracing
- Structural steel portals, beams and columns

## Roof

[examples of structural elements]

- Trusses, rafters, purlins, tile battens and bracing members
- Ceiling diaphragms
- Sheathing material such as ply

## Decks

[if cover goes outside of primary structure]

- Piles and bracing elements, bearers, joists, stringers, subfloor framing
- Decking material
- Balusters, handrails, posts
- Pergola or other structure over, if carrying a roof



## SECTION 3

# What are you covered for?

### Cover During Workmanship and Materials Defect Guarantee Period

We will cover You for a Workmanship and Materials Defect in the Works or the Sub-Works (as applicable), discovered and notified by You to Us during the Workmanship and Materials Defect Guarantee Period, that arises due to the Builder's unlawful failure.

### Workmanship and Materials Defect means:

Building work or materials that have either failed or are not in compliance with the New Zealand Building Code and the New Zealand Standards applicable at the time of the Practical Completion Date whereby the item is not fit for its intended use and does not fall within the tolerances as set out in the Guide to Acceptable Tolerances applicable at the Practical Completion Date.

### Special Conditions Applicable to Cover for Workmanship and Materials Defect

We will not provide cover for a Workmanship and Materials Defect unless:

- the Works or the Sub-Works (as applicable) have reached Practical Completion; and
- the Builder has been notified and has failed to rectify the Workmanship and Materials Defect within a reasonable timeframe, and/or
- the Builder has withheld consent to resolve the dispute by using a disputes resolution service or other legally binding process, or
- the Builder fails to comply with the decision of the disputes resolution service or other legally binding process.

If a claim relates to materials used in the Works or the Sub-Works (as applicable), You must first make a claim under any warranty or guarantee given by the manufacturer or supplier of those materials.

### Cover During Structural Defect Guarantee Period

We will cover You for a Structural Defect to the Works, discovered and notified by You to Us during the Structural Defect Guarantee Period, that arises due to the Builder's unlawful failure.

Structural Defect means a defect in:

- the foundation systems and footings; and/or
- beams, girders, lintels, and columns; and/or
- load bearing walls and partitions; and/or

- roof framing and floor systems that results in damage that renders the Residential Dwelling unsafe and not fit for living in.

For the purposes of this cover a Structural Defect also includes a defect (whether or not of the type defined immediately above) that allows water to penetrate into the Residential Dwelling from the exterior, and results in damage to the Residential Dwelling. However this weathertightness extension does not apply if the Residential Dwelling scores 12 or more on the risk matrix table E2/AS1 Table 2: Building envelope risk scores (which is a measure of weathertightness risk) published by the Ministry of Business, Innovation and Employment (MBIE).

### Special Conditions Applicable to Cover for Structural Defect

We will not provide cover for a Structural Defect unless:

- a Code Compliance Certificate has been issued for the Works where required by the Building Act 2004, and
- the Builder has been notified and has failed to rectify the Structural Defect within a reasonable time frame, and/or
- the Builder has withheld consent to resolve the dispute by using a disputes resolution service or other legally binding process, or
- the Builder fails to comply with the decision of the disputes resolution service or other legally binding process.

If a claim relates to materials used in the Works or the Sub-Works (as applicable), You must first make a claim under any warranty or guarantee given by the manufacturer or supplier of those materials.

### Builder's Unlawful Failure

For the purpose of a Workmanship and Materials Defect or Structural Defect claim under this Guarantee, the Builder's unlawful failure is where the Builder has failed to:

- supply materials that are in good order, suitable and fit for purpose for which they will be used, and new, unless stated otherwise in the Building Contract;
- carry out the Works or the Sub-Works (as applicable) in a proper and competent manner and with reasonable care and skill, in accordance with the plans and specifications forming part of the Building Contract and the relevant Building Consent;
- carry out the Works or the Sub-Works (as applicable) it has contracted to build in accordance with and

in compliance with all relevant laws, and legal requirements including, inter alia the Building Act 2004 and the Consumer Guarantees Act 1993 and their regulations.

### Practical Completion

The expression "Practical Completion" is defined in Section 7 of this Guarantee, as is "Practical Completion Date". This Guarantee contemplates that You and the Builder will agree on when that date has occurred, and that you will sign and return to Us the Completion Certificate which we will send you, so that there is certainty about when the Workmanship and Materials Defect Guarantee Period and the Structural Defect Guarantee Period commence. You are obliged to take all reasonable steps to ensure that We receive the completed and signed Completion Certificate promptly after Practical Completion. We may, but are not obliged to, send you prompts or reminders so that this obligation is not inadvertently overlooked.

However there will be occasions where, despite you taking all reasonable steps, it is not possible for You to reach agreement with the Builder as to when Practical Completion occurred, if at all. In those circumstances, for the sake of achieving certainty, this Guarantee provides for a default arrangement for determining as best We can, when that date occurred. One of the factors this default arrangement relies upon is the date by which You and the Builder agreed that the Works would be completed, or if there was no such agreement, then the estimated completion date which the Building Act 2004 requires You and the Builder to insert into the Building Contract (assuming it is not a commercial construction contract). In this Section we refer to these alternative dates as the "Contractual Completion Date".

Therefore, if We do not receive a fully compliant Completion Certificate from You within four months after the Contractual Completion Date (whether that is Your fault or not), We will (in our sole and unfettered discretion) decide when the Practical Completion Date was and will notify you accordingly. In making that decision We will endeavor to select a date that is as accurate as possible, taking into account all relevant information that is reasonably available to us, That information may include, but without any obligation on Our part:

- consultations with You, the Builder, and any third parties We may deem appropriate,

- the evidence on the Council property file,
- evidence of when you took possession of the Works, and
- our experience in these matters.

On notification to You of the selected date, it will become the Practical Completion Date by default.

### Cover for Additional Expenses

If We accept a claim, We will provide cover for certain additional expenses that arise as a direct result of the Structural Defect or Workmanship and Materials Defect (whichever is applicable). This cover for additional expenses is for the Builder's liability in relation to:

#### Additional Costs

Such additional costs and expenses that are necessarily incurred solely in order to comply with building legislation or local authority requirements, provided that We will not cover costs that would have been incurred irrespective of the Builder's default.

#### Alternative Accommodation Costs

All reasonable additional costs and expenses for a period not exceeding 26 weeks in respect of removal, storage and alternative accommodation whilst the Residential Dwelling is uninhabitable as a consequence of a claim under this Guarantee.

#### Fees

Such Architects, Surveyors, Consulting Engineers' and other fees as are necessarily and reasonably incurred, by You in relation to the complete or partial rebuilding or rectifying the Structural Defect or Workmanship and Materials Defect (whichever is applicable), but does not include legal costs or fees incurred by You in preparing a claim.

#### Removal of Debris

Costs and expenses reasonably incurred by You with Our written consent for:

- removal of debris
- dismantling or demolishing
- shoring up
- temporary protection of the Residential Dwelling.

Any compensation provided by Us for additional expenses is capped at a maximum aggregate total of \$20,000 for any one claim under the Guarantee.

### Spec and Builder-Owned Homes

We will accept applications for Guarantees covering Residential Dwellings that are owned or part-owned by the Builder or by anyone who effectively controls the Builder (such as a majority shareholder or Director of a building company) - including Residential Dwellings that are intended to serve as their home, Residential Dwellings that are built for the purpose of resale such as “spec homes”, and portable or modular Residential Dwellings constructed off-site – but only on the following conditions:

- the Builder must have provided to Us the same information (as near as can be achieved) and at the same time, as if the Residential Dwelling was owned by an independent third party who had applied for a Guarantee in respect of the Works, so that We are alerted to the fact that the Works are due to commence and a Guarantee will be applied for when permitted under the following paragraph
- once the Building Site has been sold (whether before, during or after construction) or ownership of the portable or modular building has transferred to the purchaser, the new owner must submit an application for a Guarantee
- assuming the Guarantee is confirmed (which will be at Our sole discretion), it will only be for the benefit of the new owner (and any successors in title until the expiry of the Structural Defect Guarantee Period) and it will only be for the residual time left to run (if any) under the Workmanship and Materials Defect Guarantee Period and the Structural Defect Guarantee Period
- in the case of a portable or modular building the Practical Completion Date will be determined in accordance with the provisions of this Guarantee but will not be any earlier than the date when it has been installed on its destination site
- portable or modular Residential Dwellings constructed off-site do not include buildings which have been previously permanently located at another site, and then relocated to a new site



## SECTION 4

# What is not covered?

The following items are excluded from the Guarantee and We will not provide any cover for any claim arising from or in connection with these items:

### Associated Works

Any Structural Defect or Workmanship and Materials Defect (whichever is applicable) to landscaping, fencing, driveways or paths, patios or similar land improvements, swimming pools, spa pools or sauna, main supply services or drains supplied by a public utility, septic tank systems or septic farms or solar or wind electrical generating systems.

### Owner Delay

Any additional damage caused by a delay on Your part in notifying both Us and the Builder of a fact or circumstance giving rise to a possible claim under this Guarantee.

### Damage Outside of The Works

Damage due to, or arising out of, any defect in the design, workmanship, materials or components of the Residential Dwelling which do not form part of the Works or the Sub-Works (as applicable).

### Defects discoverable at Practical Completion

Any defect that was or should reasonably have been identified at Practical Completion of the Works.

### Errors or Omissions in Design or Engineering Work

Any defect due to errors or omissions in the design or engineering work where such work was carried out by a third party, whether or not such work was part of the Works.

### Fines and Penalties

Fines, penalties, or liquidated damages.

### Force Majeure Events

Any Structural Defect or Workmanship and Materials Defect (whichever is applicable) that results from some cause beyond the Builder's reasonable control, such as subsidence, settlement, heave or landslide (unless such loss or damage is as a result of a defect in the workmanship, materials or components of the Works) or anything else commonly known as an "Act Of God".

### Fraud

Any loss which results from any fraudulent act(s) of the Builder.

### Guide to Acceptable Tolerances

Any defect that falls within the Guide to Acceptable Tolerances.

### Indirect or Consequential Losses

Losses which do not result directly from a defect unless expressly stated in this Guarantee. For example, We will not be liable for costs arising from inconvenience or distress; loss of enjoyment; consequential losses of any kind; loss of use; loss of income or business opportunity; legal costs or expenses arising either directly or indirectly as a result of the events or circumstances that led to the defect.

### Neglect, Deterioration or Wear and Tear

Loss, damage, or deterioration due to:

- your neglect or failure to carry out normal or specific maintenance.
- wear and tear, normal deterioration caused by aging process or otherwise, normal dampness, condensation or shrinking, change in colour, texture, opacity, staining or cosmetic blemishes to any element of the Residential Dwelling.
- the inability to match materials, colours or finishes in remedial works or between remedial works and existing works when remediation is being, or has been undertaken, including remediation undertaken as a result of a claim under this Guarantee.

### Non-Agreed Remedial Work

Any work to correct a defect which is undertaken without Our consent, other than such work as is necessary to prevent further damage as set out in Section 5 – Claims Conditions of this Guarantee.

### Non-Approved Builders

Any Structural Defect or Workmanship and Materials Defect due to, or arising out of Works that are undertaken or completed by a Builder who is not an Approved Builder, unless agreed to in writing by Us.

### Non-Defect Disputes

Any dispute between the Builder and the Owner that does not directly relate to either a Workmanship or Materials Defect or a Structural Defect, such as disputes concerning delays or alleged overcharging.

### Not the Builder's Responsibility

Anything that is not the Builder's responsibility under the Building Contract OR has been arranged or paid for directly by You, including any work, services, materials or chattels.

### Personal Injury

Any costs, losses, expenses or damages for death, bodily injury, disease, illness or injury to mental health.

### Relocated Buildings

Buildings which have been previously permanently located at another site, and then relocated to a new site.

### Significant Variations

Variations to the Building Contract totalling more than 10% (ten per cent) of the Contract Price, unless expressly agreed to by Us in writing.

### Toxic Mould

The removal or rectification of any Pathogenic Organisms including bacteria, yeasts, mildew, viruses, fungi, mould or their spores, and any damage resulting from them, unless it is covered by the weathertightness extension of the Structural Defect cover.

### Use of Non-Compliant Materials

Where You agreed or directed the Builder to use materials that are or should reasonably have been suspected of being:

- non-compliant with the appropriate New Zealand standards including secondhand or recycled materials and/or other non-approved materials
- unsuitable for the particular function for which they have been applied, or contrary to the manufacturer's or supplier's recommendations

### Wilful Acts

Any defect or damage whatsoever caused by any act of either Yourself or any other party acting on Your behalf.



## SECTION 5

# Making a claim

### Making a Claim

You must notify the Builder in writing as soon as You become aware of any issue with the Works or the Sub-Works (as applicable) that you consider may be a Structural Defect or Workmanship and Materials Defect. After You have contacted the Builder, You must promptly notify Us that You have discovered an issue that may give rise to a claim under this Guarantee and confirm that You have informed the Builder.

If the Builder:

- refuses to fix the Structural Defect or Workmanship and Materials Defect: or
- has not completed the required remedial work within 90 days of being notified by You of the Structural Defect or Workmanship and Materials Defect then, You may make a claim under this Guarantee.

Any claim under this Guarantee must be notified to Us in writing at: Halo Guarantees Limited, PO Box 13415, Tauranga Central, Tauranga 3141; or [claims@halo.nz](mailto:claims@halo.nz)

**Unless we consent in writing to an extension of time to lodge a claim, We will not be liable to provide any cover or pay any compensation under this Guarantee if You do not lodge a claim under this Guarantee within 120 days of when you became aware or should have become aware of the circumstance that gave rise to a claim.**

### Claim Conditions

In the event You lodge a claim under this Guarantee, You must:

- comply with all of Our reasonable directions, and take reasonable precautions to avoid or minimise the claim.
- not undertake any remedial or rectification works without Our written consent, unless such works are necessary to avoid or minimise the claim
- provide Us, or any Approved Builder nominated by Us, reasonable access to the Building Site to inspect and/ or carry out remedial work

### How We Resolve Claims

If We do not accept Your claim, We will notify You of our reasons for declining Your claim.

If We accept Your claim, We will notify You that Your claim is accepted and We will tell the Builder to repair, replace or rectify the Structural Defect or the Workmanship

and Materials Defect (whichever is applicable) within a specified Remedial Period that We in our sole opinion consider reasonable in the circumstances.

If the Builder refuses or fails to fully repair, replace or rectify the Structural Defect or the Workmanship and Materials Defect (whichever is applicable) within that Remedial Period (or any reasonable extension of that Remedial Period that We in our sole discretion consider reasonable in the circumstances), You must notify Us no later than 30 days after the date the Remedial Period ended.

We will then either arrange an Approved Builder to rectify the Structural Defect or the Workmanship and Materials Defect (whichever is applicable) OR We will pay You the reasonable value of the damage You have incurred (not exceeding the maximum monetary limits set out in section 2 of this document).

It is at Our absolute discretion whether We decide to arrange an Approved Builder to rectify the Structural Defect or the Workmanship and Materials Defect (whichever is applicable) or pay You compensation for the loss you have incurred.

### Recoveries From Third Parties

Once We resolve Your claim, We may wish to recover from a person or organisation some or all of the amounts We have paid You or an Approved Builder. By making a claim under this Guarantee, You agree that We can, take over Your legal rights and remedies against anyone who is responsible for the portion of the Works, which lead to Your claim. If We choose to do this, We will be responsible for all costs incurred in pursuing a recovery of costs We have paid.

You must fully co-operate with Us and give Us any assistance We need to help Us to recover some or all of the costs We have incurred in resolving Your claim.

### Our Rights

In the event of any occurrence which might give rise to a claim under this Guarantee, We and Our agents shall be entitled to enter the Building Site in order to carry out remedial work. If such permission is unreasonably withheld, We may decline Your claim, even if We previously accepted it.

## SECTION 6

# General Terms

### Access to Information

You must provide Us with any information We require to assess a claim. This includes but is not limited to:

- any settlement or arrangement you have made with the Builder
- payments You have made under the Building Contract.
- any written communications with the Builder or its representatives
- any decision, expert opinion or determination made by a referee, arbitrator, adjudicator and/or third party expert

Failure to provide Us with such information within a reasonable timeframe of it being made available to You and being requested by Us, may result in Us rejecting a claim. This is whether or not such claim was previously accepted.

### Agency

The Builder is not an agent of Halo Guarantees Limited for any matter relating to this Guarantee.

### Breach of terms and conditions of Guarantee

If You do not promptly comply with any of the terms and conditions of the Guarantee and such delay or non compliance prevents Us from efficiently dealing with any matter connected to your claim, We may decline the claim. This is the case even if We previously accepted that claim.

### Cancellation of the Building Contract

This Guarantee is intended to protect You if the Builder cannot or will not honour the Builder's obligations after the Works are practically completed. However sometimes disputes emerge during the course of the Works and either You or the Builder decide that it is better to part company before Practical Completion occurs. In that event one or both of you may want to cancel the Building Contract and You will most likely want to engage another contractor to complete the Works. These are the rules that apply in those circumstances.

If You want to cancel, assign or novate the Building Contract so that You can engage another contractor (the "Substitute Builder") to complete the Works, You must first notify Us and obtain Our prior written consent, otherwise the Guarantee will be cancelled. It will be at our discretion whether We elect to continue to cover the Works, and if We do elect to do so, the Substitute Builder must be an Approved Builder who is satisfactory to us in all respects, and You must obtain Our prior written consent to the

engagement of that Approved Builder before you do so.

If either the Builder, or a Receiver, Liquidator, Administrator or Manager of the Builder has validly cancelled the Building Contract, the Guarantee will be cancelled. In that event, We will refund the Guarantee Fee to the person who paid it to us.

### Cancellation of Guarantee

Where this document states that Your Guarantee will be cancelled on the occurrence of certain actions or events, the Guarantee will automatically be cancelled and will be deemed to be cancelled even if no notice of cancellation has been sent to You in writing. We will not be liable for any claims under the Guarantee (whether existing or otherwise) on cancellation.

Where this document states that Your Guarantee may be cancelled on the occurrence of certain actions or events, We have the right to decide whether to cancel Your Guarantee and We will notify You of Our decision. We will not be liable for any claims under the Guarantee (whether existing or otherwise) on cancellation.

### Claim Covered by Insurance or Indemnity

Where a claim under this Guarantee relates to any circumstance that is also covered by any insurance policies or indemnity agreements, then this Guarantee will only provide cover for the Builder's liability in excess of the amount which the Owner is entitled to under the other insurance policies and/or indemnity agreements.

### Contract Privity

For the purpose of section 12 of the Contract and Commercial Law Act 2017, the provisions in this Guarantee are intended to create obligations enforceable by any subsequent owner of the property whose name is registered on the certificate of title to the property on which the Works are carried out, notwithstanding that they are not parties to this Guarantee.

### Disputes between You and the Builder

If there is an unresolved dispute between You and the Builder, We can refuse to accept a claim under the Guarantee until the dispute has been resolved. Generally this will require You and the Builder to follow the dispute resolution process set out in the Building Contract, unless We are satisfied and agree in writing that the dispute may be or has been resolved in some other manner.

### Disputes between You and Us

If You disagree with decisions We make in relation to this Guarantee, including (but not limited to) a decision to decline a claim or the value of a claim, You must notify Us within 10 days of being told of Our decision. On notification of the dispute both parties must meet together or otherwise communicate with each other and attempt to resolve the dispute in good faith through negotiation. After 10 days, if the dispute has not been resolved by negotiation, the parties may agree to attempt to resolve it by mediation. Mediation will not be compulsory unless both parties agree to it, and that agreement may be revoked by either party at any time up until 7 days before the scheduled date for the mediation. The parties will share the mediator's fees and expenses equally and meet their own costs. If the parties cannot agree on a mediator within 7 days of the agreement to mediate, then either party may request the President or relevant nominating officer of the Arbitrators' & Mediators' Institute of New Zealand Inc ("AMINZ") or of LEADR (NZ) Inc. to select a mediator.

If the dispute has not been resolved within a month of the dispute arising, and there is no agreement to mediate currently in force and being actively pursued, then the dispute will be resolved as follows:

In the event of a dispute about the value of a claim:

- by a registered quantity surveyor engaged by Us to decide the value of the claim

In the event of any other dispute, by:

- adjudication before a Disputes Tribunal under the Disputes Tribunal Act 1988; or
- arbitration under the Arbitration Act 1996

### **Fraudulent Claim Clause**

If You make any claim knowing the same to be false or fraudulent, as regards the value or otherwise, this Guarantee will be cancelled and any claim under this Guarantee will be forfeited.

### **Law and Jurisdiction**

This Guarantee shall be governed by the laws of New Zealand and subject to the exclusive jurisdiction of the courts of New Zealand.

### **Limitation on Liability**

We are not liable for any claim under the Guarantee if the Works or the Sub-Works (whichever is applicable), in relation to the claim, do not have any required building, resource or similar consents.

Our liability is limited to the maximum monetary limits of cover under the Guarantee set out in section 2 of this document.

If You are in breach of any of Your obligations under the Building Contract, We will not be liable for any claim made under this Guarantee.

### **Notices**

Any notice may be delivered to: Halo Guarantees Limited  
PO Box 13415, Tauranga Central, Tauranga 3141 or  
applications@halo.nz

### **Owner**

The postal address provided in the Guarantee Application Form or Guarantee Schedule; or

The email address provided in the Guarantee Application Form or Guarantee Schedule; or

In the case of any subsequent owner of the property, the address of the property on which the Works were carried out.

If no postal address or email is provided by the Owner, the notice may be delivered to the last known place of residence or business of the Owner.

A notice given by a party is deemed to be received;

- if it is personally delivered, when delivered; or
- if it is posted, 3 working days after posting; or
- if it is sent by fax, on production of a transmission report (by the machine from which the fax was sent) that indicates that the fax was sent in its entirety; or
- if it is sent by email, when the email leaves the communications system of the sender, provided that the sender does not receive any error message relating to the sending of email

### **Privacy**

The Owner authorises Halo Guarantees Limited and/or its representatives to obtain from any other third party, personal information they consider relevant for the purpose of the Guarantee.

The Owner authorises Halo Guarantees Limited and/or its representatives to disclose to any other third party, personal information obtained from the Owner or any other third party for any purpose in relation to the Guarantee.

The Owner has rights to access and can request correction of their personal information. To exercise these rights the Owner should contact Halo Guarantees Limited on the contact details given on the first page of this document.

### **Sanctions**

We shall not provide any benefit under this Guarantee to the extent of providing cover, payment of any claim or the provision of any benefit where doing so would breach any sanction, prohibition or restriction imposed by law or regulation.

### **Waiver**

A failure or delay to exercise any of Our rights or remedies under this Guarantee cannot be taken as a waiver of that right or remedy.



## SECTION 7

# Definitions

### **Approved Builder**

A Builder who is a current Business Member of the New Zealand Certified Builders Association Incorporated.

### **Builder**

The entity named in the Guarantee Application Form or Guarantee Schedule (whichever is applicable) in its capacity as either head contractor or sub-contractor to the head contractor.

### **Building Code**

The New Zealand Building Code as set out in Schedule 1 of the Building Regulations 1992 including subsequent amendments and Regulations made in substitution for them.

### **Building Consent**

The building consent issued by the relevant authority under the Building Act 2004 for the Works.

### **Building Contract**

The contract entered into between You and the Builder for the carrying out of the Works.

### **Building Site**

The land where the Works will be undertaken or the Residential Dwelling will be erected.

### **Completion Certificate**

The certificate sent by Halo Guarantees Limited to the Owner that must be completed and signed by the Owner when the Building Work has achieved Practical Completion.

### **Code Compliance Certificate**

The certificate issued by the local authority on the completion of the Works that certifies compliance with the Building Code.

### **Contract Price**

The amount shown in the Guarantee Application form or Guarantee Schedule (whichever is applicable), as the amount anticipated to be paid for the Works, excluding

any fees or other expenses payable to parties other than the Builder.

### **Guarantee**

The Halo 10-Year Residential Guarantee provided in the terms and conditions of this document.

### **Guarantee Application Form**

A completed Guarantee Application form signed by the Owner in hard copy form and accompanying the terms and conditions of the Guarantee sent to Halo Guarantees Limited.

### **Guarantee Fee**

The cost of the Guarantee in accordance with the cost schedule in section 2 of this document or as otherwise notified by Halo Guarantees Limited.

### **Guarantee Schedule**

The document named as the "Guarantee Schedule" that accompanies the terms and conditions of the Guarantee (if the Builder has made a request for guarantee on Your behalf) and names You and the Builder and specifies the Works covered.

### **Guide to Acceptable Tolerances**

The "Guide to tolerances, materials and workmanship in new residential construction", issued by the Ministry of Business Innovation & Employment or any guide in substitution thereof that maybe issued from time to time, which is used to determine whether a particular issue is deemed to be a Defect and sets out a reasonable position on tolerances that a building professional would consider in determining whether a building element has been installed and/or constructed to an acceptable standard.

### **Owner**

The person for whom, or entity for which, the Works are being carried out under the Building Contract, and named in the Guarantee Application form or Guarantee Schedule (whichever is applicable), and any subsequent owner of the property whose name is registered on the certificate of title to the property on which the Works are carried out.

### **Practical Completion**

The point in time, and the stage in the progression of the Works, when the Works are so far advanced that the Residential Dwelling can effectively be used by the Owner for its intended purpose, notwithstanding that certain non-critical or aesthetic features are yet to be completed or minor omissions or defects are yet to be rectified.

### **Practical Completion Date**

The date of Practical Completion as notified by You on the signed Completion Certificate, or, if the default provisions outlined in Section 3 of this Guarantee apply, then the default Practical Completion Date as selected by Us.

### **Remedial Period**

The timeframe set by Us during which the Builder should carry out all remedial work required to fix the defect which is the subject of a claim that has been accepted by Us.

### **Residential Dwelling**

- A building or part of a building that is used or intended to be used mainly for residential purposes, includes detached standalone buildings used in association with residential purposes, but excludes any building or part of a building in excess of (3) three stories, excluding any basement, unless agreed otherwise, in writing by Us.
- Any private services (water, gas, electricity, or sewage) associated with the Building Work, but excludes septic tank systems or septic farms, or solar or wind electrical generating systems.

### **Structural Defect**

A structural defect is a defect that falls within the definition of Structural Defect given in section 3 of this document.

### **Structural Defect Guarantee Period**

The period commencing from the Practical Completion Date and ending 10-Years after that date.

### **Sub-Work(s)**

The workmanship and materials to be provided to Your head contractor by the Builder (and/or the Builder's subcontractors and suppliers) as described in the Building Contract and (if applicable) the relevant Building Consent, in connection with a Residential Dwelling, if the Builder is acting in the capacity of a subcontractor.

### **We, Us, Our**

Halo Guarantees Limited.

### **Work(s)**

The workmanship and materials to be provided by the Builder (and/or the Builder's subcontractors and suppliers) as described in the Building Contract and (if applicable) the relevant Building Consent, in connection with a Residential Dwelling.

### **Workmanship and Materials Defect**

A workmanship and materials defect is a defect that falls within the definition of Workmanship and Materials Defect given in section 3 of this document.

### **Workmanship and Materials Defect Guarantee Period**

The period commencing from the Practical Completion Date and ending 2 years after that date.

### **You, Your, Yourself**

The Owner.





10 YEAR RESIDENTIAL  
GUARANTEE

**Halo Guarantees Limited**  
**PO Box 13415**  
**Tauranga Central**  
**Tauranga 3141**

**[www.halo.nz](http://www.halo.nz)**  
**[applications@halo.nz](mailto:applications@halo.nz)**  
**0800 141 490**