

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.

www.halo.nz



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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

The Halo 10-Year Guarantee does not compromise any of your statutory rights. It is intended to provide additional protection. 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

Where the Consumer Guarantees Act 1993 applies to goods and/or services provided to You and this includes:

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. Your Guarantee will then be cancelled, and the purchase price of the Guarantee will be refunded by Us. 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. Please ensure Your notice of cancellation includes Your name and the address of the property affected.

The notice of cancellation must be sent to:

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

image - certifiedplans.co.nz



SECTION 1

Introduction

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

About Your Guarantee

Welcome to Your Halo 10-Year Residential Guarantee

In providing You with this Guarantee, Halo Guarantees Limited is offering to answer to You for the default and/or liability of the Builder in respect of the Builder's obligations under the Building Contract (subject to the limitations and exclusions contained in these Guarantee documents).

It is important to remember the Guarantee only becomes operational if the Builder cannot or will not fulfil their obligations to you either under their contract with You or under the relevant legislation.

The first step when You believe that the Builder has not completed the works satisfactorily is to contact them and follow procedures laid down in Section 5 of the Guarantee. Keep in mind the timeframes that You are required to meet as shown in Section 5. If You do not follow the procedures and the required timeframes then a claim could be denied or the Guarantee cancelled.

The Guarantee Agreement

This document and Your Guarantee Schedule or Guarantee Application Form (whichever is applicable) are Your Guarantee documents and together they make up the Guarantee agreement between You and Us. It is important that You read this document carefully along with Your Guarantee Schedule (if applicable) so You can be sure of the terms and conditions of the Guarantee, including what You are covered for, the cover period, exclusions, monetary caps on claims and the claim process.

If the Builder completed the Building Contract online and a Guarantee application was made on your behalf, We will decide whether We will offer you a Guarantee.

We will notify You in writing of the acceptance of the Guarantee and it will only come into force:

- after payment of the Guarantee fee is received by Us; and,
- a completed, signed and dated Halo Completion Certificate has been received by Us and the Guarantee issued.

Once Your Guarantee comes into force, You are covered in accordance with the terms and conditions contained in this document for the duration of Your Guarantee, unless the Guarantee is cancelled earlier.



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

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 and/or Guarantee Schedule, as applicable.

If You become aware that any information You or the Builder has given is incomplete or inaccurate, or if You or the Builder become aware of any issue(s) or circumstance(s) which may affect Our decision to accept Your Guarantee, You must contact Us as soon as possible.

Notices must be delivered to:
Halo Guarantees Limited
PO Box 13415, Tauranga Central, Tauranga 3141
hello@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.

Period of Cover

Subject to acceptance by Us of Your Guarantee, 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 or voided earlier in accordance with the terms and conditions of this document.

Making a claim does not bring the Guarantee to an end. The Guarantee lasts until it is exhausted (see below) or 10 years.

Practical Completion

The expressions "Practical Completion" and "Practical Completion Date" are defined in Section 7. When You and your Builder have agreed that Practical completion has been reached then please sign and return the Completion Certificate to Us that we will provide You. Once the Completion Certificate is returned then the Workmanship and Materials Defect Guarantee Period and the Structural Defect Guarantee Period commences. We are not obliged to send You prompts or reminders, so it is important that this certificate is returned promptly to start cover.

There may be circumstances where You cannot reach agreement with the Builder as to when Practical completion has occurred. If this happens then there is a default arrangement to define the Practical Completion Date as noted:

- The original date that You and Your Builder agreed that works would be completed
- If no date stipulated for Practical completion then the estimated date that the Building Act 2004 requires to be inserted in the Building Contract. These are defined as the 'Contractual Completion Date'

In the event that We do not receive a compliant Completion Certificate We are unable to commence the Guarantee and no cover exists. In the absence of a Practical Completion certificate We will determine the Practical Completion Date and notify You accordingly. In determining the Practical Completion date We will take into account any relevant information available to Us and may include:

- 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. However, if We cannot determine a Practical Completion Date then the application will lapse and We will notify You in writing.

Maximum Limit of Guarantee Cover and Number of Claims

Rating factors are shown in the Cost of the Guarantee but this does not change the Maximum total cover for all claims under the Guarantee which is the lesser of:

- The value of Your Building Contract; or
- \$1,000,000 including GST or value of the Building Contract.

The maximum total cover of any one claim under the Guarantee is 25% of the value of the Building Contract, or \$250,000 including GST, whichever is the lesser. Subject to these limits there is no limit to the number of claims You may bring under the Guarantee.

What does it cost?

Generally, the cost of a Guarantee is less than 0.42% of the total build or renovation cost.

Building Contract Value (incl. 15% GST)	Rate	Min. Premium (excl. GST)	Price Range (excl. GST)
Up to \$200,000	0.42%	\$600.00	\$600.00 - \$840.00
\$200,001 to \$400,000	0.32%	\$840.00	\$840.00 - \$1,280.00
\$400,001 to \$600,000	0.26%	\$1,280.00	\$1,280.00 - \$1,560.00
\$600,001 to \$800,000	0.22%	\$1,560.00	\$1,560.00 - \$1,760.00
\$800,001 to \$1,000,000	0.19%	\$1,760.00	\$1,760.00 - \$1,900.00
\$1,000,001 to \$1,500,000	0.15%	\$1,900.00	\$1,900.00 - \$2,250.00
\$1,500,001 to \$2,000,000	0.13%	\$2,250.00	\$2,250.00 - \$2,600.00
over \$2,000,001	Price on Application	Price on Application	Price on Application

The cost of the Guarantee is calculated by applying the “minimum rate” to the Building Contract value based on the band in which it falls, subject to the minimum premium applicable for the band.

Additional Guarantee Levy = \$50.00+GST per 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 online.

HALO 10-YEAR RESIDENTIAL GUARANTEE	COVER TIME FRAME	HOW MUCH ARE YOU COVERED FOR?
Application process		
Ensure your Halo Guarantee Application has been sent	You must apply before building work starts	
<p>Guarantee Acceptance</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	
After building work is completed		
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
Selling your property		
The Guarantee is fully transferrable to a new Owner(s) an unlimited number of 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.

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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 and Decking

Decking connected to the primary structure and includes;

- Piles, bearers, bracing elements, joists stringers, subfloor framing
- Decking materials
- Handrails and posts
- Pergola or other structure 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.

Special Conditions Applicable to Cover for Workmanship and Materials Defect

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.

Structural Defects Including Weathertightness

This Guarantee covers Structural Defects which are defined as any defect with Your dwelling that constitutes a breach of the New Zealand Building Code as it was at the time of Practical Completion. For the avoidance of doubt, to the extent that the defect breaches the New Zealand Building Code this may include without limitation:

- 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; and/or
- Decks and decking as defined

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 13 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 failed to take steps towards and rectify the Structural Defect within a reasonable time of being notified, and/or
- where the Structural Defect is disputed, the Builder has failed to engage in the dispute resolution mechanisms of the Building Contract or other legally binding process,
- the Builder fails to comply with the decision of the disputes resolution service or other legally binding process

Additional Costs

Where You have a valid claim under this Guarantee We will also, as part of that claim, cover You for the following Additional Costs only, which are not directly related to the remediation of the Defect:

- Reasonably incurred alternative accommodation costs if You are required to vacate Your dwelling as a direct result of the Defects
- Reasonably incurred costs of protecting, moving and storing of Your furniture and personal effects
- Reasonably incurred costs for Architects, Surveyors, Consulting Engineers' and other fees in relation to the complete or partial rebuilding or rectifying the Structural Defects, but does not include legal costs or fees incurred by You in preparing a claim.
- 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 Costs is capped at a maximum aggregate total of \$30,000 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 and apply for the Guarantee via the established application process.
- 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, a Transfer of Ownership application must be submitted and this must be accepted by Us in writing for cover to continue.
- 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 Defect 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 discovered when building owned by the Builder

Any defect whilst the building is owned by the Builder or any associated entity of the Builder.

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 landslip (unless such loss or damage is as a result of a defect in the workmanship, materials or components of the Works).

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 that 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.

Severe Weathertightness Risk

Where the risk matrix rating scores 13 or more, the weathertightness extension does not apply. See section 3 for further details.

Significant Variations

Variations to the Building Contract totaling 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

Willful Acts

Any defect or damage whatsoever caused by any act of either Yourself or any other party acting on Your behalf. Where the Structural Defect is caused by Defective Workmanship We will provide cover for a period of up to ten years from Practical Completion.

SECTION 5

Making a claim

Making a Claim

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/or Materials Defect You must inform the Builder in writing and then contact Us immediately after that to tell Us that there is a possible claim.

A claim may proceed if the Builder:

- refuses to fix the Structural Defect or Workmanship and/or Materials Defect: or
- has not completed or made reasonable progress with the required remedial work within 90 days of being notified by You of the Structural Defect or Workmanship and/or Materials Defect

Claims under this Guarantee must be notified to Us in writing at:

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

You have 120 days to lodge a claim after becoming aware of or should have been aware of the circumstances that could give rise to a claim. Unless We agree 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 within the time specified. Compliance with this time limit is a condition precedent to any entitlement to cover under this Guarantee.

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 in writing.

If We accept Your claim, We will notify You and We will tell the Builder to repair, replace or rectify the Structural Defect or the Workmanship and/or Materials Defect (whichever is applicable) within a specified Remedial Period that We consider reasonable in the circumstances. The remedial Period may be extended by Us if We consider that that is reasonable.

If the Builder refuses or fails to fully repair, replace or rectify the Structural Defect or the Workmanship and/or Materials Defect (whichever is applicable) within that Remedial Period then You must notify Us no later than 30 days after the date the Remedial Period ended after which We will either:

- arrange for an Approved Builder to rectify the Structural Defect or the Workmanship and/or 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 discretion whether We decide to arrange an Approved Builder to provide rectification works or pay You compensation for the loss You have incurred.

Recoveries From Third Parties

Once Your claim is resolved, 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 which led to Your claim. If We choose to do this, We will be responsible for all costs incurred in pursuing a recovery of amounts paid by Us.

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
- confirmation from Your insurer that You have made a claim under Your insurance policy, and/or the outcome of the claim

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. Except for terms and conditions in the Guarantee We are not liable for the actions or non-actions, promises or other comments made by the Builder.

Claims made to the Builder does not mean that they have been made to Us and therefore always contact Us directly.

Where external assessors or loss adjusters or other specialists have been appointed by Us as part of a claims investigation or other dispute We may not be bound by comments, recommendations made during the investigations. This extends to any statement of claim or notifications made to them by You as these should always be made directly to Us.

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 their obligations after the Works are practically completed.

Sometimes 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 application will be cancelled.
- It will be at our discretion whether We continue to cover the Works, and if We do so, the Substitute Builder must be an Approved Builder who is satisfactory to Us in all respects.

If either the Builder, or a Receiver, Liquidator, Administrator or Manager of the Builder has validly cancelled the Building Contract, the Guarantee application 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.

Claim Covered by Insurance or Indemnity

Where there is a valid claim under this Guarantee as well as provided by any other insurance policy or indemnity agreement then We will only pay in excess of the amounts the Owner is entitled to receive under these arrangements.

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, even if 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 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
- hello@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 whereby doing so would breach any sanction, prohibition or restriction imposed by law or regulation.

Transfer of Guarantee

Your Guarantee is transferable to subsequent owners of the property, subject to the following conditions:

- A completed Request for Transfer together with a non refundable administration fee of \$250 plus GST must be received by us any time prior to settlement of the sale of the property or up until a maximum of 60 calendar days following settlement. The Request for Transfer will not be processed without payment of the fee.
- We reserve our right to decline the transfer for any reason which a prudent insurer might decline insurance cover for the proposed transferee, or on any other reasonable basis concerning the nature of the transferee or the property.

- We will not be liable for any Defects that would have been picked up by a prudent inspection of the property by reasonably diligent purchaser or their builder, surveyor or inspecting agent as the case may be.
- The transfer of the Guarantee does not extend its period of cover.

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.

Decks and Decking

Decking connected to the primary structure and includes piles, bearers, bracing elements, joists stringers, subfloor framing, decking materials, handrails posts, pergola or other structure carrying a roof.

Defect

A defect which constitutes a breach of the New Zealand Building Code as it was at the date of Practical Completion.

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 (MBIE) 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 2 of this Guarantee apply, then we will seek a Practical Completion date.

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

Structural Defect means a defect in or damage to:

- 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
- decks and decking as defined

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.

Substitute Builder

A builder approved by Us to continue works following removal of the original Builder.

Workmanship and Materials Defect

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

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 and includes decks only if they are connected to or part of the primary structure.

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.



Halo Guarantees Limited
PO Box 13415
Tauranga Central
Tauranga 3141

www.halo.nz
hello@halo.nz
0800 141 490