

Guarantee Provisions

**Please keep this document and all related documents
in a safe place for future reference.**

About this Guarantee

Your Guarantee consists of:

1. this document, and
2. the Certificate of Guarantee, and
3. the information you have provided in the Application

Your Right to Cancel

If you decide for any reason that you wish to cancel the Guarantee you will need to inform us of this in writing within 7 days of the date this Guarantee is issued. We will cancel your Guarantee from inception and refund the fee. Your cancellation must reach Builtin New Zealand Limited ("Builtin"), acting for the Underwriters pursuant to the terms of a Binding Authority, by letter or email.

Contact details are:

Builtin New Zealand Limited
PO Box 616, Tauranga 3140
Email: hello@builtin.co.nz

Please quote your Guarantee number when cancelling.

Making a Claim

To make a claim against this Guarantee, contact us either by phone (please have a copy of this Certificate of Guarantee with you) or by email (making reference to your Guarantee number, address and contact number).

Every notice or communication to SOPAC shall be in writing to Builtin, acting for the Underwriters pursuant to the terms of a Binding Authority:

Builtin New Zealand Limited
104 Spring Street
PO Box 616
Tauranga 3140

Phone: 0800 Builtin / 0800 284 584
(07) 579 6259
Email: hello@builtin.co.nz

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

Fraudulent Claim

If the Building Owner shall make any claim knowing the same to be false or fraudulent, as regards amount or otherwise, this contract shall become void and any claim hereunder shall be forfeited.

Complaints

We are committed to providing you with an exceptional level of service and customer care. We realise that things can go wrong and there may be occasions when you feel that we have not provided the service you expect. When this happens, we want to hear about it so we can try and put things right.

The most important factors in getting your complaint dealt with as quickly and efficiently as possible are:

- to be sure you are talking to the right person, and
- that you are giving them the right information.

Contact in writing to:

Builtin New Zealand Limited
PO Box 616
Tauranga 3140
Email: hello@builtin.co.nz

Please ensure that you provide the following information in your communication:

- Your name and address
- Your Guarantee number
- The nature of your complaint

We expect the majority of complaints to be quickly and satisfactorily resolved at this stage, but if you are not satisfied, you can take the issue further.

If we have given you our final response and you are still dissatisfied you may refer your case to an independent review process/judiciary such as the Insurance and Financial Services Ombudsman (IFSO) or the Courts. IFSO is an independent body that arbitrates on complaints about financial and insurance products. IFSO will only consider complaints after we have provided you with a 'deadlock' letter. We will produce such a letter only when our internal complaints procedure has been exhausted.

IFSO can be contacted at:

Office of the Insurance and Financial Services Ombudsman
PO Box 10-845
Wellington 6143
Fax (04) 499 7614

1. BACKGROUND

- A. The **Builder** has entered into a **Building Contract** with the **Building Owner** to carry out the **Building Work**.
- B. **SOPAC** wishes to guarantee the **Builder's** completion of the **Building Work** in accordance with the **Building Contract** during the **Building Period** in favour of the **Building Owner**.
- C. **SOPAC** also wishes to guarantee the remedying of **Defects** in the **Building Work** by the **Builder** during the **Defects Period** in favour of the **Building Owner**.
- D. **SOPAC**, the **Building Owner** and the **Builder** wish to record the terms of **SOPAC's** guarantees in this document of **Guarantee**.

2. DEFINITIONS

The following words in this **Guarantee** have the following definitions. These definitions apply to all derivatives of the words defined.

Builder means a builder that is acceptable to **SOPAC** and that is named in the **Certificate** as the builder.

Building Contract means the domestic building contract between the Builder and the Building Owner as identified in the **Certificate**.

Building Owner means the entity named in the **Certificate**.

Building Period starts at the start date of the **Period of Guarantee** and finishes on the **Possession Date**.

Building Work means

- In relation to Clause 3 Building Guarantee: all the domestic building materials and work to be supplied and performed by the Builder as described in the Building Contract for the benefit of the Building Owner, and
- In relation to Clause 4 Defects Guarantee: the principal domestic building only, excluding any ancillary domestic buildings, and any external improvements to the land such as, fences, retaining walls, driveways, pavements, tennis courts, swimming/spa pools and the like.

Certificate means the most recent Certificate attaching to this **Guarantee**, which forms part of it.

Defect means any **Building Work** that:

- Has failed, or
- Is not fit for its intended purpose because of faulty materials and/or workmanship, or
- Does not comply with the *New Zealand Building Code*.

It does not include any **Building Work** that comes within the tolerances allowed in the most recent version of the *Guide to Acceptable Tolerances* issued by the Ministry of Business Innovation and Employment.

Defects Period starts immediately after the **Possession Date** and finishes at the expiry of the **Period of Guarantee**.

Guarantee means this Built in 10 Year Builder's Guarantee consisting of this document and the **Certificate**.

Guarantee Application means **SOPAC's** application form to purchase this **Guarantee**.

Guarantee Fee means fee payable to **SOPAC** for **SOPAC** providing this **Guarantee** to the **Building Owner**.

Period of Guarantee starts upon the earlier of:

- **SOPAC's** acceptance of the **Guarantee Application** and receipt of the **Guarantee Fee**, or
- The start of the **Building Works**, and

Finishes 10 years from this date.

Possession Date means the earlier of:

- The date the **Builder** gives possession of the completed **Building Works** to the **Building Owner**, or
- The date when the **Builder** has practically completed the **Building Works**, except for minor defects and/or omissions, which do not prevent the **Building Works** from being used for their intended purpose.

SOPAC means Southern Pacific Insurance Corporation, domiciled in American Samoa.

3. BUILDING GUARANTEE

Upon **SOPAC's** acceptance of the **Guarantee Application** and receipt of the **Guarantee Fee**, **SOPAC** guarantees to the **Building Owner** the carrying out of the **Building Work** by the **Builder** during the **Building Period** of the **Period of Guarantee**.

However, this guarantee remains suspended and does not apply until one of the following occurs during the **Building Period**:

- The **Builder** dies, disappears without trace for at least 42 days, or becomes legally incapacitated, or
- The **Builder** is put into bankruptcy, receivership, liquidation or administration, or the **Builder** enters into a Scheme of Arrangement with its creditors, or
- The **Builder's** registration as a builder, either directly or through a company, under any statutory scheme is suspended or cancelled, or
- The **Builder** wrongfully fails or refuses to rectify **Defects** to the **Building Works** that arise during the course of the **Building Works**.

4. DEFECTS GUARANTEE

Upon **SOPAC's** acceptance of the **Guarantee Application** and receipt of the **Guarantee Fee**, **SOPAC** guarantees to the **Building Owner** the remedying of any **Defects** in the **Building Work** by the **Builder** during the **Defects Period** of the **Period of Guarantee** as a result of any of the following failures by the **Builder**:

- Failure to use materials in the **Building Work** that are in good order, suitable for the purpose for which they will be used, and new, unless otherwise stated in the **Building Contract**, or
- Failure to carry out the **Building Work** with reasonable care and skill, in a proper and competent manner, and in accordance with the plans, standards, quality, specifications, including manufacturers specifications, stated in the Building Contract, or
- Failure to carry out the **Building Work** in compliance with all relevant laws and regulations, including the Building Act 2004, the Consumer Guarantees Act 1993, and the relevant Building Consent, or
- Where the domestic building is to be occupied on completion of the **Building Work**, failure to make it suitable for occupation on completion of the **Building Work**, or
- Where the **Building Contract** states the particular purpose for which the **Building Owner** requires the **Building Work** so as to show that the **Building Owner** relied on the **Builder's** skill and judgement, the failure to carry out the **Building Works** to achieve that purpose.

However, this guarantee remains suspended and does not apply until one of the following occurs during the **Defects Period**:

- i. The **Builder** fails to rectify the **Defect** within a reasonable period of time, or
- ii. The **Builder** fails or refuses to try to resolve a dispute with the **Building Owner** about the **Defect** by using a dispute resolution service or other legal process, or
- iii. The **Builder** fails to comply with a decision of the dispute resolution service or other legal process.

5. PERFORMANCE OF THE BUILDING GUARANTEE AND DEFECTS GUARANTEE

When either guarantee applies, **SOPAC** may, at its choice, either perform the guaranteed work itself, or contract a suitably qualified and experienced builder to perform the guaranteed work.

If **SOPAC** contracts the guaranteed work to a suitably qualified and experienced builder, **SOPAC** remains liable to the **Building Owner** for the performance of this **Guarantee**.

6. CIRCUMSTANCES WHEN THE GUARANTEES DO NOT APPLY

- a) The Building Guarantee does not apply if the **Builder** is also the **Building Owner** who is building the domestic building to sell it, and not to personally occupy it.
- b) The Building Guarantee does not apply to any variations to the **Building Works** agreed to between the **Builder** and the **Building Owner** after the **Building Works** commence.
- c) The Defects Guarantee does not apply if the applicable building consent authority has never issued a legally required Code Compliance Certificate for the **Building Work**.

7. TRANSFER OF GUARANTEES

- a) The **Building Owner** may transfer this **Guarantee** to a subsequent purchaser of the **Building** within 60 days of the settlement date of the purchase by completing **SOPAC's** transfer form and paying **SOPAC's** transfer fee.
- b) All transfers are subject to **SOPAC's** approval, which **SOPAC** must not withhold unreasonably.

8. GOVERNING LAW

New Zealand law governs this **Guarantee** and the New Zealand Courts have jurisdiction to hear disputes.