

New Homes Structural Defects Insurance

Policy Document

SPECIMEN

SUMMARY OF CONTENTS

This Policy consists of the following sections:

- **INFORMATION**
- **CERTIFICATES OF INSURANCE** *Describing who and what is insured, and any extensions applicable. Three separate Certificates of Insurance are issued: (1) a Certificate of Building Period Insurance for the insurance provided by Section 1, (2) a Certificate of Structural Defects Insurance for the insurance provided by Sections 2, 3, 4 and 5*
- **DEFINITIONS** *Defining the terms used in the Policy.*
- **INSURANCE COVERAGE:**
 - SECTION 1** *BUILDING PERIOD INSURANCE:*
 - SECTION 1.1** *ILL HEALTH OR DEATH OR FRAUD OF THE BUILDER DURING THE BUILDING PERIOD*
 - SECTION 1.2** *INSOLVENCY OF THE BUILDER DURING THE BUILDING PERIOD*
 - SECTION 2** *DEFECTS INSURANCE*
 - SECTION 3** *STRUCTURAL INSURANCE*
 - SECTION 4** *CONTAMINATED LAND*
 - SECTION 5** *ADDITIONAL COVER FOR NON COMPLIANCE WITH BUILDING REGULATIONS*
- **EXCLUSIONS** *Detailing exclusions that apply to the whole Policy.*
- **GENERAL CONDITIONS** *Defining the terms that apply to the whole Policy.*
- **CLAIMS NOTIFICATION PROCEDURES** *Detailing the procedures that should be followed when notifying a claim under any of the sections of the Policy.*
- **COMPLAINTS PROCEDURES** *Detailing the procedures that should be followed in the event of an enquiry or complaint about the insurance provided by **FMB Insurance Services***

This Policy has been prepared in accordance with the information and instructions supplied to us. It is recommended that you take a few minutes to read the policy wording, the definitions and conditions, the certificates and any endorsements printed on them carefully for the full details of the insurance coverage. If you are not clear about any of the contents please contact **FMB Insurance Services**.

The Quality of Your Housing Unit

All **Housing Units** insured under the **FMB Insurance Services Build Assure New Homes Structural Defects Insurance** are the subject of a system of checks and inspections:

- The **Builder** has to comply with **Building Regulations** and all work will be inspected by an **Approved Inspector** and/or **Local Authority Building Control (LABC)**.
- All **Housing Units** whose **Structure**, conversion, refurbishment or renovation involves the application of **Modern Methods of Construction (MMC)** shall be referred to the **Structural Defects Underwriter** for their prior written consent.
- FMB Insurance Services will issue to the **Builder** a copy of the **Technical Manual for New Housing**. This sets out the functional requirements and performance standards of construction the **Builder** has to comply with when constructing a **Housing Unit**. Failure to comply with the functional requirements of the **Technical Manual for New Housing** may result in cover being withdrawn.
- **Site Audit Surveyors** accredited by the **United Kingdom Accreditation Service (UKAS)** will have completed inspections before the **Certificate of Structural Defects Insurance** was issued. Such inspections are carried out to satisfy the **Structural Defects Underwriter** that the **Housing Unit** represents a normal risk under the **FMB Insurance Services Build Assure New Homes Structural Defects Insurance**. It should not be inferred that the inspections are for any other purpose.

It is the **Policyholder's** responsibility to ensure that a thorough inspection of the **Housing Unit** is carried out prior to practical completion. If the inspection identifies any **Defects** they should be reported to the **Builder** and remedied prior to completing the purchase.

- Notes:**
- All **Certificates of Insurance** will be issued in the name of the **Policyholder**. The **Certificates of Insurance** shall form an integral part of the Policy.
 - Extensions in insurance coverage at the time of issue of the Policy and subsequent extensions and alterations in insurance coverage, including alterations necessitated by changes to the **Structure** of the **Housing Unit**, if any, approved by the **Structural Defects Underwriters**, will be confirmed by separate endorsements, which should be filed with the Policy. The **Policyholder** should refer to these endorsements and the Policy to ascertain the precise insurance coverage in force at any time.
 - This Policy is transferable to **Future Owners** of the **Property**, subject to the payment of an administrative fee to **FMB Insurance Services** as a consideration for its services.
 - Any changes to the original design of the **Structure** of the **Housing Unit** approved by the **Structural Defects Underwriter** during the course of construction, conversion, refurbishment or renovation, or changes in the economic value of the **Housing Unit** which necessitate a recalibration of the **Sum Insured**, must be declared before the issue of the **Certificate of Insurance**.

How We Will Use The Policyholder's Data

FMB Insurance Services holds data in accordance with the *Data Protection Act 1998*. It may be necessary for **FMB Insurance Services** to pass data to other organisations that supply products and services associated with this Policy.

The Policyholder's Cancellation Rights

The **Policyholder** has the right to cancel insurance cover under the **FMB Insurance Services Build Assure New Homes Structural Defects Insurance**. If the **Policyholder** wishes to cancel the insurance cover the **Policyholder** must do so within 14 days starting on the day after it receives the **FMB Insurance Services Build Assure New Homes Structural Defects Insurance** policy documents. The **Policyholder's** cancellation must reach **FMB Insurance Services**, whose contact details are:

FMB Insurance Services,
1st Floor Gemini House
Cambridgeshire Business Park
Angel Drove
Ely
Cambridgeshire
CB7 4EA

Email address: fmbinsurance@fmb.org.uk.

The **Policyholder** should make any request for the cancellation of this Policy in writing and return the **Certificate of Building Period Insurance** in respect of Section 1, or any relevant **Certificate of Insurance** in respect of Sections 2, 3, 4 and 5 to **FMB Insurance Services** or to the **Underwriters**.

In the event of the cancellation of this Policy **FMB Insurance Services** will charge an administration fee for its services which will apply as follows:

- **Cancellation prior to Certificate of Insurance being issued**

As construction contracts can be of varying duration and there is always a technical audit, the determination of the administration fee to be charged by **FMB Insurance Services** will vary depending on the stage at which notice of cancellation is given.

- **Cancellation following Certificate of Insurance being issued**

- 1) If a third party has completed the proposal form or paid the premium, the **Policyholder** will not be entitled to a refund of premium or any other monies. The premium or any other monies can only be paid back to the party who originally paid the premium or any other monies and who still has an insurable interest in the **Property**.
- 2) If the **Policyholder** has completed a proposal form and paid the premium the **Policyholder** may be entitled to a refund. This will take into account the period where insurance cover has been in force, subject to the deduction of the administration fee payable to **FMB Insurance Services**.

FMB Insurance Services will refund any premium due under the above provisions within 30 days of receipt of the notice of cancellation.

Before cancelling the insurance cover the **Policyholder** should check with their **Mortgage** lender and/or **Mortgage** broker and/or financial intermediary, as appropriate, because they may require the **Policyholder** to have this insurance cover or its equivalent as a condition of the loan. Also please remember that if the **Policyholder** should sell the **Housing Unit** within the period of insurance cover, a purchaser (and any lender at that time) will usually require this insurance cover.

If the **Policyholder** chooses not to cancel this Policy under this notice within the time limits set out above, the **Policyholder** will be legally bound to the terms and conditions of the Policy.

If the **Policyholder's Housing Unit** includes **Common Parts** for which it is jointly responsible with owners of other **Housing Units**, the **Policyholder's** cancellation will apply to both the insurance cover on the individual **Housing Unit** and the insurance cover for their share of the cost of any claim relating to the **Common Parts**. So if the **Policyholder** cancels their insurance cover, the **Policyholder** will be obliged under their title to contribute to the cost of repairs along with their neighbours.

Certain words have specific meanings when they appear in this Policy in bold type. These meanings are shown below.

In addition:

- a) “you”, “your” and “yours” refer to the **Policyholder**; and “we”, “our” and “us” refer to **FMB Insurance Services**;
- b) words in the singular include the plural and vice versa;
- c) references to things done or to be done by the **Builder** (for example work of building, conversion or renovation) also refer to such things done or to be done on behalf of the **Builder**;
- d) references to any legislation include any statutory extension, modification or re-enactment of it and regulations made under it;
- e) the words “including”, “such as” and “for example” are used for illustration or emphasis only;
- f) references to “Sections” refer to the Sections (1 – 6) in the insurance coverage.

1. **APPROVED INSPECTOR**

Any person, sole trader, partnership or company accredited by the **United Kingdom Accredited Service (UKAS)** and/or authorised by the **Construction Industry Council** who carries out a technical inspection of the **Housing Unit** or **Development**.

2. **ASBESTOS**

Asbestos, asbestos fibres, any derivatives of asbestos and any product containing asbestos, asbestos fibres or any derivatives of asbestos.

3. **BUILD ASSURE**

The range of insurance products administered by **FMB Insurance Services Ltd.**

4. **BUILD ASSURE NEW HOMES STRUCTURAL DEFECTS INSURANCE**

The Policy containing the insurance cover provided by the **Underwriters**.

5. **BUILDER**

Any person, sole trader, partnership, company, developer or special purpose vehicle

- i) with whom the **Policyholder** has entered into an agreement or contract to purchase the **Housing Unit**, or
- ii) who constructs the **Housing Unit** and with whom the **First Owner** has entered into an agreement or contract to purchase the **Housing Unit**, or
- iii) who constructs the **Housing Unit** and retains ownership of the **Housing Unit**.

For any avoidance of doubt the definition of **Builder** does not include any sub-contractor or sub-consultant employed at a **Development**.

6. **BUILDING CONTRACT**

The contract or agreement between the **Builder** and the **Policyholder** in respect of the construction, conversion, refurbishment or renovation of the **Housing Unit(s)** or **Housing Unit(s)** at a **Development**.

7. BUILDING PERIOD

The period for each **Development** or each **Housing Unit** commencing on the date specified in the **Building Period Certificate** issued by the **Structural Defects Underwriter** and ending on the date of completion noted on the **Declaration of Approval** for the final **Housing Unit** to be completed at a **Development**.

8. BUILDING PERIOD INSURANCE INCEPTION DATE

The date specified in the **Certificate of Building Period Insurance** and when the premium invoice has been satisfied.

9. BUILDING REGULATIONS

The standards in the **Technical Manual** require compliance with the current Building Regulations for England and Wales, Scotland and Northern Ireland, as applicable, in force at the time the **Building Period Certificate** was issued for the **Housing Unit**, where applicable, and require compliance with all other statutory requirements relating to the design and construction of the **Housing Unit**. They also include some requirements which are not covered directly by building regulations, such as internal decorations and external works.

10. CERTIFICATE OF INSURANCE/CERTIFICATES OF INSURANCE

In respect of Section 1:

The certificate issued by **FMB Insurance Services** on behalf of the **Structural Defects Underwriter** to signify their agreement to the provision of the insurance cover set out in this Policy. The issue of this certificate signifies that Section 1 of the Policy is in place ("**Certificate of Building Period Insurance**"). Cover under Sections 2, 3, 4, and 5 of this Policy is not considered to be in place until the relevant **Certificate of Insurance** is issued.

In respect of Sections 2, 3, 4 and 5 only:

The certificate issued by **FMB Insurance Services** on behalf of the **Structural Defects Underwriter** to signify acceptance of each **Housing Unit** for insurance cover hereunder following issue of the **Declaration of Approval** by the **Site Audit Surveyor** and a **Completion Certificate** ("**Certificate of Structural Defects Insurance**").

11. COMMON PARTS

Those parts of a multi-ownership building (of which each **Housing Unit** is part), for a common or general use, for which the **Policyholder** has joint ownership and/or legal responsibility.

12. COMPLETION CERTIFICATE

The certificate issued by the **Local Authority Building Control** (or equivalent body in Scotland and Northern Ireland) or an **Approved Inspector** following satisfactory completion of the technical inspection of a **Housing Unit** or **Development**.

13. CONSTRUCTION INDUSTRY COUNCIL (CIC)

The representative forum for the professional bodies, research organisations and specialist business associations in the construction industry.

14. CONVERSION

Where the **Housing Unit** includes all or part of an existing **Structure**, regardless as to whether that **Structure** was originally intended to be used as a dwelling or not.

15. CONSUMER CODE FOR NEW HOMES

The Consumer Code for New Homes (CCNH) is a mandatory Code for members which has been established to ensure that best practice is followed by registered **Builders** in respect of the marketing, selling and purchasing of New Homes, and also sets expected standards for after sales customer care service.

FMB Insurance Services is a Code User for the CCNH

16. CONTAMINATION

Contaminated land within the meaning of *Part 11(A) of the Environmental Protection Act 1990*, and any modifications or re-enactments of such Act, or *Part III of the Waste and Contaminated Land (Northern Ireland) Order 1997* (or under any equivalent legislation of the Isle of Man, or any consolidating, amending or replacement legislation).

17. DECLARATION OF APPROVAL

The approval declaration issued by the **Site Audit Surveyor** to the **Structural Defects Underwriter** on or following satisfactory completion of each **Housing Unit**.

18. DEFECT

A failure to comply with a functional requirement in the **Technical Manual** in respect of the construction of the **Housing Unit**.

Failure to follow the performance standards or guidance supporting the functional requirements does not in itself amount to a **Defect**, as it may be possible to achieve the recommended performance in other ways.

For any **Housing Unit** insured under this Policy relating to the conversion, refurbishment or renovation of a **Development** the definition of **Defect** shall only be deemed to include any of the works constructed or installed by the **Builder** as part of the conversion, refurbishment or renovation.

19. DEFECTS INSURANCE PERIOD

A period of 12 months against the cost of repairing, replacing or rectifying any **Defect** in the **Housing Unit** which includes non-structural items listed within the Technical Manual. Commencing on the **Structural Defects Insurance Inception Date**.

A period of 24 months (2 years) against the cost of repairing, replacing or rectifying water ingress resulting from a **Defect** or **Defects** in the waterproofing elements of the **Waterproof**

Envelope of the Housing Unit. Commencing on the **Structural Defects Insurance Inception Date.**

20. DEVELOPMENT

A single **Housing Unit** or group of **Housing Units** constructed at the site specified on the **Building Period Certificate.**

For the purpose of this Policy the definition **Development** does not include any building works other than the **Housing Unit(s)** detailed in the **Building Period Certificate.**

21. EASEMENT

The right of a third party to use the **Property** for a special purpose. This definition includes wayleaves and in Scotland, servitudes.

22. EXCESS

In respect of Sections 3, 4 and 5 only:

The first amount of each valid claim which is payable under this Policy for a **Housing Unit**, as detailed in the **Building Period Certificate** and the **Certificate of Structural Defects Insurance.**

23. FMB INSURANCE SERVICES / FMB INSURANCE SERVICES LTD

A wholly owned subsidiary of the Federation of Master Builders and the agent and administrator of the insurance cover provided by the **Structural Defects Underwriters.**

24. FIRST OWNER

The person who purchases the **Property** from the **Builder.**

25. FRAUD

"**Fraud**" shall have the meaning set out in *section 1* of the *Fraud Act 2006.*

26. FUTURE OWNER

During the **Defects Insurance Period** and the **Structural Insurance Period** an owner of the **Property** who is a successor in title to the **First Owner**, including their mortgagees in possession or heritable creditor.

27. HOUSING UNIT

The property described in the **Certificate of Structural Defects Insurance** comprising:

- the **Structure**;
- any **Common Parts** retaining or boundary walls forming part of or providing stability or strength to the **Structure**;
- any path or roadway within the perimeter of such property;
- the drainage system within the perimeter of such property for which the **Policyholder** is responsible;
- any garage or other permanent out-building

- Any electrical fixed wiring, lighting systems and electrical systems installed by the **Builder**.

For the purposes of this Policy the definition of **Housing Unit** does not include any swimming pool, temporary structure, free-standing household appliance, fence, retaining or boundary wall not essential to the stability or strength of the **Structure**.

28. **INSOLVENCY**

An order is made or a resolution is passed for the winding-up, administration, sequestration or bankruptcy of the **Builder** (except for the purposes of solvent amalgamation or reconstruction previously approved by the **Underwriters** in writing); or

A liquidator, trustee, administrator, administrative receiver, receiver, manager, trustee in bankruptcy or similar official is appointed over the whole or any part of the assets of the **Builder** or the directors of the **Builder** request any person to appoint any of the same; or

A notice of appointment or a notice of intention to appoint an administrator under *Schedule B1* to the *Insolvency Act 1986* is issued by the **Builder** or its directors.

29. **INSURED VALUE**

The maximum limit payable by the **Structural Defects Underwriters**. Noted on the **Certificate of Insurance**.

30. **LAND**

The ground that surrounds and supports the **Housing Unit** and which was:

- a) purchased by the initial **Policyholder** with the **Housing Unit** at the same time as the **Building Contract** was entered into or completed; and/or
- b) owned by the initial **Policyholder** when a **Building Contract** was entered into;

together with any land for which the **Policyholder** has a legal responsibility under the terms of the **Building Contract**.

31. **LAND REGISTRY**

Her Majesty's Land Registry (England and Wales only) or Registers of Scotland (Scotland only) or Land Registry of Northern Ireland (Northern Ireland only).

32. **LAND REGISTRY REGISTRATION DATE**

The date on which the ownership of the **Policyholder** was registered at the **Land Registry**.

33. **LOCAL AUTHORITY BUILDING CONTROL (LABC)**

A local authority body which coordinates the technical application of **Building Regulations** and ensures that buildings are healthy, safe, sustainable and accessible for all users and tenants whether domestic, commercial or public service.

34. **LIMIT OF INDEMNITY**

In respect of Sections 1, 2, 3, 4 and 5 only:

The liability of the **Structural Defects Underwriter** shall not exceed during the **Defects Insurance Period**, the **Structural Insurance Period** the amount shown as the **Sum Insured** on the **Certificate of Structural Defects Insurance** or the relevant limit expressed under the Financial Limit caption of the applicable Section of the insurance coverage, whichever is the lesser. The **Limit of Indemnity** is index linked in accordance with General Condition 5 of the Policy.

35. MAJOR DAMAGE

Destruction of or physical damage to any portion of the **Housing Unit** for which a **Certificate of Insurance** has been issued by the **Structural Defects Underwriter**.

Caused by a **Defect** in the design, workmanship, materials or components of:

- the **Structure**; or
- the waterproofing elements of the **Waterproof Envelope**

which is first discovered during the **Structural Insurance Period**.

36. MEDIATION SERVICE

A consensual process whereby a building surveyor appointed by **FMB Insurance Services** attempts to resolve a dispute between the **Builder** and the **Policyholder**. Please see additional guide produced by **FMB Insurance Services** '*Mediation Process*'

37. MODERN METHODS OF CONSTRUCTION (MMC)

The use of any unproven and/or non standard and/or innovative material or product, provided that:

- it has been certified by a recognised national or international organisation; and
- such certification has been made available to **FMB Insurance Services**; and
- FMB Insurance Services** have confirmed in writing their approval of such use.

38. MORTGAGE

A mortgage, standard security, or charge registered on the title to the **Property** at the **Land Registry** which is meant to secure repayment of a monetary debt.

39. PATHOGENIC ORGANISMS

Any bacteria, yeasts, mildew, viruses, fungi, mould or their spores, mycotoxins or other metabolic products.

40. PLANNING PERMISSION

The valid outline or full planning permission for residential properties to be implemented by the **Builder** for the development of the **Property**.

41. POLICYHOLDER

In respect of Section 1:

A third party having paid a registration fee and/or deposit for the **Housing Unit** to the **Builder**.

In respect of Section 2:

The owner, their mortgagee in possession, heritable creditor in possession, lessor and **Future Owners**, excluding the **Builder**, any relatives or associated companies or anyone having an interest in the construction or sale of the **Housing Unit**.

In respect of Sections 3, 4 and 5:

The owner, their mortgagee in possession, heritable creditor in possession, lessor or **Future Owners** excluding the **Builder**, unless the **Builder** owns the **Housing Unit**, any relatives or associated companies or anyone having an interest in the construction or sale of the **Housing Unit**.

42. PROPERTY

A residential property built or to be built in accordance with the **Planning Permission** whether freehold, leasehold, both or heritable proprietor, (which includes structures and improvements, which by law are taken to be part of the property) registered at the **Land Registry** in the name of the **Policyholder**, **Builder** or **Future Owner** with title absolute.

43. REMEDIATION EXPENSES

Reasonable expenses incurred for the investigation, removal or treatment of **Contamination** to the extent required by any **Statutory Notice**.

44. SITE AUDIT SURVEYOR

The surveyor appointed by **FMB Insurance Services** on behalf of the **Structural Defects Underwriter** who carries out checks and inspections solely on behalf of the **Structural Defects Underwriter** and who prior to the issue of the **Certificate of Insurance** for each **Housing Unit** issues a **Declaration of Approval**.

45. STATUTORY AUTHORITY

The local authority and/or Environment Agency (or the Scottish Environmental Protection Agency or the Northern Ireland Environment Agency, as applicable) being governmental departments or agencies with regulatory authority to enforce statutes and regulations relating to the protection of the environment.

46. STATUTORY NOTICE

A notice served on the **Policyholder** by a **Statutory Authority** under the provisions of legislation that requires the **Policyholder** to carry out remediation of **Contamination**.

47. STRUCTURE

The following elements shall comprise the **Structure** of a **Housing Unit**:

- foundations;
- all load-bearing structures essential to its stability or strength including parts of ceilings, floors, staircases and associated guard rails, walls and roofs, together with retaining walls;
- all internal non-load bearing partition walls;
- chimneys and flues;
- roof covering;
- any external finishing surface (including rendering and glazing) necessary for the water-tightness of the external envelope;
- floor decking and screeds, where these fail to support normal loads;
- wet applied plaster;
- external windows and doors that contribute to the structure;
- above ground and underground drainage, comprising pipes, channels, gullies and inspection chambers, within the perimeter of the **Housing Unit** for which the **Policyholder** is responsible for maintaining.

48. STRUCTURAL DEFECTS INSURANCE INCEPTION DATE

The date specified in the **Certificate of Structural Defects Insurance** following receipt of a declaration of completion and payment of insurance premium.

49. STRUCTURAL DEFECTS UNDERWRITER / UNDERWRITER(S)

Everest Syndicate 2786 at Lloyd's

50. STRUCTURAL INSURANCE PERIOD

A period of 108 months (9 years) from the expiry of the **Defects Insurance Period**, which commenced on the **Structured Defects Insurance Inception Date**, against the cost of repairing, replacing or rectifying any **Defect** in the **Housing Unit**, or a period of 96 months (8 years) from the expiry of the cost of repairing, replacing or rectifying water ingress resulting from a **Defect** or **Defects** in the waterproofing elements of the **Waterproof Envelope** of the **Housing Unit**.

51. TECHNICAL MANUAL

The functional requirements and performance standards of construction required in order to comply with **Building Regulations**, and Codes of Practice and European standards in force, at the time when technical information relating to the **Housing Unit** or **Development** is first submitted to **FMB Insurance Services**. For the avoidance of doubt functional requirements are not to be taken to include planning authority conditions. Where the **Housing Unit** or **Development** is exempt from **Building Regulations** the appropriate British Standard, Codes of Practice and European standards in force at the commencement of the **Building Period** shall apply.

The **Site Audit Surveyor** may agree to amendments to the performance standards. Such amendments shall form part of the **Technical Manual** provided they have been agreed in writing by **FMB Insurance Services**.

52. UNITED KINGDOM ACCREDITATION SERVICE (UKAS)

The sole national accreditation body recognised by government to assess, against internationally agreed standards, organisations that provide certification, testing, inspection and calibration services.

53. WATERPROOF ENVELOPE

The basement, ground floors, external walls, roofs, windows and doors of a **Housing Unit**.

SPECIMEN

SECTION 1 BUILDING PERIOD INSURANCE

SECTION 1.1 ILL HEALTH OR DEATH OR FRAUD OF THE BUILDER DURING THE BUILDING PERIOD

If the **Builder** does not commence work on a **Housing Unit** as a consequence of incapacity due to ill health or death or the **Builder** ceases to trade because of **Fraud**, the **Structural Defects Underwriter** will refund the deposit paid by the **Policyholder**.

If the **Builder** fails to complete the **Housing Unit** after work has commenced as a consequence of incapacity due to ill health or death or the **Builder** ceases to trade because of **Fraud**, the **Structural Defects Underwriter** will at its sole option:

- a) pay the additional cost required to complete the **Housing Unit**;
- or
- b) refund the loss of money paid by the **Policyholder** to the **Builder** as a deposit for the construction of the **Housing Unit**;

provided that the **Structural Defects Underwriter** is only liable under this Section in respect of monies paid by the **Policyholder** to the **Builder**.

FINANCIAL LIMIT:

The **Structural Defects Underwriter** will pay up to a maximum of 10% of the original contract value for the **Housing Unit** or £100,000, whichever is the lesser.

SPECIAL CONDITIONS:

- 1) If the **Policyholder** withholds, retains or receives back any part of the deposit for the **Housing Unit** the **Structural Defects Underwriter** will be entitled to deduct such amount from monies they would otherwise be obliged to pay under this Section.
- 2) The **Structural Defects Underwriter** is only liable under this Section in respect of the original contract price, as declared, and not in respect of any extras agreed subsequent to the contract.
- 3) The **Policyholder** cannot recover under this Section if they are entitled to make a claim under contract against the **Builder** in respect of liquidated damages or financial penalties of any kind.
- 4) The **Policyholder** cannot recover under this Section in respect of any registration fee, administration fee or booking fee paid to the **Builder**.
- 5) In the event of the incapacity of the **Builder** as a consequence of ill health the **Structural Defects Underwriter** will require evidence of a certificate or note issued by a registered general practitioner or registered practising medical consultant, which can be independently verified.
- 6) The **Policyholder** must have paid the premium specified in the **Certificate of Building Period Insurance** in full before recovery of a valid claim.

SECTION 1.2 INSOLVENCY OF THE BUILDER DURING THE BUILDING PERIOD (Subject to the purchase of insolvency cover)

If the **Builder** does not commence work on a **Housing Unit** as a consequence of **Insolvency**, the **Structural Defects Underwriter** will refund the deposit paid by the **Policyholder**.

If the **Builder** fails to complete the **Housing Unit** after work has commenced as a consequence of **Insolvency**, the **Structural Defects Underwriter** will at its sole option:

- a) pay the additional cost required to complete the **Housing Unit** (subject to financial limit below);

or

- b) refund the loss of money paid by the **Policyholder** to the **Builder** as a deposit for the construction of the **Housing Unit** (subject to financial limit below);

provided that the **Structural Defects Underwriter** is only liable under this Section in respect of monies paid by the **Policyholder** to the **Builder**.

FINANCIAL LIMIT:

The **Structural Defects Underwriter** will pay up to a maximum of 10% of the original contract value for the **Housing Unit** or £100,000, whichever is the lesser.

SPECIAL CONDITIONS:

- 1) If the **Policyholder** withholds, retains or receives back any part of the deposit for the **Housing Unit** the **Structural Defects Underwriter** will be entitled to deduct such amount from monies they would otherwise be obliged to pay under this Section.
- 2) The **Structural Defects Underwriter** is only liable under this Section in respect of the original contract price, as declared, and not in respect of any extras agreed subsequent to the contract.
- 3) The **Policyholder** cannot recover under this Section if they are entitled to make a claim under contract against the **Builder** in respect of liquidated damages or financial penalties of any kind.
- 4) The **Policyholder** cannot recover under this Section in respect of any registration fee, administration fee or booking fee paid to the **Builder**.
- 5) The **Policyholder** must have paid the premium specified in the **Certificate of Building Period Insurance** in full before recovery of a valid claim.

SECTION 2 DEFECTS INSURANCE

The **Structural Defects Underwriter** will indemnify the **Policyholder** during the **Defects Insurance Period** against the cost of repairing, replacing or rectifying any **Defect** in the **Housing Unit**, which includes non-structural items listed within the **Technical Manual**

- for a period of 24 months (2 years) for which the **Builder** is responsible the first 12 months from the date of completion or the date specified in the **Certificate of Structural Defects Insurance**.

and

- which is discovered and notified to the **Builder** during the **Defects Insurance Period** and which is notified to the **Structural Defects Underwriter** within 6 months of the expiry of the **Defects Insurance Period**.

In addition the **Structural Defects Underwriter** shall, with their written consent, indemnify the **Policyholder** against the cost of repairing, replacing or rectifying water ingress resulting from a **Defect** or **Defects** in the waterproofing elements of the **Waterproof Envelope** of the **Housing Unit**.

- for which the **Builder** is responsible during the first 24 months (2 years) from the date of completion or the date specified in the **Certificate of Structural Defects Insurance**

and

- which is discovered and notified to the **Builder** during the **Defects Insurance Period** and which is notified to the **Structural Defects Underwriter** within 6 months of the expiry of the **Defects Insurance Period**.

The **Structural Defects Underwriter** shall have no liability unless:

- a)
 - the **Builder** has refused to respond in writing to notification of a claim within 28 days of submission of written notification of the discovery of a **Defect** by the **Policyholder**; and/or
 - the **Builder** has accepted the decision of a building surveyor after using the **Mediation Service** but has failed to carry out the works or repairs recommended in the surveyor's report within the time stipulated; and/or
- b) the **Builder** has not effected the repairs or works determined by a binding legal process; and/or
- c) the **Builder** has failed to carry out such repair, replacement or rectification work as a consequence of the death of the **Builder** or the **Builder** ceasing to trade because of incapacity due to ill health or insolvency or **Fraud**.

In the event of a claim under this Section the **Structural Defects Underwriter** has the option either of paying the cost of repairing, replacing or rectifying any **Defect** or itself arranging to have such damage corrected.

During the **Defects Insurance Period** the **Builder** should comply with the following obligations:

- a) on notification by the **Policyholder** of any **Defect** to effect repair, replacement or rectification of such **Defect** as soon as practicable thereafter;
- b) reimburse the **Policyholder** for all necessary and reasonable costs, provided that the **Policyholder** has first obtained the **Structural Defects Underwriter's** prior written consent to such costs being incurred, including lifting and refitting carpets, and storage should the nature of any repair, replacement or rectification be such that the **Policyholder** needs to vacate the **Housing Unit** whilst such repair replacement or rectification is carried out.

SPECIAL CONDITIONS:

- 1) If the **Policyholder** receives back, either in part or whole, any payments in respect of a claim under this Section which has already been paid by the **Structural Defects Underwriter** then the **Policyholder** shall reimburse the **Structural Defects Underwriter** in full for the amount of such payment.
- 2) In the event of the incapacity of the **Builder** as a consequence of ill health the **Structural Defects Underwriter** will require evidence of a certificate or note issued by a registered general practitioner or registered practising medical consultant, which can be independently verified.

EXCLUSIONS:

The **Structural Defects Underwriter** shall not be liable to the **Policyholder** for any:

- 1) external landscaping or garden features;
- 2) adjustment of doors following the fitting of carpets or flooring;
- 3) drawing of chimneys;
- 4) contractual disputes between the **Builder** and the **Policyholder** or issues regarding specification of items;
- 5) dampness, condensation or shrinkage not caused by a **Defect**;
- 6) chips or scratches to fittings i.e. in the kitchen, bathroom or bedroom;
- 7) minor blemishes that are subjective in degree other than finishes not applied in accordance with the provisions of the **Technical Manual**;
- 8) items that have been subsequently changed or altered on behalf of the **Policyholder** at their request such as fitting of wardrobes, fittings etc;
- 9) deterioration caused by neglect or failure to carry out normal maintenance;
- 10) sums in connection with death, injury to the body or mental health, loss of enjoyment, use, income, business opportunity, or inconvenience, stress or any other consequential or financial loss of any description;

- 11) any **Defect** in the **Housing Unit** for which the **Builder** as the **Policyholder** is responsible;
- 12) Any fixture or fitting that is covered by a manufacturers or installers warranty or guarantee.

IN ADDITION, PROVIDED THAT THE POLICYHOLDER HAS FIRST OBTAINED THE STRUCTURAL DEFECTS UNDERWRITER'S PRIOR WRITTEN CONSENT, ANY COSTS AND EXPENSES INCURRED IN CONNECTION WITH A CLAIM UNDER THIS SECTION, ARE PAYABLE:

A. Additional Costs and Expenses

Such additional costs and expenses as are necessarily incurred by the **Policyholder** solely in order to comply with **Building Regulations** or local authority or other statutory provisions, provided that the **Structural Defects Underwriter** shall not be liable for those costs and expenses that would have been payable by the **Policyholder** in the absence of the discovery of a valid claim under the Policy.

B. Alternative Accommodation Costs and Expenses

All reasonable additional costs and expenses that are necessarily incurred by the **Policyholder** in respect of removal, storage and alternative accommodation relating to a claim whilst the **Housing Unit** is uninhabitable, as determined by **FMB Insurance Services**, always provided that the **Policyholder** has first obtained the **Structural Defects Underwriter's** prior written consent to such costs and expenses being incurred.

C. Professional Fees

Such architects', surveyors', legal, consulting engineers' and other fees as are necessarily and reasonably incurred, by the **Policyholder** in relation to the complete or partial rebuilding or rectifying work to the **Housing Unit**, but shall not include costs or fees incurred by the **Policyholder** in investigating and/or preparing a claim.

D. Removal of Debris

For each **Housing Unit** the costs and expenses incurred by the **Policyholder** in respect of:

- a) removal of debris; and/or
- b) dismantling or demolishing; and/or
- c) shoring up

the **Housing Unit**.

SECTION 3 STRUCTURAL INSURANCE

The **Structural Defects Underwriter** will indemnify the **Policyholder** for a period of 108 months (9 years) from the expiry of the **Defects Insurance Period** against the cost of repairing, replacing or rectifying any **Defect** in the **Housing Unit**, or a period of 96 months (8 years) from the expiry of the cost of repairing, replacing or rectifying water ingress resulting from a **Defect** or **Defects** in the waterproofing elements of the **Waterproof Envelope** of the **Housing Unit**, if applicable, against all claims discovered and notified to the **Structural Defects Underwriter** during the **Structural Insurance Period** in respect of:

- 1) The cost of complete or partial rebuilding or rectifying work to the **Housing Unit** which has been affected by **Major Damage** provided always that the liability of the **Structural Defects Underwriter** does not exceed the reasonable cost of rebuilding each **Housing Unit** to its original specification;
- 2) The cost of repairing or making good any defects in the chimneys and flues of each **Housing Unit** which was newly constructed by the **Builder** causing an imminent danger to the health and safety of occupants.

The **Excess** shall be as specified in the **Certificate of Structural Defects Insurance**.

In the event of a claim under this Section the **Structural Defects Underwriter** has the option either of paying the cost of repairing, replacing or rectifying any damage resulting from items **1)** to **2)** above or itself arranging to have such damage corrected.

FINANCIAL LIMITS:

The Financial Limits are index linked in accordance with Condition 5 of the General Conditions.

The maximum the **Structural Defects Underwriter** will pay for any claim relating to **Common Parts** will be the amount that the **Policyholder** has a legal liability to contribute towards the cost of repairs, rectification or rebuilding works. Claims are subject to the Financial Limits for the individual sections detailed above and the **Excess** as detailed in the **Certificate of Building Period Insurance** and **Certificate of Structural Defects Insurance**.

IN ADDITION, PROVIDED THAT THE POLICYHOLDER HAS FIRST OBTAINED THE STRUCTURAL DEFECTS UNDERWRITER'S PRIOR WRITTEN CONSENT, ANY COSTS AND EXPENSES INCURRED IN CONNECTION WITH A CLAIM UNDER THIS SECTION, ARE PAYABLE:

A. Additional Costs and Expenses

Such additional costs and expenses as are necessarily incurred by the **Policyholder** solely in order to comply with **Building Regulations** or local authority or other statutory provisions, provided that the **Structural Defects Underwriter** shall not be liable for those costs and expenses that would have been payable by the **Policyholder** in the absence of the discovery of a valid claim under the Policy.

B. Alternative Accommodation Costs and Expenses

All reasonable additional costs and expenses that are necessarily incurred by the **Policyholder** in respect of removal, storage and alternative accommodation relating to a claim whilst the **Housing Unit** is uninhabitable, as determined by **FMB Insurance Services**, always provided that the **Policyholder** has first obtained the **Structural Defects Underwriter's** prior written consent to such costs and expenses being incurred.

C. Professional Fees

Such architects', surveyors', legal, consulting engineers' and other fees as are necessarily and reasonably incurred, by the **Policyholder** in relation to the complete or partial rebuilding or rectifying work to the **Housing Unit**, but shall not include costs or fees incurred by the **Policyholder** in investigating and/or preparing a claim.

D. Removal of Debris

For each **Housing Unit** the costs and expenses incurred by the **Policyholder** in respect of:

- a) removal of debris; and/or
- b) dismantling or demolishing; and/or
- c) shoring up

the **Housing Unit**.

SECTION 4 CONTAMINATED LAND

The **Structural Defects Underwriter** will indemnify the **Policyholder** against all claims discovered and notified to the **Structural Defects Underwriter** during the Defects and **Structural Insurance Periods** in respect of **Remediation Expenses** incurred in treating or isolating or removing any substance from the **Policyholder's Land** in a controlled manner in accordance with the requirements of any **Statutory Notice**.

Notes:

- 1) The **Structural Defects Underwriter** shall only be liable for any claims under this Section that are first discovered and reported by the **Policyholder** to the **Structural Defects Underwriter** during the period specified in the **Certificate of Structural Defects Insurance**.
- 2) In the event of a claim under this Section the **Structural Defects Underwriter** has the option either to pay the **Remediation Expenses** or itself have any work necessary for remediation of contamination of **Land** carried out at its own expense.

The maximum the **Structural Defects Underwriter** will pay for any claim relating to **Common Parts** will be the amount that the **Policyholder** has a legal liability to contribute towards the cost of repairs, rectification or rebuilding works. Claims are subject to the Financial Limits for the individual sections detailed above and the **Excess** as detailed in the **Certificate of Building Period Insurance** and **Certificate of Structural Defects Insurance**.

EXCLUSIONS:

The **Structural Defects Underwriter** shall not be liable to the **Policyholder** for any:

- a) Death, bodily injury, sickness, disease or psychiatric damage or shock suffered by any person;
- b) Damage and or expenses to any property and/or any costs associated with the remediation of land which is not owned by the **Policyholder**;
- c) Any diminution of the value of the **Housing Unit** due to the existence or former existence (whether actual or alleged) of **Contamination**;
- d) **Contamination** which first occurs after the date of the original sale of the **Housing Unit** by the **Builder** to the initial **Policyholder**;
- e) Any damages payable to third parties, compensation or criminal expenses arising out of or in connection with **Contamination** in, or under the **Policyholder's Land**;
- f) Consequential loss, cost or expense of any description and howsoever arising except as expressly provided for in this Policy.

IN ADDITION, PROVIDED THAT THE POLICYHOLDER HAS FIRST OBTAINED THE STRUCTURAL DEFECTS UNDERWRITER'S PRIOR WRITTEN CONSENT, ANY COSTS AND EXPENSES INCURRED IN CONNECTION WITH A CLAIM UNDER THIS SECTION, ARE PAYABLE:

A. Additional Costs and Expenses

Such additional costs and expenses as are necessarily incurred by the **Policyholder** solely in order to comply with **Building Regulations** or local authority or other statutory provisions, provided that the **Structural Defects Underwriter** shall not be liable for those costs and expenses that would have been payable by the **Policyholder** in the absence of the discovery of a valid claim under the Policy.

B. Alternative Accommodation Costs and Expenses

All reasonable additional costs and expenses that are necessarily incurred by the **Policyholder** in respect of removal, storage and alternative accommodation relating to a claim whilst the **Housing Unit** is uninhabitable, as determined by **FMB Insurance Services**, always provided that the **Policyholder** has first obtained the **Structural Defects Underwriter's** prior written consent to such costs and expenses being incurred.

C. Professional Fees

Such architects', surveyors', legal, consulting engineers' and other fees as are necessarily and reasonably incurred, by the **Policyholder** in relation to the complete or partial rebuilding or rectifying work to the **Housing Unit**, but shall not include costs or fees incurred by the **Policyholder** in investigating and/or preparing a claim.

D. Removal of Debris

For each **Housing Unit** the costs and expenses incurred by the **Policyholder** in respect of:

- a) removal of debris; and/or
- b) dismantling or demolishing; and/or
- c) shoring up

the **Housing Unit**.

SECTION 5 ADDITIONAL COVER FOR NON – COMPLIANCE WITH BUILDING REGULATIONS

The **Structural Defects Underwriter** will indemnify the **Policyholder** during the **Structural Insurance Period** against the cost of repairing, replacing or rectifying the **Housing Unit** where such repair, replacement or rectification cost is the result of a present or imminent danger to the physical health and safety of the occupants of the **Housing Unit** because of the failure of the **Builder** to comply with **Building Regulations** that applied to the work at the time of construction, conversion or refurbishment in relation to the following:

- Structure
- Fire Safety
- Site preparation and resistance to moisture
- Hygiene
- Drainage and waste disposal
- Heat-producing appliances
- Protection from falling, collision and impact
- Glazing – safety in relation to impact opening and cleaning.

Notes:

- 1) This section of the cover only applies if an **Approved Inspector** has carried out the building control function. The **Certificate of Structural Defects Insurance** will show if insurance cover is applicable. It only applies in England and Wales.
- 2) For claims that were referred to the **Builder** in the first 12 months against the cost of repairing, replacing or rectifying any **Defect** in the **Housing Unit**, or 24 months (2 years) against the cost of repairing, replacing or rectifying water ingress resulting from a **Defect** or **Defects** in the waterproofing elements of the **Waterproof Envelope** of the **Housing Unit**, if applicable, see Section 2 of the Policy.

FINANCIAL LIMIT:

The Financial Limit for a claim under this Section of the Policy is the original cost of the work covered by the appointed **Approved Inspector's** building control certificate.

The Financial Limits are index linked in accordance with Condition 5 of the General Conditions.

The maximum the **Structural Defects Underwriter** will pay for any claim relating to **Common Parts** will be the amount that the **Policyholder** has a legal liability to contribute towards the cost of repairs, rectification or rebuilding works. Claims are subject to the Financial Limit detailed above and the **Excess** as detailed in the **Certificate of Building Period Insurance** and **Certificate of Structural Defects Insurance**.

EXCLUSIONS:

- 1) Anything which the **Structural Defects Underwriter** would pay for under another Section of this Policy.
- 2) Any claim in respect of site preparation and resistance to moisture, relating to ground that is outside the foundations of the **Housing Unit**.

IN ADDITION, PROVIDED THAT THE POLICYHOLDER HAS FIRST OBTAINED THE STRUCTURAL DEFECTS UNDERWRITER'S PRIOR WRITTEN CONSENT, ANY COSTS AND EXPENSES INCURRED IN CONNECTION WITH A CLAIM UNDER THIS SECTION, ARE PAYABLE:

A. Additional Costs and Expenses

Such additional costs and expenses as are necessarily incurred by the **Policyholder** solely in order to comply with **Building Regulations** or local authority or other statutory provisions, provided that the **Structural Defects Underwriter** shall not be liable for those costs and expenses that would have been payable by the **Policyholder** in the absence of the discovery of a valid claim under the Policy.

B. Alternative Accommodation Costs and Expenses

All reasonable additional costs and expenses that are necessarily incurred by the **Policyholder** in respect of removal, storage and alternative accommodation relating to a claim whilst the **Housing Unit** is uninhabitable, as determined by **FMB Insurance Services**, always provided that the **Policyholder** has first obtained the **Structural Defects Underwriter's** prior written consent to such costs and expenses being incurred.

C. Professional Fees

Such architects', surveyors', legal, consulting engineers' and other fees as are necessarily and reasonably incurred, by the **Policyholder** in relation to the complete or partial rebuilding or rectifying work to the **Housing Unit**, but shall not include costs or fees incurred by the **Policyholder** in investigating and/or preparing a claim.

D. Removal of Debris

For each **Housing Unit** the costs and expenses incurred by the **Policyholder** in respect of:

- a) removal of debris; and/or
- b) dismantling or demolishing; and/or
- c) shoring up

the **Housing Unit**.

EXCLUSIONS (Applicable to all Sections)

The Underwriters shall not be liable to the Policyholder for:

1. ASBESTOS

Any liability arising directly or indirectly caused by or contributed to, by or arising from the handling, removal, stripping out, demolition, transportation or disposal of asbestos or materials containing asbestos fibre.

However, where such activities do not form any part of the **Builder's** normal activities this exclusion shall not apply to legal liability arising from:

- (a) the accidental discovery of materials known or suspected to be asbestos or to contain asbestos fibre;
- (b) the investigation of any such suspect materials.

Provided always that:

- (i) immediately upon discovery as defined in (a) above all work ceases until the composition of all such materials is established;
- (ii) any subsequent handling, removal, stripping out, demolition, transportation or disposal of asbestos or materials containing asbestos fibre requiring license is carried out by qualified licensed sub-contractors on terms which indemnify the **Policyholder** for liability arising out of such work.

Unless such claim arises out of a negligent act, error or omission. In which case the underwriters will adopt the matter as a claim.

2. CONSEQUENTIAL LOSS

Any costs which are not incurred as a direct consequence of the circumstances which constitute a valid claim under this Policy.

3. HUMIDITY

Loss or damage caused by or consequent upon humidity in a **Housing Unit** that is not the direct result of a **Defect**.

4. MAINTENANCE AND USE

Inadequate maintenance of a **Housing Unit** or the imposition of any load greater than that for which the **Housing Unit** was designed or the use of a **Housing Unit** for any purpose other than that for which it was designed unless the **Underwriters** has been informed, the Policy endorsed and any applicable additional premium paid to the **Underwriters**.

5. PERSONAL INJURY

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

6. PRIOR KNOWLEDGE

Anything which would constitute a valid claim under the Policy and about which the **Policyholder** was aware prior to purchasing the **Housing Unit or Property**.

7. RADIOACTIVE CONTAMINATION

Loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, the radioactive toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component of such assembly.

8. SETTLEMENT

Loss or damage caused by or consequent upon shrinkage of materials, drying out, or movement between dissimilar materials of a **Housing Unit**.

9. SONIC BANGS

Loss or damage directly occasioned by pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

10. SPECIAL PERILS

Loss or damage caused by or consequent upon fire, lightning, explosion, typhoon, hurricane, cyclone, volcanic eruption, earthquake, storm, tempest, flood, subterranean fire or other convulsion of nature, aircraft or other aerial devices or articles therefrom, escapes of water from tanks, apparatus or pipes, malicious persons, theft, attempted theft, impact or any accidental cause.

11. STRUCTURAL CHANGES

Any alterations, repairs, modifications or additions to the **Structure** of a **Housing Unit** after the issue of the **Certificate of Insurance** unless the **Underwriters** have been informed, the Policy endorsed, and any applicable additional premium paid to the applicable **Underwriter**.

12. SUBSIDENCE

Loss or damage caused by or consequent upon subsidence, heave or landslip unless such loss or damage is as a result of a **Defect** in the workmanship, materials or components of the **Structure** of a **Housing Unit**.

13. TOXIC MOULD

Loss, damage or bodily injury arising out of any **Pathogenic Organisms** regardless of any other cause or event that contributed concurrently or in any sequence to that liability. Unless such a claim arises out of defective work from whatsoever cause. In which case the **Structural Defects Underwriter** will adopt the matter as a claim.

14. VERMIN

Loss or damage caused by or consequent upon the actions of rodents, vermin or insect infestation.

15. WAR RISKS

Loss or damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

16. WATER TABLE

Loss or damage resulting solely from a change in the water table level. This exclusion shall not however apply to any seasonal change in the water table level.

17. WEAR AND TEAR OR DISCOLOURATION

Loss or damage arising out of:

- (i) wear and tear or other gradual deterioration;
- (ii) erosion or corrosion;
- (iii) any change in colour, texture, opacity or staining or superficial deterioration or marring of finishings or surface appearance or ageing processes;
- (iv) natural shrinkage or distortion or other gradually developing condition;

unless caused by an otherwise indemnifiable loss.

18. WILFUL ACTS

Any wilful neglect or criminal act of the **Policyholder** or any other party.

19. SANCTION LIMITATION AND EXCLUSION CLAUSE

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

The following conditions shall apply to this Policy:

1. ARBITRATION

If any difference shall arise as to the amount to be paid under Sections 1, 3, 4 or 5 of this Policy (liability being otherwise admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with the statutory provisions then in force.

2. CONTRIBUTION

If at any time of any occurrence giving rise to a claim under this Policy:

- i) there is, or would but for the existence of this Policy, be any other insurance applicable; or
- ii) the **Policyholder** has entitlement to any statutory damages or compensation;

this Policy shall be limited to any amount in excess of such insurance, damages or compensation and shall not be called into contribution.

3. FRAUD

If any claim under this Policy shall be in any respect fraudulent, or if any fraudulent means or devices are used by the **Policyholder**, or anyone acting on the **Policyholder's** behalf, to obtain benefit under this Policy, all benefit hereunder shall be forfeited.

4. FINANCIAL LIMITS

The maximum the **Structural Defects Underwriter** will pay for claims relating to a **Housing Unit** (in respect of Sections 2, 3, 4 and 5) is:

- (i) £10,000,000 for any newly constructed **Housing Unit**,
- (ii) £1,000,000 for any converted or refurbished **Housing Unit**,

or the **Sum Insured** for the **Housing Unit**, whichever is the lesser

The Financial Limit for all **Housing Units** in one continuous structure is £10,00,000 or the **Sum Insured** whichever is the lesser.

The maximum the **Structural Defects Underwriter** will pay for any claim relating to **Common Parts** will be the amount that the **Policyholder** has a legal liability to contribute towards the cost of repairs, rectification or rebuilding works. Claims are subject to the Financial Limits for the individual sections detailed above and the **Excess** as detailed in the **Certificate of Building Period Insurance** and **Certificate of Structural Defects Insurance**.

The Financial Limit is index linked in accordance with Condition 5, below.

5. GOVERNING LAW AND JURISDICTION

This Policy will be governed by and construed in accordance with the law of, and exclusive jurisdiction of, the courts of the territory in which the **Housing Unit** is located, otherwise the laws of England and Wales shall apply.

6. INDEXATION

The **Limit of Indemnity** referred to within the relevant **Certificate of Insurance** will be increased in line with the Royal Institution of Chartered Surveyors' House Re-Building Cost Index on each anniversary of the commencement of the period of insurance for Sections 2, 3, 4, 5 and 6 of this Policy. For the purpose of settlement of any claim hereunder the **Limit of Indemnity**, as adjusted in accordance with the foregoing provisions, shall be regarded as the **Limit of Indemnity** at the time of discovery by the **Policyholder** of such claim.

7. LIMITATION OF THE UNDERWRITERS' LIABILITY

The **Structural Defects Underwriter's** liability is limited to the insurance included in Sections 1, 2, 3, 4 and 5 of this Policy. Any site inspections or other risk control procedures adopted by **FMB Insurance Services** on behalf of the **Underwriters** are solely for the **Underwriters'** benefit and do not confirm or imply that the work is or will be free of defects or damage.

8. MISREPRESENTATION

This Policy will be voidable ab initio in the event of misrepresentation, error, omission or non-disclosure by the **Policyholder** with intention to defraud.

9. REASONABLENESS

In the event of a valid claim under Sections 1, 2, 3, 4 and 5 of this Policy the **Structural Defects Underwriter** shall only be responsible for costs and expenses that a reasonable person would incur if spending their own money. Whenever possible if items can be found to match existing items at a reasonable cost the **Structural Defects Underwriter** will endeavour to facilitate this. However the **Structural Defects Underwriter** will have no liability and will not be responsible for any additional costs if a similar match is not possible at a reasonable cost. Section 6 of this Policy has different terms to which you should refer.

10. RECOVERIES FROM THIRD PARTIES

The **Underwriters** are entitled and the **Policyholder** gives consent to the **Underwriters** to control and settle any claim and to take proceedings at its own expense in the name of the **Policyholder** to secure compensation from any third party in respect of any loss or damage covered by this Policy.

11. REINSTATEMENT

In the event that the **Structural Defects Underwriter** has paid its maximum liability under this Policy the **Policyholder** may have the option to reinstate the insurance for the remaining term. Further details about reinstatement terms and conditions are available on request.

12. RETENTION

Any monies retained or withheld by the **Policyholder** from the **Builder** under the terms of a Policy or for any reason shall be taken into consideration and offset against any claim made under this Policy. The **Underwriters** shall have the option to refuse to accept any claim under this Policy until a dispute over retention monies between the **Policyholder** and the **Builder** has been settled.

13. TERMINATION

This Policy shall be terminated without refund of premium in the event that:

- a) the **Housing Unit** is destroyed by a cause other than that insured against in this Policy; or
- b) the **Structural Defects Underwriter** has accepted a claim under Section 1 of this Policy*; or
- c) the **Underwriters** have paid their maximum liability under this Policy; or
- d) the **Structural Insurance Period** has expired.

*Where the **Structural Defects Underwriter** has not provided a cash settlement under Section 1 of this policy and has provided assistance to the **Policyholder** so that the property is completed, the **Structural Defects Underwriter** will ensure that cover is available to the **Policyholder** post completion of work for the remainder of the policy term..

14. THIRD PARTY RIGHTS

A person who is not a party to this Policy has no right under the *Contracts (Rights of Third Parties) Act 1999 (England, Wales and Northern Ireland)* to enforce any term of this Policy but this does not affect any right or remedy of a third party which exists or is available apart from the Act.

15. UNDERWRITERS' RIGHTS

In the event of any occurrence which may give rise to a claim under this Policy, the **Underwriters** and their agents shall, with the permission of the **Policyholder**, be entitled to enter the **Housing Unit** in order to investigate and produce a full report and/or carry out rectification works or the complete or partial rebuilding of the **Property**. If such permission is unreasonably withheld the **Policyholder** shall be responsible for any additional costs caused by the delay in carrying out such works.

CLAIMS NOTIFICATION PROCEDURES

Before making a claim the Policyholder should check the cover available under this Policy.

The **Mediation Service** is provided by FMB Insurance Services free of charge to **policyholders** on production of a valid Certificate of Insurance.

Notification of a claim under Sections 1.1 (or Section 1.2, if applicable), 2, 3, 4 and 5 of the Policy

On discovery of any circumstances that could give rise to a claim under Sections 1, 2, 3, 4 and 5 of the Policy, the **Policyholder** should send their claim to:

Claims and Disputes
FMB Insurance Services,
1st Floor Gemini House
Cambridgeshire Business Park
Angel Drove
Ely
Cambridgeshire
CB7 4EA.

in conformity with the following claims procedures:

1.1 ILL HEALTH OR DEATH OR FRAUD OF BUILDER DURING THE BUILDING PERIOD

Notification of a claim under Section 1.1 of the Policy

Should the **Builder** fail to complete the **Housing Unit** as a consequence of incapacity due to ill health or death or the **Builder** ceases to trade because of **Fraud**, the **Policyholder** shall as soon as reasonably possible:

- i) give written notice to **FMB Insurance Services**;
- ii) take all responsible steps to prevent further loss or damage;
- iii) submit in writing full details of the claim and supply all correspondence, reports, plans, certificates, specifications, quantities, information and assistance as may be required by the **Structural Defects Underwriter** to assess and validate the claim.

The scope of cover for incapacity due to ill health or the death of the **Builder** or the **Builder** ceasing to trade because of **Fraud** is set out in Section 1 of the Policy and should be read together with the Exclusions and Conditions of the Policy.

1.2 INSOLVENCY OF BUILDER DURING THE BUILDING PERIOD

Notification of a claim under Section 1.2 of the Policy

Should the **Builder** fail to complete the **Housing Unit** as a consequence of **Insolvency**, the **Policyholder** shall as soon as reasonably possible:

- i) give written notice to **FMB Insurance Services**;
- ii) take all responsible steps to prevent further loss or damage;

- iii) submit in writing full details of the claim and supply all correspondence, reports, plans, certificates, specifications, quantities, information and assistance as may be required by the **Structural Defects Underwriter** to assess and validate the claim.

The scope of cover for the **Insolvency** of the **Builder** is set out in Section 1 of the Policy and should be read together with the Exclusions and Conditions of the Policy.

2. DEFECTS INSURANCE

Notification of a claim after the completion of the Housing Unit under Section 2 of the Policy

The **Policyholder** should consider the nature of the claim and whether the circumstance falls within the definition of **Defect**. If a **Policyholder** is not sure of the nature of the damage or **Defect** you should contact **FMB Insurance Services**.

What is a Defect?

A **Defect** exists when the **Builder** has failed to comply with the **Technical Manual**. The duties of the **Builder** in respect of a **Defect** are set out in Section 2 of this Policy together with the Exclusions relevant to this section.

The Builder's Responsibility during the Defects Insurance Period

The **Builder** is responsible for **Defects** that arise during the **Defects Insurance Period** which is stated on the **Certificate of Insurance** enclosed with the Policy document. The **Policyholder** should notify their concerns to the **Builder** in writing within 28 days after discovering the problem. The **Policyholder** should keep a copy of all correspondence for their records.

It is a condition precedent to payment of claims under this section of the Policy that concerns must be notified to the **Builder** in writing before the expiry of the **Defects Insurance Period** and if the **Builder** does not respond within 28 days of submission of written notification of the discovery of a **Defect**, the **Defect** must be notified to **FMB Insurance Services** in writing within 6 months of the expiry of the **Defects Insurance Period** against the cost of repairing, replacing or rectifying any **Defect** in the **Housing Unit** (and the expiry of the cost of repairing, replacing or rectifying water ingress resulting from a **Defect** or **Defects** in the waterproofing elements of the **Waterproof Envelope** of the **Housing Unit**, if applicable). The **Structural Defects Underwriter** will have no liability if all matters are not notified within these time frames.

If the **Builder** fails to remedy any **Defect** notified to him, or the **Policyholder** is not satisfied with the **Builder's** response, the **Policyholder** may use the **Mediation Service** offered by **FMB Insurance Services**. Using the **Mediation Service** does not affect in any way a **Policyholder's** legal rights or remedies against the **Builder**.

If the **Policyholder** elects to use the services of the **Mediation Service** offered by **FMB Insurance Services**, the **Policyholder** will be required to notify **FMB Insurance Services** in writing. Upon receipt of the **Policyholder's** notification **FMB Insurance Services** will refer the dispute to the **Mediation Service** and appoint a building surveyor to investigate the **Policyholder's** concerns and produce a written report based on their experience and technical expertise. Once the building surveyor's written report is made available to the **Mediation Service**, the **Mediation Service** will consider the findings of the report in conjunction with an investigation into the circumstances of the dispute. The **Mediation Service** will make recommendations based on the building surveyor's written report to the **Policyholder** and the

Builder, and will attempt to bring them together on the basis that both the **Policyholder** and the **Builder** accept its recommendations and if any works are necessary the **Builder** carries them out within an agreed period of time.

If the **Builder** does not carry out the work within the time stipulated by the **Mediation Service** the **Structural Defects Underwriter** will, at its option, arrange for the work specified in the building surveyor's report to be carried out or meet the reasonable costs of carrying out the work.

The **Mediation Service** will not be suitable for all disputes. The building surveyor appointed by **FMB Insurance Services** is only qualified to advise upon technical issues and in particular whether the **Builder** has complied with the **Technical Manual**. The building surveyor is not qualified to advise on financial disputes, contractual issues or items that do not involve a breach of the **Technical Manual**.

Neither **FMB Insurance Services** nor the **Structural Defects Underwriter** shall have any liability to the **Policyholder** for any damages, loss, costs or expenses arising out of any dishonest act or omission by the building surveyor appointed by **FMB Insurance Services** in performing their duties under the **Mediation Service**.

If your Dispute is about a matter which is covered by the **Consumer Code for New Homes**, then you are able to use the independent dispute resolution service offered by them. This scheme is currently operated by the Centre for Effective Dispute Resolution (CEDR). Further details are available on request. Please email: insurance@fmb.org.uk

3. STRUCTURAL INSURANCE

Notification of a claim after the completion of the Housing Unit under Section 3 of the Policy

On discovery of any circumstances that could give rise to a claim under this Section of the Policy the **Policyholder** shall as soon as reasonably possible:

- i) give written notice to **FMB Insurance Services**;
- ii) take all responsible steps to prevent further loss or damage;
- iii) submit in writing full details of the claim and supply all correspondence, reports, plans, certificates, specifications, quantities, information and assistance as may be required.

The scope of cover for **Major Damage** is set out in Section 3 of the Policy and should be read together with the Exclusions and Conditions of the Policy.

Cover for this Section of the Policy commences from the date set out on the **Certificate of Insurance** for a period of 108 months (9 years) from the expiry of the **Defects Insurance Period** against the cost of repairing, replacing or rectifying any **Defect** in the **Housing Unit**, or a period of 96 months (8 years) from the expiry of the cost of repairing, replacing or rectifying water ingress resulting from a **Defect** or **Defects** in the waterproofing elements of the **Waterproof Envelope** of the **Housing Unit**, if applicable, unless stated otherwise in the **Certificate of Insurance**.

4. CONTAMINATED LAND

Notification of a claim for Remediation Expenses under Section 4 of the Policy

On discovery of any circumstances that could give rise to a claim under this Section of the Policy the **Policyholder** shall as soon as reasonably possible:

- i) give written notice to **FMB Insurance Services**;
- ii) take all responsible steps to prevent further loss or damage;
- iii) submit in writing full details of the claim and supply all correspondence, reports, plans, certificates, specifications, quantities, information and assistance as may be required.

The scope of cover for **Contaminated Land** is set out in **Section 4** of the Policy and should be read together with the Exclusions and Conditions of the Policy.

Cover for this Section of the Policy commences from the date set out on the **Certificate of Insurance**.

5. ADDITIONAL COVER FOR NON – COMPLIANCE WITH BUILDING REGULATIONS

Notification of a claim under Section 5 of the Policy

On discovery of any circumstances that could give rise to a claim under this Section of the Policy the **Policyholder** shall as soon as reasonably possible:

- i) give written notice to **FMB Insurance Services**;
- ii) take all responsible steps to prevent further loss or damage;
- iii) submit in writing full details of the claim and supply all correspondence, reports, plans, certificates, specifications, quantities, information and assistance as may be required.

The scope of cover for the failure of the **Builder** to comply with **Building Regulations** is set out in **Section 5** of the Policy and should be read together with the Exclusions and Conditions of the Policy.

COMPLAINTS PROCEDURES

FMB Insurance Services values the opportunity to investigate any concerns that the **Policyholder** may have about any aspect of the service provided by **FMB Insurance Services** and is committed to handling all complaints fairly, thoroughly and promptly.

1) In respect of complaints about the coverage under Sections 1, 2, 3, 4 and 5 of the Policy

If you have any enquiry or complaint about the insurance provided by **FMB Insurance Services**, other than a claim or potential claim enquiry, this should in the first instance be addressed to:

The Director of FMB Insurance Services,
FMB Insurance Services,
1st Floor Gemini House
Cambridgeshire Business Park
Angel Drove
Ely
Cambridgeshire
CB7 4EA

Email address: fmbinsurance@fmb.org.uk

Telephone Number: 01353 652760

or if you are not satisfied with the way your complaint has been dealt with in the first instance you may seek a review of your case without prejudice to your rights in law from the following:

Everest Syndicate 2786
40 Lime Street
London
EC3M 5BS

Email address: Bianca.hughes@everestre.com

Telephone Number: 0203 887 2500

Everest Syndicate 2786 at Lloyd's is authorised and regulated by the UK Financial Conduct Authority.

If you are still not satisfied with the way the complaint has been dealt with you may ask Policyholder and Market Assistance, Lloyd's Market Services, at Lloyd's to review your case without prejudice to your rights in law.

The address is:-

Policyholder and Market Assistance,
Lloyd's Market Services,
Lloyd's,
One Lime Street,
London,
EC3M 7HA.

Email address: complaints@lloyds.com

Telephone Number: 020 7327 5693

- 2) It is a requirement of **FMB Insurance Services** that a **Site Audit Surveyor** carries out inspections to satisfy the **Underwriters** that each **Housing Unit** represents a normal risk for insurance. It should not be inferred that the inspections are for any other purpose.

If you wish to make a complaint against the **Site Audit Surveyor** regarding the way he/she has performed their role you should contact

The Director of FMB Insurance Services,
FMB Insurance Services,
1st Floor Gemini House
Cambridgeshire Business Park
Angel Drove
Ely
Cambridgeshire
CB7 4EA

Email address: fmbinsurance@fmb.org.uk

Telephone Number: 01353 652760

- 3) The **Underwriters** are covered by the Financial Services Compensation Scheme. As a **Policyholder** you may be entitled to compensation from the Financial Services Compensation Scheme if any of these parties are unable to meet their obligations.

Further information about compensation scheme arrangements is available from the Financial Services Compensation Scheme. Their address is:

Financial Services Compensation Scheme,
10th Floor, Beaufort House,
15 St Botolph Street,
London,
EC3A 7QU.

Scheme Website: www.fscs.org.uk.

Telephone Number: 0800 678 1100 or 0207 741 4100

- 4) If after following the procedures set out in points **1)** and **2)** above, your complaint has not been resolved to your satisfaction, and you are an eligible complainant you have the right to refer the matter to the Financial Ombudsman, at the following address:-

Financial Ombudsman Service,
South Quay Plaza,
183 Marsh Wall,
London,
E14 9SR.

Email: complaint.info@financial-ombudsman.org.uk

Telephone Number: 0300 123 9 123 or 0800 023 4567

The Financial Conduct Authority definition of an eligible complainant is:

- A consumer;
 - A micro-enterprise which has an annual turnover of less than €2,000,000 and fewer than 10 employees;
 - A charity with an annual income of less than £1,000,000;
 - A trustee of a trust with a net asset value of less than £1,000,000.
- (* NB. "micro-enterprise": an EU term covering smaller businesses)

New Homes Structural Defects Insurance

FMB Insurance Services
1st Floor Gemini House
Cambridgeshire Business Park
Angel Drove
Ely
Cambridgeshire
CB7 4EA

Email address: fmbinsurance@fmb.org.uk

Telephone Number: 01353 652760