



## The Alberta New Home Warranty Program

Insurance coverage provided by:

# The New Home Warranty Insurance (Canada) Corporation

| December 1 | 2015

### MULTIPLE FAMILY DWELLING DEPOSIT PROTECTION INSURANCE POLICY

<b>COVERAGE COMMENCEMENT DATE:</b>	
<b>POLICY NUMBER:</b>	
<b>INSURED:</b>	
<b>RESIDENTIAL BUILDER:</b>	
<b>MUNICIPAL ADDRESS OF NEW HOME:</b>	
<b>LEGAL DESCRIPTION OF NEW HOME:</b>	(the "New Unit", defined as "New Home" in the <i>New Home Buyer Protection Act</i> )
<b>PREMIUM:</b>	

This Policy is to be read and interpreted as a whole and represents the entire contract between The New Home Warranty Insurance (Canada) Corporation and the Insured.

***This Policy contains a clause which may limit the amount payable.***

This Policy provides Deposit Protection Insurance for a self-contained dwelling unit in a Condominium or Multiple Family Dwelling.

**Coverage Period:** Coverage commences upon payment of initial deposit under the Agreement and expires upon the start of the Protection Period.

**Maximum Coverage Limit:** the amount of all deposit monies received by the Residential Builder to a maximum of \$50,000, unless a greater amount has been negotiated in advance between the Warranty Provider, Residential Builder and Insured.

#### TERMS & CONDITIONS

##### A. DEFINITIONS

In this Policy, the following terms have the following meanings:

- (a) "Agreement" means a Fixed Price Purchase Contract between the Residential Builder and the Insured with respect to the construction of the New Unit;
- (b) "Claim" means a request for payment by the Insured under this Policy;
- (c) "Default" means the Residential Builder fails to fulfill its obligations under the Agreement as a result of financial circumstances including, but not limited to, insolvency, having made an assignment in

bankruptcy, or an order being made by a court of competent jurisdiction declaring the Residential Builder to be bankrupt;

- (d) "Deposit Protection Insurance" means insurance against the loss of all deposit monies paid pursuant to the Agreement, by the Insured to the Residential Builder, to a maximum of \$50,000.00, unless a greater amount has been negotiated in advance between the Warranty Provider, Residential Builder and Insured;
- (e) "Fixed Price Purchase Contract" means an Agreement between the Residential Builder and the Insured for the construction of a self-contained dwelling unit for a pre-negotiated fixed price not subject to any adjustment except as set out in such Agreement and agreed to as to any additional amount prior to Default;
- (f) "Multiple Family Dwelling" means a building containing 2 or more dwelling units;
- (g) "New Home" means a building, or a portion of a building, that is newly constructed or that is being constructed and is intended for residential occupancy and in respect of which the protection period has not expired, and includes:
  - (i) a self-contained dwelling unit that:
    - (A) is detached;
    - (B) is attached to one or more other self-contained dwelling units; or
    - (C) includes a secondary suite;
  - (ii) common property, common facilities and other assets of a condominium corporation;
  - (iii) any building or portion of a building that is of a class prescribed as a class of New Home to which this Act applies;
  - (iv) a building that is intended for residential occupancy and that is a reconstruction; and
  - (v) a manufactured home;but does not include a hotel, motel, dormitory, care facility, relocatable work camp or any building exempted by the Regulations for the definition of New Home;
- (h) "Protection Period" means:
  - (i) in the case of a New Home, other than the common property or common facilities in a building, 10 years beginning on the earlier of:
    - (A) the date the New Home is first occupied; and
    - (B) the date an accredited agency, accredited municipality or accredited regional services commission grants permission to occupy the New Home;
  - (ii) in the case of the common property or common facilities in a building, 10 years beginning when:
    - (A) title to an inhabitable unit in the building or in a building in a phase of development of a condominium is transferred from a residential builder to a purchaser of a unit in an arm's length transaction; and
    - (B) the residential builder has entered into an agreement with a qualified person to have a qualified person prepare a building assessment report for the building or for the phase of

development within 180 days of the transfer of title described in clause (ii)(A) above as prescribed by the *New Home Buyer Protection Act (Alberta)*;

- (i) "Residential Builder" means a person who engages in, arranges for or manages all or substantially all of the construction or reconstruction of a New Home, or agrees to do any of those things, and includes a general contractor, but does not include an Owner Builder;
- (j) "Warranty Provider" means The New Home Warranty Insurance (Canada) Corporation.

## **B. DEPOSIT PROTECTION INSURANCE**

Any amounts paid under this Policy shall be the lesser of the deposits received by the Residential Builder from the Insured and the Maximum Coverage Limit.

In the event of Default, the Warranty Provider agrees to indemnify the Insured, subject to the terms, conditions and exclusions of this Policy, and the Insured may submit a Claim only for those deposit payments made by the Insured to the Residential Builder pursuant to the Agreement.

Upon receiving the documentation required under section C, and subject to section E, the Warranty Provider will review and assess the Claim and determine the amount payable, if any, to the Insured. If the Warranty Provider determines that payment will be made pursuant to a Claim, the Warranty Provider shall provide payment to the Insured in the amount the Warranty Provider has determined payable for the Claim.

The Warranty Provider shall advise the Insured of its determination of the Claim in writing within 60 days of its receipt of all necessary documents required to assess the Claim.

In the event that the Warranty Provider has determined that payment will be made, the Insured will complete and execute a release in favour of the Warranty Provider in a form provided by, or to the satisfaction of, the Warranty Provider. The Warranty Provider will issue payment to the Insured upon receipt of such release executed by the Insured in favour of the Warranty Provider.

If:

- (a) any amount of the Maximum Coverage Limit remains available after payment of the Claim; and
- (b) the Insured incurs reasonable legal fees directly related to the Claim as determined by the Warranty Provider;

then the Warranty Provider shall indemnify the Insured in respect of such fees up to a maximum of \$5,000.

## **C. INSURED OBLIGATIONS**

When making a Claim under this Policy, the Insured must submit the following to the Warranty Provider:

- (a) the Agreement;
- (b) proof of deposit payment(s) made to the Residential Builder by the Insured with respect to the Agreement;
- (c) a duly completed Claim form to be provided by the Warranty Provider to the Insured; and
- (d) additional documentation as required by the Warranty Provider from time to time.

All of the foregoing Claim documentation must be received by the Warranty Provider before the start of the Protection Period. The obligations of the Warranty Provider cease upon expiry of the Coverage Period unless proper notice is given to the Warranty Provider by the Insured prior to the expiry.

**D. GENERAL**

The Insured shall:

- (a) adhere to all timelines outlined in this Policy; and
- (b) provide to the Warranty Provider information and documentation that the Insured has available or has the ability to access, that the Warranty Provider requests, in order to investigate a Claim.

All notices of a Claim under this Policy must be delivered to the Warranty Provider, in writing, prior to the expiry of the insurance coverage and comply with the requirements set out in this section.

The Warranty Provider shall be subrogated, with respect to any payment made under Policy coverage, to all the rights of recovery of the Insured against any person who may be responsible for a Default and may bring action in the name of the Insured to enforce those rights. The Insured shall cooperate with the Warranty Provider and do whatever is necessary to secure and exercise those rights.

**E. LIMITS AND EXCLUSIONS**

Only one Claim will be paid under this Policy, after which this Policy is of no force or effect.

Other than payment to the Insured under the coverage as set out in section B, the Warranty Provider is not liable for any damages, losses, costs, or expenses otherwise suffered by the Insured due to or in connection with Default, howsoever caused.

Coverage under this Policy is **only** available to the Insured where the Residential Builder and the Insured have entered into a Fixed Price Purchase Contract.

Coverage under this Policy does not provide indemnity for non-monetary consideration provided by the Insured to the Residential Builder.

Claims arising out of a contractual dispute between the Insured and Residential Builder are not covered by this Policy.

Every action or proceeding against the Warranty Provider for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the *Insurance Act*.

**F. TRANSFER OF DEPOSIT PROTECTION INSURANCE COVERAGE AND ASSIGNMENT**

This Policy shall not be assigned by the Insured without the prior written consent of the Warranty Provider, which may not be unreasonably or arbitrarily withheld.

This Policy may be assigned by the Warranty Provider.

Whether or not it is disclosed to a subsequent Insured by the current Insured and notwithstanding any other provision of this Policy, prior actions or obligations of the Insured shall be binding upon any subsequent Insured and, in particular, any previous acts, omissions, defaults, or agreements of any kind made by the Insured with the Residential Builder or the Warranty Provider shall be binding upon any subsequent Insured.

**G. POLICY TERMINATION**

The Warranty Provider may only terminate this Policy before the start of the Protection Period by giving both the Residential Builder and the Insured 15 days' written notice by registered mail or 5 days written notice personally delivered. Notwithstanding anything contained herein, the 15 day period starts to run on the day the notice is sent by mail or notification of it is delivered to both the Residential Builder's and Insured's postal addresses.

**H. NOTICE**

Unless indicated otherwise in this Policy, any notice which may be or is required to be given under this Policy must be given in writing and may be delivered in person, sent by mail postage prepaid or by courier, or delivered electronically either by electronic communication or to the Homeowner Portal and shall be addressed:

If to the Insured:

Attention: Homeowner  
Email:  
Facsimile:

If to the Warranty Provider: The New Home Warranty Insurance (Canada) Corporation  
c/o The Alberta New Home Warranty Program  
301, 30 Springborough Boulevard SW  
Calgary, Alberta, T3H 0N9  
Attention: Contact Centre  
Email: [contactcentre@anhwp.com](mailto:contactcentre@anhwp.com)  
Facsimile: (403) 253-5062  
Homeowner Portal Address: [www.anhwp.com/homeowner](http://www.anhwp.com/homeowner)

Any notice shall be conclusively deemed to have been given or made on the day upon which such notice is delivered, or if mailed, then on the third business day following the date of the mailing as the case may be, provided that in the case of interruption in the ordinary postal service, any notice given hereunder shall be delivered and not mailed. The parties shall give notice in writing of any change of municipal address or email address, and from and after the giving of such notice, the municipal address or email address therein specified shall be deemed to be the municipal address or email address of the parties for the giving of notices hereunder.

**I. IN CASE OF DISAGREEMENT**

In the event of disagreement as to whether Default exists, the nature and extent of the Default or the amount of loss, those questions must be determined using the applicable dispute resolution process set out in section 519 of the *Insurance Act* whether or not the Insured's right to recover under this Multiple Family Dwelling Deposit Protection Insurance Policy is disputed, and independently of all other questions.

There is no right to a dispute resolution process under this condition until:

- (a) a specific demand is made for it in writing; and
- (b) the proof of loss has been delivered to the Warranty Provider.