

CHECKMATE

POWERED BY LOCKTON



Checkmate Warranty Scheme Insurance

Terms and Conditions for Members

These Terms and Conditions apply to the *development* registered by:

.....
[the *Member*]

As a Developer/Builder Developer/Contractor [delete as appropriate]

Under the name of:

.....
[the *Development*]

By completing the registration of the *Development* with *Checkmate* the *Member* confirms that these Terms and Conditions have been read, understood and agreed to.

1 About Our Company

Checkmate.uk.com (Checkmate) is a division of Lockton Companies LLP; an insurance intermediary and Lloyd's broker. Our Registered Office is located at The St. Botolph Building, 138 Houndsditch, London, EC3A 7AG. Registered Company Number: OC353198. VAT Registration Number GB 449 6862 93.

We are authorised and regulated by the Financial Conduct Authority ("FCA") in respect of insurance mediation activities. You may check our details on the FCA Register at <https://register.fca.org.uk/s/search?q=523069&type=Companies> or by telephoning the FCA on **0800 111 6768**.

Checkmate provides new home and building warranty insurance acting as agent of the insurers under delegated Authority from them

2 Definitions

The words and phrases printed in italics shall have the special meaning set out below.

Builder Developer: The vendor and/or landlord of the *New Home* or *New Premises* who registers the *Development* with *Checkmate* and builds the *New Home* or *New Premises* specifically for sale or rent or acts as a *Contractor* for a *Developer*.

Building Period Certificate: The *Certificate* issued by *Checkmate* signifying agreement to the provision of the protection set out in Part One of the *Warranty* subject to any endorsements.

Certificate: The document that confirms the cover provided by the *Warranty* is in force as stated therein. *Checkmate* reserve the right to modify the cover brought into effect, such modification to be evidenced by an endorsement on the *Building Period Certificate* and/or *Insurance Certificate*. *Certificate* includes any cover note that may be issued.

Checkmate: Checkmate.uk.com, which is a division of Lockton Companies LLP who are Authorised and Regulated by the Financial Conduct Authority.

Code: The Consumer Code that applies to the property in order to comply with industry requirements from time to time.

Contractor: The person or company who builds the *New Home* or *New Premises* under contract to the *Developer* or *Builder Developer*.

Defect: A failure to comply with the *Requirements* in respect of the *New Home* or *New Premises*.

Developer: The vendor and/or landlord of the *New Home* or *New Premises* who registers the *Development* with *Checkmate* but who employs a *Contractor* or *Builder Developer* to construct the *New Home* or *New Premises*.

Developer's Warranty Period: A period of two years commencing on the effective date of the *Insurance Certificate* or contract exchange date, or exchange of missives in Scotland, whichever is the later.

Development: A single *New Home* or *New Premises* or a number of *New Homes* or *New Premises* or a combination of both built or converted on a site.

Directory: A list of all *Developers*, *Builder Developers* and *Contractors* who have registered *Developments* with *Checkmate*.

Images: Digital photographs provided by and loaded onto the *Checkmate REDI* tool by the *Developer*, *Builder Developer*, or *Contractor* employees or agents.

Insurance Certificate: The document issued by *Checkmate* to signify acceptance of the completed *New Home* or *New Premises* for insurance under the *Warranty* including any endorsement to include or exclude specified items.

Insured: The persons, including the *Original Insured*, having a freehold, commonhold or leasehold interest in a *New Home* or *New Premises* or their successor in title or any mortgagee in possession or lessor (excluding the *Builder Developer*, *Developer*, *Contractor*, directors, partners and their relatives and associated companies, and all those involved with or having an interest in the construction and sale of the *New Home* or *New Premises*.)

Member: The *Developer*, *Builder Developer* or *Contractor* that is party to these Terms and Conditions.

New Home: Any newly built or newly converted residential property which is being or has been registered with *Checkmate* for a *Warranty* by the *Developer*, *Builder Developer* or *Contractor*.

New Premises: Any newly built or newly converted non-residential property which is being or has been registered with *Checkmate* for a *Warranty* by the *Developer*, *Builder Developer* or *Contractor*.

Original Insured: The first purchaser of a freehold, commonhold, or leasehold interest in a *New Home* or *New Premises* from the *Developer* or *Builder Developer* or landowner who instructs a *Checkmate Builder Developer* or *Contractor* to construct a *New Home* or *New Premises* for their occupation by way of contract on the *Effective Date* of the *Building Period Certificate* or *Insurance Certificate* excluding the *Member*, builder, directors, partners and their relatives and associated companies, and all those involved with or having an interest in the construction and sale of the *New Home* or *New Premises* save where *Checkmate* has agreed in writing to a written request from the *Developer*, *Builder Developer*,

Checkmate.uk.com is a division of Lockton Companies LLP, registered in England and Wales with registered number OC353198 and registered address: The St Botolph Building, 138 Houndsditch, London, EC3A 7AG. Lockton Companies LLP is Authorised & Regulated by the Financial Conduct

directors, partners, relatives or associated companies permitting any thereof to benefit from the *Warranty* where they acquire the *New Home* or *New Premises* under a lawful Contract For Sale.

REDI: Review & Evaluation of Digital Images. A system used by *Checkmate* to evaluate the *Images* and which contributes to the risk management of the *Development* for insurance purposes.

Requirements: The technical standards published by *Checkmate* in the form of a technical manual and varied from time to time and include mandatory compliance with the Building Regulations that apply to the *Development*.

Underwriter: As arranged by *Checkmate* to underwrite the insurance, currently HDI GLOBAL SPECIALTY SE and/or other insurers as specified from time to time. Any variation in the Underwriter will be notified in advance to the *Member* in writing by *Checkmate*.

Warranty: The *New Home* or *New Premises* latent defect insurance policy from *Checkmate* arranged with an *Underwriter* that inter alia describes the *Member's* obligations to the *Insured* and the insurance cover.

Warranty Documents: The relevant documents, excluding the *Insurance Certificate*, which include without limitation the policy document, the Insurance Product Information document, the *Building Period Certificate* and Homeowner's Guide.

3 Miscellaneous

- 3.1 In these Terms and Conditions (including the defined terms), the singular includes the plural and the use of any gender shall include all genders.
- 3.2 Any reference to any statute shall include any statutory modification or re-enactment and any subordinate legislation for the time being in force.
- 3.3 The headings in these Terms and Conditions are for descriptive purposes only do not in any way control, limit or amplify the terms of these Terms and Conditions.
- 3.4 Except in any definition in these Terms and Conditions, references to any statute or any section of any statute include any statutory amendment, modification or re-enactment and instruments and regulations under it in force from time to time. References to any codes of practice include any amendments or revisions from time to time (save to the extent that they conflict with any express term or condition within these Terms and Conditions).
- 3.5 If any provision of these Terms and Conditions is held by any competent authority to be invalid or unenforceable in whole or in part that whole or part shall be severed and the validity or enforceability of the remaining whole or part shall not be affected and shall remain in full force and effect.

4 Duration of these Terms and Conditions

- 4.1 These Terms and Conditions shall apply to the *Development* and remain in force from the date of registration of the *Development* until the period of the *Warranty* on the *New Home* or *New Premises* has expired.

5 The Member's rights and obligations

5.1 The *Member* must maintain membership of *Checkmate* and pay any annual or other renewal fees that may fall due throughout the construction of the *Development* and until the last *Certificate* for the *Development* has been issued by *Checkmate*.

5.2 The *Member* must provide *Checkmate* with such information as it may reasonably require showing that the following conditions are and continue to be satisfied:

5.2.1 the reasonable financial tests required by *Checkmate*, as varied from time to time, but only where the *Member* has a financial or performance liability to the *Insured* under the terms of the *Warranty* or is acting as a *Developer* or *Builder Developer*. *Checkmate* reserves the right to carry out such financial tests in relation to the *Member* and *Member's* associated companies to ensure that the *Member* and the *Member's* group of companies meets *Checkmate's* underwriting criteria during the period from registration of the *Development* until the *Insurance Certificate* is issued for the completed *Development*. In the absence of this condition being met *Checkmate* may acting reasonably withhold any *Certificate* and may cancel the registration of the *Development* until the *Member* gives *Checkmate* such securities as it may reasonably require, or can meet the reasonable financial tests.

5.2.2 where the *Member* is acting as a *Builder Developer* or *Contractor* the *Member* has and continues to have the technical ability to build *New Home* or *New Premises* to the *Requirements* or to procure that *New Home* or *New Premises* are so built. In the absence of this condition being met (to be determined at *Checkmate's* sole discretion but acting reasonably) the *Member* shall at *Checkmate's* direction appoint a *Checkmate* registered *Contractor* approved by *Checkmate*, such approval to be given in writing and before any such appointment, to complete the *New Home* or *New Premises* in accordance with the *Requirements*.

5.3 The disclosure requirements for commercial insurance contracts under the laws of the United Kingdom are governed by the Insurance Act 2015. The member has a duty to make a fair presentation of the risk to *Checkmate*, this requires disclosure of all material information which is known to you (or which ought to be known to you). Information is material if it would influence the judgement of a prudent underwriter in establishing the premium or determining whether to underwrite the risk and, if so, on what terms. Material information does not necessarily have to actually increase the risk of the insurance under consideration.

Under the Act you will be deemed to know information if it is known to any individuals in the categories below:

(a) anyone within your business in a senior management or decision making role, and

(b) anyone responsible for arranging the insurances.

Furthermore, under the Act you "ought to know" what should reasonably have been revealed by a reasonable search for information held internally or externally (including by any third parties to whom services are outsourced, consultants and agents).

In the event that there is a breach of duty of fair presentation of risk, the remedies available to insurers will vary dependent on whether the breach is deliberate or reckless or otherwise. For deliberate or reckless breaches the insurer may avoid the contract, refuse all claims and retain the premium paid.

For other, non-fraudulent or non-reckless breaches the remedy will depend on what the insurer would have done had a fair presentation of the risk been made. If the insurer would not have accepted the risk it can avoid the contract but must refund premiums paid. If the insurer would have accepted the risk on other terms the contract is to be treated as if those terms applied, in the event that a higher premium would have been charged any claims payments can be reduced proportionately. This latter provision is especially important because if insurers can show that they would have charged only a modest additional premium, the impact on a claim could be disproportionately large

- 5.4 Where they are liable for payments the *Member* shall pay to *Checkmate* such fees and premiums and taxes as are required from time to time before the *Warranty* shall be made available, payment to be received within 28 days of the date of the invoice.
- 5.5 The *Member* shall include the *Warranty* in the purchase price of all *New Homes* registered with *Checkmate* and shall not make or indicate any separate charge for it.
- 5.6 The *Member* shall give *Checkmate* 10 working days' notice before any construction work commences on the *New Home* or *New Premises*. Where the *New Homes* or *New Premises* is a conversion or is to be built on land that presents an unusual risk the *Member* shall give *Checkmate* 10 additional working days' notice before the work commences on the *New Home* or *New Premises*. For the purposes of this clause an unusual risk shall include, but not be limited to, contaminated land, mining or mineral extraction area, peat soil, ground conditions which include "made ground" and clay sites with either trees present or recently removed.
- 5.7 Before work starts on any part of the *Development* the *Member* shall at *Checkmate's* reasonable request provide or arrange to be provided a copy of the site investigation report for the *Development*.
- 5.8 The *Member* shall use reasonable endeavours to ensure that all statutory approvals as may be required have been sought or obtained before the work commences on the *New Home* or *New Premises*.
 - 5.8.1 Where the *New Home* or *New Premises* is to be constructed on contaminated land the *Member* must ensure such specific approvals as maybe require have been obtained from the relevant Local Authority and/or Environment Agency.
 - 5.8.2 The *Member* must ensure that all relevant Building Regulation approvals are obtained for the *New Home* or *New Premises* from either the Local Authority or an Approved Inspector.
- 5.9 The *Member* shall ensure that the *New Home* or *New Premises* is built to comply with *Checkmate's Requirements* and in a competent and workmanlike manner to *Checkmate's* reasonable satisfaction. Where methods of construction or materials do not meet the guidance contained in *Checkmate's Requirements*, the *Member* shall obtain *Checkmate's* written consent to the

proposed methods of construction or materials prior to issuing the *Insurance Certificate*.

- 5.10 Where the *Developer* or *Builder Developer* contracts with a *Builder Developer* or *Contractor* to construct the *New Home* or *New Premises*:
- 5.10.1 the *Developer* or *Builder Developer* must notify *Checkmate* of the *Builder Developer/Contractor's* details with the proposal.
 - 5.10.2 the *Builder Developer* or *Contractor* must be registered with *Checkmate* before works on the *Development* commence.
 - 5.10.3 any change to the *Builder Developer* or *Contractor* must be notified to *Checkmate* as soon as practically possible and in any event no later than seven days after the change coming into effect.
 - 5.10.4 The *Developer* or *Builder Developer* shall deliver the *Warranty Documents* made available by *Checkmate* to the *Original Insured* but shall not permit the sale to proceed to legal completion unless the *New Home* is subject to vacant possession and the *Insurance Certificate* has been issued. Where a property is not being sold but is being rented or any other such arrangement the property must not become occupied in any instance or for any reason prior to the *Insurance Certificate* being issued unless previous agreed in writing with *Checkmate*.
 - 5.10.5 the *Developer* or *Builder Developer* acknowledges that the *Insurance Certificate* shall only be issued if the *New Home* or *New Premises* is accepted by *Checkmate* for a *Warranty*.
 - 5.10.6 where the *Developer* or *Builder Developer* permits a sale to proceed to legal completion without the *Insurance Certificate*, *Checkmate* reserves the right, when requested, to provide the *Buyer* or their representative with the reasons that prevented the *Insurance Certificate* from being issued.
- 5.11 The *Member* shall ensure that *Checkmate* is provided with reasonable notice to conduct a final inspection of each *New Home* or *New Premises* as soon as reasonably practical after confirmation of Building Regulations approval and in any case within 28 days.
- 5.12 Where an *Insurance Certificate* for the *New Home* or *New Premises* has not been issued within 180 days of the date of *Checkmate* completing a satisfactory final inspection, *Checkmate* reserves the right to charge additional fees and/or premiums plus any associated taxes (at the prevailing rate) in order to facilitate the issue of an *Insurance Certificate*.
- 5.13 Once a *Certificate* has been issued, the *Developer* or *Builder Developer* or their agent(s) shall deliver it to the *Original Insured*.
- 5.14 The *Developer* or *Builder Developer* shall not, without *Checkmate's* prior written consent, make available any *Certificate* to persons excluded under the definition of *Original Insured*. Where *Checkmate's* written consent is given this will be shown as an endorsement on the *Certificate*.
- 5.15 The *Member* agrees to honour the terms of the *Warranty* where it places any obligation or responsibility on him either to *Checkmate* or to an *Insured*.
- 5.15.1 Where there is an obligation under the *Warranty* for the *Developer* to carry out repairs and they do not do so, or do not pay for works *Checkmate* carries out to fulfil the *Developer's* obligations and the original defective work was carried out by or on behalf of the *Builder Developer* or *Contractor*, the *Builder Developer* or *Contractor* accepts the

obligation for the repairs or to reimburse *Checkmate* for repairs carried out by *Checkmate*.

5.15.2 Where an *Insured* has notified a *Member* of a potential claim during the *Member's* liability period of the *Warranty* (usually referred to as the Developer's / Contractor's liability period) the *Member* has an obligation to undertake the following to *Checkmate's* reasonable satisfaction:

- Correspond with the *Insured* in a timely and appropriate manner at all times until the potential claim has been resolved;
- Investigate the nature of the potential claim to establish liability under the policy;
- Complete any remedial works required in a timely manner and to the standard required under the *Warranty*;
- Where the *Insured* has also brought the potential claim to the notice of *Checkmate*, the *Member* must keep *Checkmate* fully informed at all times;

Where the *Member* has completed any remedial works, the *Member* has an ongoing liability for the effectiveness of those repairs for the duration of the *Warranty*.

5.15.3 Where a *Member* fails to meet its obligations under clause 5.15.2 to *Checkmate's* reasonable satisfaction, *Checkmate* may seek additional security and/or withhold the issue of further Certificate(s) from the *Member* or any other *Member* from the same group of companies / legal entities.

5.16 The *Member* agrees to correct any *Defect* before the *Insurance Certificate* is issued and repair any consequent material damage to the *New Home* or *New Premises* within the reasonable time notified to the *Member* in writing by *Checkmate*, including if such notice is given by e-mail or via the *Members* secure home page.

5.17 Where the *New Home*, *New Premises* or *Development* is destroyed or damaged and requires partial or complete rebuilding before the *Insurance Certificate* has been issued *Checkmate* reserves the right to charge additional fees together with any associated taxes for any additional work require by *Checkmate* to assess whether the building works comply with the *Requirements*. *Checkmate* reserves the right to charge additional premiums and associated taxes for the partial or complete rebuilding works where there is a material change in the insured value or risk.

5.18 Where *Checkmate* pays any sum relating to the *Member's* obligations or responsibilities under these Terms and Conditions, a *Warranty* or under the Consumer Code the *Member* agrees that it shall reimburse *Checkmate* with all of the reasonable associated costs *Checkmate* incurs in so doing.

5.19 The *Member* shall reply fully and within 28 days to any correspondence from *Checkmate* that has been sent to the *Member* by recorded delivery to the last address notified to *Checkmate*.

5.20 While these Terms and Conditions are in force the *Member* agrees to honour the terms of a Consumer Code. *Checkmate* is a code sponsor of The Consumer Code for Home Builders and this Code applies to all homes registered with *Checkmate* by the *Member* unless that *Member* declares in writing to *Checkmate* at the time of registration of the *Development* that the *Member* has registered with the New Homes Quality Board and is going to be bound by the New Homes Quality Code in respect of the *Development*. For

access to The Consumer Code for Home Builders, visit www.consumercode.co.uk

- 5.20.1 Where *Checkmate* pays any adjudication fees relating to the *Member's* obligations or responsibilities under the Consumer Code the *Member* agrees that it shall reimburse *Checkmate* with all of the reasonable associated costs *Checkmate* incurs in so doing.
- 5.21 While these Terms and Conditions are in force the *Member* may in its marketing materials refer to *Checkmate* and to the *Checkmate Warranty* and may use the *Checkmate* trade name and/or logo in advertising. Any reference to the insurance cover provided by the *Warranty* must be approved in advance by *Checkmate* in writing.

6 Technical Review of works & Checkmate REDI

This section outlines the basis of operation of the REDI tool and includes important information on some of its limitations of which *Checkmate* is reasonably aware

- 6.1 The *Member* shall grant access to *Checkmate*, or its agents, in order for it to carry out such inspections as *Checkmate* deems necessary acting reasonably to establish to its satisfaction that the *New Home* or *New Premises* has been or is being constructed to *Checkmate's Requirements* and in a competent and workmanlike manner.
- 6.2 *Checkmate* shall at its sole discretion and for its own purposes and in accordance with *Checkmate's* own risk management programme carry out technical reviews by physical inspection or by use of the *REDI* tool or by any other means it deems appropriate.
- 6.3 The *Member* shall provide [or arrange to be provided] *Images* to *Checkmate* via *Checkmate's REDI* tool as specified in a schedule provided by *Checkmate* within 2 working days of being notified that work on the *Development* is to commence.
- 6.4 Following registration of the *Development* *Checkmate* will provide the *Member* with a username and password within 48 hours to enable access to the *Checkmate REDI* tool.
- 6.5 The information contained in the *REDI* tool is based on the information provided when the *Development* was registered and information obtained during construction, including any relevant *Images* taken. Whilst *Checkmate* has taken all reasonable steps to ensure the information provided in the *REDI* tool is accurate, the *Member* or its agent(s) is responsible for validating the integrity of any information provided by the *REDI* tool.
- 6.6 *Checkmate* shall have no liability for direct, indirect or consequential losses (including without limitation claims against the *Member* by third parties or claims for loss of profit or loss of revenue) to the *Member* or employees, associates, agents or customers in tort (including negligence), contract, or otherwise. Nothing in these Terms and Conditions shall exclude or restrict *Checkmate's* liability for fraud, or for death or personal injury caused by *Checkmate's* negligence. You use the *REDI* tool at your own risk.
- 6.7 Any *Images* and/or information in whatever form that you provide it via the *REDI* tools ("the *Images*") remain the *Member's* property. The *Member* hereby authorise *Checkmate* to use, copy, distribute the *Images* for such

purposes that *Checkmate* requires for as long as such information is required. In particular and without limitation, the *Member* hereby authorise *Checkmate* to anonymise (wherever possible) and use, copy and display the *Images* for training purposes both internally within *Checkmate* and with third parties, in any form and via any medium.

- 6.8 The *Member* warrants the accuracy and completeness of any *Images* provided and submit such *Images* and uses the *REDI* tool at the *Member's* own risk. The use by *Checkmate* of any of such *Images* does not deem acceptance by *Checkmate* of the *Development* nor should it be construed as an indication that *Checkmate* may or may not issue a *Certificate*.
- 6.9 The *REDI* tool is provided by *Checkmate*. Subject to the information set out in these Terms and Conditions. *Checkmate* has taken all reasonable steps to ensure that the information provided by the *REDI* tool is accurate and current at the date of issue. However it is not guaranteed that such information is accurate as of the date of receipt or use by the *Member* or that it will remain so in future.
- 6.10 The *Member* should always be satisfied that any action it takes or advice it gives to others that rely on any of the information and guidance provided by the *REDI* tool is suitable in any particular case. It is the *Member's* responsibility to ensure that any person to whom advice or recommendations are provided based on the use of the *REDI* tool is made aware of the limitations of the tool, and where those limitations are documented or reproduced.
- 6.11 The *Member* acknowledges responsibility for all acts and omissions of any person or organisation that accesses the *REDI* tool using the *Member's* password provided at registration whether with or without the *Member's* authority to do so.
- 6.12 Unless clearly stated otherwise, nothing in the *REDI* tool shall be construed as a certificate of completion, a *Certificate*, or act as a recommendation of the *Development*, *New Home* or *New Premises*.
- 6.13 *Checkmate* will always endeavour to give reasonable notice but if circumstances do not permit *Checkmate* reserves the right in its absolute discretion and without cause to restrict full or partial access to the *REDI* tool or withdraw it entirely at any time without notice to all or any users. *Checkmate* accepts no liability for any loss that may arise (directly or indirectly) if, for any reason, the *REDI* tool is unavailable at any time.
- 6.14 Copyright and all other intellectual property rights worldwide in the *REDI* tool are owned by *Checkmate*. The *Member* may use the *REDI* tool only for business use in respect of the *Development* and shall not acquire any title copyright or other proprietary rights in the *REDI* tool or in any copies of it.
- 6.15 *Checkmate* has a policy of continued improvement and reserves the right, without notice, to change the content, presentation, performance, and availability of any part of the *REDI* tool at any time.

7 **Data Protection**

By registering the *Development* the *Member* confirms acceptance of these Terms and Conditions and agrees to comply with all Data Protection Laws. *Checkmate* is not liable to the *Member* for any loss or damage suffered as a result of any breach of the Data Protection Laws.

- 7.1 For the purposes of this clause:
- (i) **Controller** means a person which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data;
 - (ii) **Data Protection Laws** means all laws and regulations relating to the Processing of Personal Data as the same may be in force from time to time;
 - (iii) **Personal Data** means any information relating to an identified or identifiable living individual;
 - (iv) **Processing** means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, and Process, Processes and Processed shall be construed accordingly;
 - (v) **Processor** means a person which Processes Personal Data on behalf of a Controller;
 - (vi) **Relevant Individual** means any individual whose Personal Data is disclosed to Checkmate for Processing by Checkmate or on Checkmate's behalf in connection with Checkmate's engagement or any services we provide to the Member, including (by way of example) any individual who is an insured person, or a third party claimant, under or in respect of an insurance policy; and
 - (vii) **Relevant Person** means you and any other person who collects Personal Data relating to a Relevant Individual.
- 7.2 The parties acknowledge and agree that, in relation to Checkmate's engagement and any services we provide to you:
- (i) Checkmate is a Controller in respect of the Personal Data we Process;
 - (ii) the Member is a Controller in respect of the Personal Data the Member Process;
 - (iii) the parties are not joint Controllers; and neither the Member nor Checkmate Process any Personal Data on behalf of the other as Processor.
- 7.3 In respect of the Personal Data that you or we Process in relation to Checkmate's engagement and any services we provide to you and we shall comply at all times with Checkmate's respective obligations under the Data Protection Laws.
- 7.4 Subject to clause 7.5, The Member may input Personal Data about the Member or clients using the facilities provided. The Member is responsible for ensuring any information provided is accurate and up to date as Checkmate will only access or amend such information for essential maintenance or problem resolution, or if otherwise required to under the Data Protection Laws.
- 7.5 In relation to Checkmate's engagement and any services we provide to you, you shall only provide to us the Personal Data requested by us from time to time and you shall ensure that no other Personal Data is provided by the Member (or anyone else acting on the Member's behalf) to us. Nothing in this clause shall affect the Member obligation to comply with any applicable duty of fair presentation of risk or duty of disclosure in relation to the Member insurance.
- 7.6 You shall ensure that the information notice set out in Appendix 1 of these Terms and Conditions, or any replacement information notice that we provide to you from time to time, is provided to each Relevant Individual.

You shall ensure that the notice is provided to the Relevant Individual at the time when its Personal Data is first collected by the Relevant Person.

- 7.7 You shall ensure that such steps are taken to obtain the consent of each Relevant Individual to the Processing of its Personal Data in connection with Checkmate's engagement and any services we provide as may be required from time to time by us.
- 7.8 You shall ensure that we are promptly notified of any contact a Relevant Person receives from a Relevant Individual regarding the Processing of its Personal Data in relation to Checkmate's engagement or any services we provide to you. You shall ensure that each Relevant Person provides us with reasonable co-operation and assistance in relation to each such contact to enable us to respond to such contact fully and promptly and in accordance with any deadlines set by the Data Protection Laws to which we are subject.
- 7.9 In addition, you and we agree to work together to ensure that we are able to Process the Personal Data that we Process in relation to Checkmate's engagement and any services we provide to you for the purposes contemplated by such engagement lawfully, fairly and in a transparent manner and in compliance with the Data Protection Laws to which we are subject. This shall include you co-operating and assisting us with Checkmate's dealings with regulatory authorities responsible for maintaining and enforcing the application of the Data Protection Laws to which we are subject.
- 7.10 You and we agree to enter into such other written agreements as may be required from time to time to enable you to comply with the Data Protection Laws to which you are subject and/or to enable us to comply with the Data Protection Laws to which we are subject.
- 7.11 This clause shall survive the termination or expiry of Checkmate's engagement.
- 7.12 As part of the registration process Checkmate requires some 'identifying data' about the Member, and also an e-mail address. Checkmate will use the identifying data only to check who has accessed the REDI tool and to include in the Directory of Members. Checkmate will use the e-mail address to more quickly advise the Member of significant events that affect the REDI tool.
- 7.13 The REDI tool is focused on gathering certain specific information relevant to the technical review of works. There will be circumstances where the REDI tool cannot accept some data. In such circumstances, it is the responsibility of the user to record such occurrences, and inform their Checkmate Regional Surveyor.
- 7.14 Any links made by Checkmate from the REDI tool to other websites are designed to allow you to access more information. Checkmate gives no endorsement and accepts no liability for the operation, accuracy or content of linked websites. The Member agrees that no other person or company whatsoever may link into the REDI tool without Checkmate's prior written consent.

8 Checkmate's rights and obligations

- 8.1 *Checkmate* will maintain a *Directory of Members* that are eligible to seek a *Warranty* for their *Developments* from *Checkmate*. A copy of the names of

all the *Members* contained in the *Directory* will be made available for inspection within 7 days of a reasonable request being received.

8.2 *Checkmate* acting reasonably shall have the right to seek additional security from a *Member* and to set such additional conditions, including but not limited to the length of time the security is held for as from time to time may be deemed necessary in order to ensure that it has sufficient security prior to release of any *certificate*. The requirement may be changed by *Checkmate* and will be notified to the *Member* prior to release of any *certificate*.

8.3 Where a *Member* is part of a group of companies (or other legal entities) and where the *Member* fails to meet its obligation to *Checkmate*, an *Insured* or an *Underwriter* under the *warranty* or under these Terms & Conditions:

8.3.1 *Checkmate* and/or the *Underwriter* may require any of the group companies (or other legal entities) to honour the obligations of the *Member*, for example, but not limited to:

- meeting of claims costs
- any obligations/awards or findings by the applicable Financial Ombudsman Service
- fees relating to the applicable consumer code
- any obligations/awards or findings by the applicable ombudsman service under the consumer code
- any unpaid invoices

8.3.2 Where a *Member* fails to honour its obligations under clause 8.3 to *Checkmate's* reasonable satisfaction, *Checkmate* may seek additional security and/or withhold the issue of further *Certificate(s)* from the *Member* or any other *Member* from the same group of companies / legal entities.

8.4 *Checkmate* shall publish and make available to the *Member* the *Requirements*, in such format as it deems appropriate, relating to the construction of *New Home* or *New Premises* and may vary them from time to time. *Checkmate* may levy a fee for the supply of the *Requirements*.

8.5 Where the actual selling price of the *New Home* exceeds the estimated selling price given when the *Development* was registered, *Checkmate* may invoice the *Member* for additional fees and premiums owed. Where the actual selling price of the *New Home* is below the estimated selling price given when the *Development* was registered, *Checkmate* may credit the *Member's* account for any reduction in premiums paid.

8.6 *Checkmate* may refuse to issue any *Building Period Certificate* or any *Insurance Certificate* if:

8.6.1 the *Member's* proposals fail to meet *Checkmate's* risk assessment for insurance purposes; or

8.6.2 the *Development, New Home* or *New Premises* fails to meet the standards in *Checkmate's Requirements*; or

8.6.3 notwithstanding the *Development* obtaining a final/completion certificate from Local Authority building control or an Approved Inspector, in *Checkmate's* opinion acting reasonably the *Development, New Home* or *New Premises* fails to meet standards in *Checkmate's Requirements*

- 8.6.4 any unresolved dispute exists between the *Member* and *Checkmate* over *Warranty* liability, payment of monies due or compliance with the *Requirements*
- 8.6.5 any unresolved dispute exists between the *Member* and the *Insured* over *Warranty* liability where *Checkmate* acting reasonably has assessed that the *Member* is liable
- 8.6.6 *Checkmate* has not received payment of invoiced fees and premiums or of any additional fees and premiums that may be due
- 8.6.7 where requested to do so by *Checkmate* the *Member* has not provided the required security, bonds or guarantees
- 8.6.8 a material fact has deliberately or recklessly not been disclosed to *Checkmate* by the *Member* that affects the acceptability of the *Development*, *New Home* or *New Premises* for the purposes of a *Warranty* or requires additional Premium and or Fees to be due. For other non-deliberate or non-reckless non-disclosure of a material fact *Checkmate* may impose whatever terms or premium adjustment that it would have applied had the non-disclosure not occurred. For clarity if the *Member* is unsure whether any fact is material they should disclose it.
- 8.6.9 *Checkmate* has not received payment from the *Member* of any Consumer Code case, adjudication or any such other fees due in relation to any *Development* registered by the *Member*.
- 8.6.10 The *Member* has not met *Checkmate*'s reasonable underwriting requirements as amended from time to time for each individual *Warranty*.
- 8.7 *Checkmate* shall have the right to request such reports, certificates, plans, specifications or other information from the *Member* as it deems necessary acting reasonably before agreeing to issue a *Warranty*.
- 8.8 *Checkmate* may impose such conditions or endorsements on a *Certificate* as it deems necessary acting reasonably.
- 8.9 Subject to clauses 8.5 and 8.6 above, *Checkmate* shall issue the *Insurance Certificate* to the *Member* where *Checkmate*:
 - 8.9.1 has carried out such risk management and received such documents as deemed reasonably necessary
 - 8.9.2 is satisfied, at *Checkmate*'s sole discretion acting reasonably, that the *New Home* or *New Premises* has been accepted following a final inspection of *Images* or physical inspection;
 - 8.9.3 has received any invoiced fees and premiums or security required and any other monies outstanding have been received.
- 8.10 Unless agreed otherwise in advance and in writing by *Checkmate*;
 - 8.10.1 where invoices have not been paid within 28 days *Checkmate* reserves the right to set additional fees and premiums or to cancel the registration of a *Development*;
 - 8.10.2 where building work has not started within 12 months of a *Development* being registered or having been started is not finished within 2 years or other period agreed between the *Member* and *Checkmate* at the time the *Development* is registered with *Checkmate* then *Checkmate* shall be entitled to set such additional fees and premiums or require such additional reports or certificates and security or cancel the registration of the *Development* as *Checkmate* reasonably deems necessary before issuing any *Certificate*.

8.10.3 where the *insurance certificate* is not requested within 6 months of *Checkmate* completion inspection of the *new home* or *new premises* *Checkmate* shall be entitled to re-inspect and set such additional fees and premiums and require such additional reports or certificates and security or decline to issue the *insurance certificate*.

8.11 Where an *Insured* makes any claim under any part of the *Warranty Checkmate* shall notify the *Member*. Where there is an obligation under the terms of the *Warranty* the *Member* shall, at their expense, co-operate with any reasonable request by *Checkmate* to assist with the investigation, including providing plans, specifications and other documentation.

9 Security Deposits

9.1 Where security deposits or other forms of guarantee are required in order for a *Member* to meet *Checkmate's* underwriting criteria the terms under which they are held are set out below.

9.1.1 The security deposit account will be held in the name of Lockton Companies LLP at Bank of Scotland in accordance with a Declaration of Trust made by Lockton Companies LLP.

9.1.2 Interest will be paid to the account net of tax at a rate of 0.25% below Base Rate as determined by the Bank of England from time to time.

9.1.3 Original parent or cross company guarantees will be held securely at our registered offices or electronically via the DocuSign website.

9.2 For single purpose vehicle companies or single *Development* companies the deposit or other form of guarantee will only be released following closure of the registration and where all the conditions in clause 9.3 and its sub clauses (below) have been met to *Checkmate's* satisfaction.

9.3 The clauses below give the earliest possible time that consideration for the release of the security deposit or other form of guarantee on your application and/or when *Checkmate* review the level of security required and will be subject to the following conditions having been met;

9.3.1 Where a *Member* wishes to remain on *Checkmate's Directory* and has *New Homes* or *New Premises* within the *Developer's Warranty Period* or under construction, we will require:

9.3.1.1 audited accounts demonstrating three full years' trading, which must meet *Checkmate's* then current underwriting requirements for the release of funds; and

9.3.1.2 all *Developer's Warranty Period* claims outstanding and notified have been settled to *Checkmate's* reasonable satisfaction.

9.3.1.3 All invoices in relation to premiums and fees, and/or any fees, obligations/awards or findings in connection with any Consumer Code claims and Financial Ombudsman Service have been settled to *Checkmate's* satisfaction.

9.3.2 Where a *Member* leaves *Checkmate's Directory* for any reason including under the provisions of Clause 10 or 11, in order to release any security held we will require:

9.3.2.1 that there are no properties in the course of construction for which a *Certificate* has yet to be issued; and

9.3.2.2 that there are no properties remaining within the *Developer's Warranty Period*; and

9.3.2.3 all *Developer's Warranty Period* claims outstanding and notified have been settled to *Checkmate's* reasonable satisfaction.

9.3.2.4 All invoices in relation to premiums and fees, and/or any fees, obligations/awards or findings in connection with any Consumer Code claims and Financial Ombudsman Service have been settled to *Checkmate's* satisfaction.

9.4 Where applicable and up to the amount of security provided by the *Member* a call may be made on the security deposit, cross company guarantee or parent company guarantee or any combination thereof. Should a *Member* fail to meet its obligations under these Terms and Conditions or the *Warranty*, for example, but not limited to:

- meeting of claims costs
- any obligations/awards or findings by the applicable Financial Ombudsman Service
- fees relating to the applicable consumer code
- any obligations/awards or findings by the applicable ombudsman service under the consumer code
- any unpaid invoices

9.5 On release or partial release of the security deposit the monies will be returned to the original depositor only. Any requests for monies to be paid to a different account must be submitted in writing and will be subject to the bank's current money laundering requirements.

10 Premiums Fees & Taxes

10.1 On Receipt of funds from a Member Checkmate is obliged to separate any insurance premium and insurance premium tax in to a separate client money account in accordance with The FCA Client Money rules.

10.2 Checkmate will protect your money by holding all client money in a general Client Account that is a Non-Statutory Trust account. This is completely segregated from our own money and there are strict regulatory controls on us to maintain solvency of the Client Account and to conduct a regular reconciliation of the account.

Under the rules, money held in the Client Account may be used for payment of premium or claims for another client before their monies are received, but increased credit controls are maintained where this occurs. Checkmate is not entitled to use client money to take payment of fees or commission before we receive the relevant premium from a client.

As Checkmate acts under delegated authority from insurers client money is also protected under risk transfer from insurers where they assume the credit risk so that payment by you of premium to us will be deemed payment to Insurers and claims and return premiums paid by Insurers through us will not be deemed paid until received by you. Such money will be held within the Client Account

10.3 Checkmate will deposit client money received in a Client Account with one or more UK approved banks.

10.4 Any interest earned on client money held by us and any investment returns on any segregated designated investments will be retained by us

11 MONEY LAUNDERING, BRIBERY AND SANCTIONS

We are obliged to take reasonable steps to safeguard our company and our clients against the risk of financial crime. To achieve this we may need to ask you to provide us with additional information to help establish proof of identity or legitimacy of any insurance transactions you ask us to undertake on your behalf. We are obliged to report to the National Crime Agency any evidence or suspicion of money laundering at the first opportunity and we are prohibited from disclosing any such report. We will not agree to make payments to unknown third parties where we have had no direct dealings or knowledge of an involvement on your account. You agree to not make or receive payments to or from any third parties in relation to the insurances we arrange (or induce others to make or receive payments) without our prior express agreement.

As an organisation we have in place anti-bribery and corruption policies and procedures in accordance with applicable laws regulations and best practice.

Insurance Transactions or payments may be prohibited or subject to prohibition or restrictions under International Trade Sanctions [ITS] covering (without limitation) trade in certain goods, territories or individuals. Where we discover or have reasonable belief that the arrangements we make or may put in place may be in breach of any form of ITS then we may immediately cease any part or all of that arrangement. This may result in us continuing to make arrangements on your behalf for some elements of your insurance and not others. We will make you aware if this applies.

12 Suspension and Termination of Membership of the *Directory*

Where in *Checkmate's* sole opinion a *Member* has failed to comply with any obligation imposed on the *Member* under clauses 5.1 to 5.20 inclusive, clause 6.1, 6.3, 6.8, 6.10, 6.11, and 7.2 of these Terms and Conditions, or where the *Code Panel* suspends or terminates a *Member's* membership of the *Code*, *Checkmate* may give notice that the *Member's* membership of the *Directory* is suspended or terminated.

- 12.1 **Suspension** - During a period of suspension *Checkmate* may for the *Member's Developments* registered with *Checkmate*;
- 12.1.1 decline to issue any *Certificates*
 - 12.1.2 decline to register or transfer any *Development* for the *Member* or associated company or partnership
 - 12.1.3 continue with the risk management plan
 - 12.1.4 carry out inspections either on the site or via the **REDI** system
 - 12.1.5 remove access to the web site for all the *Member's* users
- 12.2 Except where suspension is imposed by the *Code Panel*, where a separate notice is not required, a notice of suspension must include the clause(s) of these Terms and Conditions that have been breached, the reason why *Checkmate* considers such clauses have been breached, the consequences of the suspension, any actions required to lift the suspension and the date by which those actions must be completed in full or the period of suspension.
- 12.3 On suspension of *Membership* any *Insurance Certificates* previously issued to the *Member* are invalid where contract exchange, exchange of missives or completion of sale has not taken place.

12.4 **Termination** - On termination of Membership *Checkmate* will

12.4.1 decline to issue any *Certificates*

12.4.2 decline to register or transfer any *Developments* for the *Member* or associated company or partnership

12.4.3 cancel any *Developments* already registered with *Checkmate*

12.4.4 remove access for all the *Member's* users to the web site

12.4.5 remove all rights to use *Checkmate's* name or logo

12.4.6 reserve the right to notify other warranty insurers of the termination

12.5 Except where termination is imposed by the *Code Panel*, where a separate notice is not required, a notice of Termination must include the clause(s) of these Terms and Conditions that have been breached, the reasons why *Checkmate* considers such clauses have been breached, the consequences of the Termination, any actions required to prevent Termination and the date by which those actions must be completed in full after which the Termination will be final.

12.6 On termination of *Membership* any *Insurance Certificates* previously issued to the *Member* are invalid where contract exchange, exchange of missives or completion of sale has not taken place.

12.7 **Appeal against termination or suspension** – Except where termination or suspension results from a decision made by the *Code Panel*, on receipt of a notice of suspension or termination the *Member* may lodge an appeal in writing within 5 working days of the date of the notice stating all of the reasons why the *Member* believes such notice should not have been issued. On receipt of the appeal the actions under the notice of suspension or termination will remain in force until reviewed by *Checkmate's* senior management team which will confirm their decision by written notice to the *Member* within 5 working days of their receipt of the appeal. The senior management team's decision is final.

13 Automatic Termination - These Terms and Conditions shall terminate immediately without notice where the *Member*:

13.1 Being a sole trader or partnership has made or has attempted to make any arrangement or composition with his creditors or a petition has been filed for bankruptcy or the sole trader or any member of the partnership becomes bankrupt.

13.2 Being a company:

13.2.1 has made or has attempted to make any arrangement or composition with its creditors

13.2.2 has passed any resolution to stop trading or to enter voluntary liquidations or

13.2.3 has a petition for its winding up or

13.2.4 enters liquidation or

13.2.5 has a receiver or administrator appointed in respect of any of the *Member's* affairs.

13.3 Where clause 13.1 or clause 13.2 and its sub clauses apply the *Member* must immediately inform the trustees, receiver, liquidator or administrator as the case may be of *Checkmate's* interest.

- 13.4 Where clause 13 and sub clauses apply any *Insurance Certificates* previously issued to the *Member* are invalid where contract exchange, exchange of missives or completion of sale has not taken place.
- 14 Notices** - Any communication between *Checkmate* and the *Member* shall be deemed to have been received;
- 14.1 two days after posting provided that it has been sent by Recorded Delivery Post to the address contained in these Terms and Conditions or
- 14.2 on the same day if sent by email to the last email address provided to *Checkmate* by the *Member* and where *Checkmate* has not been notified of delivery failure.
- 15 Cancellation of Development** - The registration of the *Development* may be cancelled by *Checkmate* before the *Building Period Certificate* or *Insurance Certificate* for the *Development*, *New Home* or *New premises* is issued in the following circumstances:-
- 15.1 Where the *Member* is the subject of any publicity which, in the reasonable opinion of *Checkmate*, may be detrimental to *Checkmate* or other *Members* who are listed in *Checkmate's Directory*
- 15.2 Where the *Member*, its employees or agents act in any way which, in the reasonable opinion of *Checkmate*, may be detrimental to *Checkmate* its employees or agents and sub-contractors or to the other *Members* listed in the *Directory*.
- 15.3 Where the *Member* is subject to a change of ownership or in the reasonable opinion of *Checkmate* becomes otherwise associated with a Company, Partnership, person or persons that *Checkmate* has refused to admit to the *Directory* or has removed from the *Directory*.
- 15.4 The *Member* has failed to reply fully within 28 days to any correspondence from *Checkmate* that has been sent by recorded delivery to the last address notified by the *Member* to *Checkmate*.
- 15.5 The *Member* has refused or repeatedly failed to rectify *Defects* notified to them by *Checkmate*.
- 15.6 The *Member* has breached any clause of these *Terms and Conditions*
- 15.7 By mutual agreement with the *Member* or at the *Member's* request
- 15.8 Where a *Development* is cancelled under the provisions of clause 8.10 or clause 12 and sub clauses
- 15.9 Where a *Development* is terminated under clause 12.4.3 or clauses 15 to 15.8 any Premiums paid will be refunded only where all *Warranty Documents* and *Certificates* issued or downloaded have been returned to and received by *Checkmate* and a signed declaration stating that all *Certificates* have not and will not be passed onto any 3rd party and all prospective *Insured* and their conveyancing solicitors have been informed that the property no longer has nor will have the benefit of a *Checkmate Warranty*. All such refunds will be subject to a charge for *Checkmate's* administration and subject to any administration deductions applied by the *Underwriter*. Any Membership and Risk Management fees received by

Checkmate will not be refunded. Any fees that have been or are invoiced for work undertaken by *Checkmate* prior to the cancellation of the *Development* must be paid within 28 days of the date of the invoice.

- 16 Assignment** - These Terms and Conditions form a binding agreement between the *Member* and *Checkmate*. The *Member* may not assign or otherwise transfer any rights or obligations contained herein without *Checkmate's* prior written consent. *Checkmate* reserves the right to assign its benefits and/or its obligations to any Company who is a successor.
- 17 Disputes** – The parties shall use their best endeavours to negotiate in good faith and settle amicably within a reasonable period any dispute that may arise out of or relates to this contract. In the event such negotiations fail the parties shall attempt in good faith to settle any dispute by mediation. Each party shall bear its own costs and one half of the mediator's fees. Mediation under this clause does not apply to any decisions made by the *Code Panel* or as a result of an Appeal made under clause 10.7.
- 18 Complaints** – *Checkmate* takes all complaints seriously and maintains procedures to ensure that all complaints are dealt with promptly and fairly. If you wish to complain please notify your usual *Checkmate* contact or the Head of Compliance at Lockton either in writing to our registered address or by telephone to 020 7933 0000. If your complaint relates to the insurance provision and you are not happy with the response or the way we have handled your complaint you may be eligible to refer your complaint to the Financial Ombudsman Service. We will advise you at the time if you meet the criteria eligible to refer your complaint
- 19 Compensation Scheme**
In the event of the failure of a UK insurance intermediary or insurance company, you may be entitled to compensation under the Financial Services Compensation Scheme (FSCS). We are covered by the FSCS and you may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the size of your firm, the type of business you carry out and the circumstance of your claim. The compensation scheme will only apply to our obligations in relation to insurance premiums and claims payments.
- 20 No Partnership** - Nothing in these Terms and Conditions shall be deemed at law to constitute a partnership relationship between the parties and neither of them shall have any authority to bind the other save as provided for by these Terms and Conditions.
- 21 Variation and Waiver** - No partial exercise of, or failure in exercising, any right under these Terms and Conditions shall constitute a waiver or preclude any other or further exercise of that or any other right.
- 22 Entire Agreement** - These Terms and Conditions and any Schedules hereto contain the entire agreement between the parties relating to the subject matter thereof and shall supersede any and all promises, representations, warranties and undertakings whether oral or in writing, express or implied unless expressly set out or referred to in these Terms and Conditions.
- 23 Jurisdiction** - English law governs these Terms and Conditions and the *REDI* tool and any dispute shall be resolved under the exclusive jurisdiction of the English courts.

Signed on behalf of *Checkmate*:

Name (please print):

Signed on behalf of the
Member:

Name (please print):

Position:

Date:

Appendix 1

Checkmate is a division of Lockton Companies LLP. We are committed to protecting the privacy and security of Member personal data.

As an intermediary providing regulated insurance broking services, we are a “data controller”. This means that we are responsible for deciding how we hold and use personal data about you. We are required under data protection laws (including the General Data Protection Regulation) to notify you of the information contained in this privacy notice.

We may use your personal data in our role as an insurance intermediary. This may include for the purposes of Quotation / Inception, Policy Administration, Claims Processing, Renewals, Marketing and other purposes necessary for the provision of insurance throughout the insurance lifecycle. We may transfer, store and process the data that we collect from you at a destination outside the European Economic Area.

For more information about:

- how the insurance market works;
- what information we may collect about you;
- where we might collect your information from;
- why we collect this information and what we do with it;
- how we protect your information;
- who we might share your information with;
- how long we keep hold of your information; and
- what rights you have in relation to the information we hold about you and how you can exercise them;

please review our full Privacy Notice available on our website at: <https://global.lockton.com/gb/en/privacy-notice>

If you have any questions about our privacy notice or in relation to our collection or use of your personal data, you should first contact our Data Protection Manager at: dataprotection@uk.lockton.com