Regulations of the General Office of the People’s Government of Beijing Municipality on Forwarding the *Interim Measures for the Administration of Potential Defects Insurance of Residential Engineering Quality in Beijing* Issued by the Four Departments including Beijing Municipal Commission of Housing and Urban-Rural Development

Jing Zheng Ban Fa [2019] No. 11

To the people’s governments of the districts; commissions, offices and bureaus of the People’s Government of Beijing Municipality; and the organs directly under the People’s Government of Beijing Municipality,

　　The *Interim Measures for the Administration of Potential Defects Insurance of Residential Engineering Quality in Beijing* developed by the Beijing Municipal Commission of Housing and Urban-Rural Development, the Beijing Municipal Commission of Planning and Natural Resources, the Beijing Local Financial Supervision and Administration, and the Beijing Bureau of China Banking and Insurance Regulatory Commission have been approved by the People’s Government of Beijing Municipality. The Measures are hereby forwarded to you for strictly implementing.

General Office of the People’s Government of Beijing Municipality

April 24, 2019

Interim Measures

for the Administration of Potential Defects Insurance of Residential Engineering Quality in Beijing

Beijing Municipal Commission of Housing and Urban-Rural Development, Beijing Municipal Commission of Planning and Natural Resources

Beijing Local Financial Supervision and Administration, Beijing Bureau of

China Banking and Insurance Regulatory Commission

**Chapter I General Provisions**

**Article I** In order to establish and improve the management and control system of project quality risks, comprehensively improve the quality of residential projects, and effectively protect the legitimate rights and interests of the owners of residential project rights, these Measures are formulated in accordance with the *Construction Law of the People’s Republic of China, Insurance Law of the People’s Republic of China, Contract Law of the People’s Republic of China, Regulations of Beijing on the Quality of Construction Projects* as well as other laws and regulations.

**Article II** The term “Insurance for the potential defects in residential project quality” as mentioned in the Measures (hereinafter referred to as the “Defects insurance”) refers to the insurance insured by the entity undertaking residential projects requiring performance of the obligation of compensation by the insurance company for damages to the insured buildings due to potential defects in residential project quality within the insurance coverage and the insurance period in accordance with the insurance provisions.

　　The term “Residential projects” in the preceding paragraph include residential projects and other buildings within the same area of property management.

　　The term “Potential defects” as mentioned in the Measures refer to the quality defects resulted from the non-compliance of project quality with the project construction standards, the documents of construction drawing design or the contract requirements due to such reasons as survey, design, construction, supervision as well as construction materials, building prefabricated components and equipment, and that are not discovered during completion acceptance of the residential projects and exposed during the use process.

　　The term “Owners” as mentioned in the Measures refer to the owners of residential buildings or other construction projects and they are the beneficiaries of insurance contracts and claimants.

**Article III** Beijing implements the insurance system for potential defects in residential project quality. Those who are engaged in defects insurance activities for new construction, reconstruction or expansion of residential projects within the administrative area of Beijing and those who implement supervision and management of the defects insurance activities shall abide by the Measures.

**Article IV** In the land transfer contract on newly built residential projects of Beijing, the defects insurance shall be listed in the conditions for land transfer, and it is required to select the insurance company with corresponding capabilities.

**Chapter II Insurance Coverage and Responsibilities**

**Article V** The basic coverage for defects insurance shall be foundation and main structure of the project, as well as insulation and waterproofing works. The specific coverage shall be implemented in accordance with provisions of the *Unified Standard for Constructional Quality Acceptance of Building Engineering* (GB50300).

　　(I) Defects in foundation and main structure of the project include: 1. Overall or partial collapse; 2. Differential settlement not allowed by the design specifications generated by the foundation; 3. Cracks, deformations, breakages, and fractures affecting structural safety in the foundation and main structural parts; 4. Cracks, deformations, breakages, and fractures affecting the safety in use of such suspended components as balcony, canopy, cornice and air conditioning board; 5. Quality defects such as the external wall peeling, collapse and other quality defects affecting the safety in use; 6. Other potential defects in the foundation and main structural parts affecting the project quality and structural safety.

　　(II) Defects in insulation and waterproof works include: 1. Damage or peeling of insulation layer of the enclosure structure; 2. Waterproof leakage in underground, roof and toilet; 3. Leakage in external wall (including the junction between external window and external wall); 4. Leakage in other parts with waterproof requirements.

　　As for the defects insurance period for entity undertaking residential projects, it is 10 years for the foundation and main structure of the project, and 5 years for the insulation and waterproofing works. Period of insurance liability shall be two years starting from the date of completion of the construction project.

　　The entity undertaking residential projects is responsible for organizing the repair of potential defects in the project that occur during the period from the date of completion of the residential projects to the date of insurance liability beginning. If the residential project is delivered after expiration of the insurance period, the entity undertaking residential projects shall notify the insurance company and the owner to make joint acceptance 15 days prior to the delivery of housing. If there is a quality defect, the entity undertaking residential projects shall bear the responsibility for repair or compensation.

　　Within the insurance coverage and insurance period as agreed in the insurance contract, the insurance company shall perform the responsibility for repair or compensation; in terms of the scope of project warranty beyond the insurance contract agreement or the warranty period after expiration of the insurance period, the relevant provisions in the national and municipal laws and regulations shall prevail; but in the event that the owner finds any quality defects in the building within the insurance coverage within six months after the date of housing delivery which happens after expiration of the insurance period, the insurance company shall be responsible for the repair or compensation.

**Article VI** The insurance company may provide insurance services for the entity undertaking residential projects in the form of additional insurance for the following items: Building decoration engineering, building water supply and drainage and heating engineering, ventilation and air conditioning engineering, building electrical engineering, intelligent building engineering, building energy conservation engineering, elevator engineering, etc.

　　The specific insurance coverage, insurance period and starting time of insurance liability of the additional insurance shall be agreed by the entity undertaking residential projects and insurance company in the insurance contract.

**Article VII** The project quality liability insurance is encouraged to be insured for the entities relevant to survey, design, construction, supervision, ready-mixed concrete production, construction and supply of precast components as well as their personnel. If the project quality liability insurance has been insured by the entity undertaking residential projects, the entity in charge of construction shall not reserve the project quality guarantee.

　　Encourage the comprehensive implementation of such types of project insurance as defects insurance, erection all risks insurance and liability insurance for main participation subjects, so as to reduce the project quality risks in an all-round manner.

**Article VIII** Any one of the following circumstances is not within the coverage of insurance liability:

　　(I) The quality defects caused by non-compliance with the relevant requirements of *Operating Instructions for Housing Construction* and design purposes for normal usage such as the housing owner or user increasing the load above design standard, arbitrarily demolishing and renovating the load-bearing structure of housing; (II) In the process of using the housing, the quality defects caused by the third party other than the housing owner or user; (III) The quality defects caused by force majeure as stipulated in the contract.

**Article IX** The entity undertaking residential projects shall inform the relevant entities participating in the construction in writing of the information relevant to defects insurance, and clarify the relevant obligations of the entities participating in the construction to cooperate with the insurance company in carrying out project quality risk assessment.

**Chapter III Insurance and Underwriting**

**Article X** The entities in charge of construction that insure the defects insurance shall sign a written insurance contract with the insurance company before going through the construction permit procedures, and pay the lump-sum insurance premium agreed in the contract (including the risk management fees not higher than 30% of the insurance premium).

　　An insurance policy is issued for each engineering project as a subject of insurance. Coverage of the insurance contract includes the insured residential projects and other buildings within the same area of property management. The maximum limit of compensation borne by the insurance company under this policy is the amount of insurance recorded in the policy.

　　The insurance company shall formulate the implementation plan for project quality risk assessment, insurance notification, emergency plan for insurance claims and others, and shall attach them to the insurance contract after confirmation by the entity in charge of construction.

　　In the event that the insurance company points out that there are serious quality defects in the construction project in the final evaluation report, and that the defects have not been substantially rectified at the time of completion, the construction project shall not pass the completion acceptance.

**Article XI** In accordance with the laws, regulations and relevant regulations, the insurance company shall formulate the insurance clauses and premium rates in a fair and reasonable manner based on the degree of construction engineering risks, the complexity of engineering technology, the qualification and integrity of entities and enterprises participating in the construction, risk management requirements, historical data of claims, and reinsurance market conditions. The insurance company shall also be legally liable for the insurance clauses and premium rates.

　　The insurance company calculates the insurance premium based on budget price of the total cost of construction and installation works, and entity in charge of construction shall pay the insurance expenses stipulated in the contract in a timely manner.

　　Deductible expenses are not included in the defects insurance for foundations and main structure of the project, as well as insulation and waterproofing works. Other deductible expenses in additional insurance are stipulated by the entity in charge of construction and the insurance company in the insurance contract.

**Article XII** In the event that it is necessary to amend the insurance clauses or insurance premium rates after the insurance company submits the insurance clauses and insurance premium rates of defect insurance to the insurance supervision and management department for approval in accordance with the regulations, it is necessary to make re-submission for approval in accordance with relevant regulations. The insurance company strictly enforces the approved insurance clauses and premium rates.

**Article XIII** The insurance company shall formulate the *Notification of Potential Defects Insurance for Project Quality*, which includes the insurance coverage, insurance period, starting time of insurance liability, process of insurance claims, department responsible for insurance claims and its contact information as well as the obligation of notification about the change of owners. When the owner goes through housing delivery procedures, the entity in charge of construction shall deliver the *Notification of Potential Defects Insurance for Project Quality* to the owner along with the *Quality Guarantee of Housing Construction* and *Operating Instructions for Housing Construction.*

**Article XIV** After an insurance contract is concluded in accordance with law, in the event that the entity in charge of construction wants to terminate the contract, change the insurance company or contents of the insurance contract, a written consent of all buyers shall be obtained for the residential projects that have been sold.

　　After the insurance contract comes into effect, if the entity in charge of construction is dissolved or bankrupt in accordance with law, the insurance company shall bear the insurance liability as stipulated in the insurance contract.

　　If the ownership of residence or other buildings is transferred during the insurance period, assignee of the subject of insurance shall inherit the rights and interests of the entity in charge of construction under this policy.

**Article XV** The co-insurance model is adopted for the underwriting of defects insurance.

　　The co-insurance body is comprised of leading insurance companies and at least two member insurance companies, and implements the unified insurance clauses, unified premium rate, unified claims services, unified distribution shares, and unified information platform.

　　With a competitive bidding model, the Beijing Municipal Commission of Housing and Urban-Rural Development and municipal financial regulatory body select the insurance companies with sufficient registered capital, adequate comprehensive solvency, strong ability of risk management ability, high-quality services of underwriting claims, a certain experience in defects insurance underwriting and good credit, for entity in charge of construction to select.

**Article XVI** The insurance company shall establish a defects insurance information platform. All insurance companies that cover defects insurance and liability insurance shall enter the information about underwriting, project quality risk assessment and claims into the information platform.

**Chapter IV Project Quality Risk Management**

**Article XVII** The implementation plan of project quality risk assessment formulated by the insurance company shall include the agency and personnel responsible for implementation of the project quality risk assessment, the specific implementation scope, implementation plan, key nodes and key processes of the project quality risk assessment, as well as specific matters and notification obligations that require the collaboration of entity in charge of construction.

**Article XVIII** After the defects insurance contract is signed, the insurance company shall entrust the agency for management of construction project quality risks (hereinafter referred to as the risk management agency) to implement risk management. The insurance company shall sign a written entrustment contract with the risk management agency to stipulate the rights and obligations of both parties in accordance with the law.

　　The risk management agency shall not have any correlation with entities participating in the construction, or directly or indirectly participate in the survey, design, construction, supervision, material supply and other works of the project.

　　The risk management agency shall make the project quality risk assessment for the construction project in accordance with the requirements of laws and regulations, project construction standards, documents of construction drawing design and insurance contracts, and issue the process assessment report and final assessment report on project quality risks to the insurance company and entity in charge of construction. The assessment report shall clarify the quality defects found during inspection and the rectification.

　　After receiving the assessment report, the entity in charge of construction shall instruct the entity undertaking residential projects to rectify the quality defects in time. Where the insurance company and the entity in charge of construction have disputes over determination of project quality defects in the report, they shall resolve the disputes in accordance with the methods agreed by both parties in the insurance contract.

**Article XIX** The social intermediary agencies such as construction project-related industry associations and whole-process project consulting agencies are encouraged to actively participate in implementation of the defects insurance system to give full play to their professional roles.

**Chapter V Insurance Claims**

**Article XX** In the event that the owner finds any quality defects in the project within the insurance coverage or within six months after the date of housing delivery which happens during the defects insurance period or after expiration of the insurance period, the owner can file a claim with the insurance company.

　　After receiving the claim, the insurance company shall send specific persons for on-site survey within two days. The insurance company shall make the verification within seven days after receiving the claims application of the owner; in the case of complicated circumstances, it shall make the verification within thirty days and notify the owner of result of the verification.

　　For claims within insurance liabilities, the insurance company shall perform maintenance or compensation obligations within seven days from the date of reaching the compensation agreement with the owner. For claims not covered by insurance liabilities, the insurance company shall, within three days from the date of approval, issue a notice of non-compensation to the owner and explain the reasons for non-compensation.

　　The insurance company shall formulate the claims operating procedures that fully protect the rights and interests of owners, and report to the insurance regulatory department.

**Article XXI** The insurance company shall establish a scientific, reasonable and efficient system for project quality defects claims, optimize the claims system, formulate the emergency plan for claims and provide professional and rapid claims services. The specific service standards such as insurance claims acceptance, on-site survey, verification of claims for compensation, and maintenance under claims are stipulated by the entity in charge of construction and the insurance company in the insurance contract.

**Article XXII** If the owner and the insurance company have disputes over the coverage of insurance liability and whether the maintenance result meets the requirements, the two parties may jointly entrust the third-party project quality test and identification agency with the project quality test and judicial qualifications to conduct test and identification. If result of the identification is within insurance liabilities, the cost of test and identification shall be borne by the insurance company; if result of the identification is not covered by insurance liabilities, the cost of test and identification shall be borne by the owner.

If there are any disputes over the amount of compensation, the owner and the insurance company may jointly entrust the agency for housing quality defects loss assessment with the corresponding judicial qualifications to conduct an assessment.

**Article XXIII** The insurance company shall formulate the *Emergency Plan for Insurance Claims* that shall clarify the specific circumstances, emergency procedures and emergency measures for the initiation of emergency plan for insurance claims.

　　For claims that affect basic life and are within the coverage of insurance liabilities, the insurance company shall organize the maintenance within the time limit agreed in the contract after receiving the claim, and complete the on-site inspection at the same time.

**Chapter VI Legal Liability**

**Article XXIV** The relevant entities responsible for survey, design, construction, supervision, ready-mixed concrete production and construction materials, building prefabricated components and equipment supply in accordance with the laws, regulations or contract agreement for defects insurance shall not be exempted from their due legal liabilities because they are insured by the entity in charge of construction.

　　After the insurance company fulfills its compensation obligations for losses arising out of the quality defects as stipulated in the defects insurance contract, it has the right to exercise the right of subrogation to indemnity claims for the relevant entities responsible for quality defects according to the law, and the entity in charge of construction and related responsible entities shall cooperate with it.

**Article XXV** If the relevant entities and their personnel engaged in defects insurance violate the current laws, regulations, standards and regulations as well as the relevant provisions of the Measures, they shall be investigated and punished in accordance with their statutory duties by such industry competent departments as the housing and urban-rural development administration, planning and natural resources, insurance and finance.

**Chapter VII Supplementary Provisions**

**Article XXVI** The industry competent departments such as the housing and urban-rural development administration, planning and natural resources, insurance and finance shall strengthen the guidance and services for policies related to defects insurance.

**Article XXVII** Other construction projects insured with defects insurance may be subject to these Measures.

**Article XXVIII** These Measures shall come into force as of the date of promulgation and shall be valid until April 30, 2024.