



POLICY DOCUMENT

COMMERCIAL BUILDINGS

VERSION 10

Welcome to **Your LABC Commercial Buildings** insurance **Policy**. Although problems with **Your** commercial building are unlikely, the **LABC Commercial Buildings Policy** provides **You** with the comfort that particular types of problems which may occur in the first ten or twelve years after **Your Property Insured** is built will be corrected.

You should ensure that **You** are aware of what is covered by **Your LABC Commercial Buildings Policy**, by reading these Terms and Conditions in conjunction with **Your Development Initial Certificate / Property Insured Initial Certificate** and / or **Your Certificate of Insurance** and any endorsements attached to them.

Please note that the **Policy** is a policy of indemnity and does not provide any cover for any legal liabilities that **You** may have to third parties arising out of the use or ownership of the **Property Insured**.

The **Policy** is subject to a number of definitions, conditions, exclusions and **Financial Limits**: if **You** have any questions or require further guidance then please contact us on **0800 183 1755**.

HOW TO MAKE A CLAIM

We know how difficult and stressful it can be if things go wrong with **Your** commercial building and we aim to work with **You** to ensure that we can get **You** back to normality as quickly as possible.

If **You** feel **You** have a valid claim, please check **Your Development Initial Certificate / Property Insured Initial Certificate** or **Your Certificate of Insurance** (as appropriate) to ensure that cover is included. **You** should also refer to the relevant section to obtain full details of what we will require from **You** should **You** make a claim. **You** can contact our claims team on **0151 650 4318**, email **claims@labcwarranty.uk** or **You** can write to us.



Gary Devaney
Chairman and CEO

LABC (Local Authority Building Control) is an independent building control provider. LABC represent local authorities in England, Northern Ireland and Wales which have responsibility for building control.

MD Insurance Services Ltd has developed this scheme, 'LABC Commercial Buildings', in conjunction with LABC.

LABC Warranty is a brand name for a range of structural warranties arranged by MD Insurance Services Limited. MD Insurance Services Limited whose registered office is 2 Shore Lines Building, Shore Road, Birkenhead, Wirral, CH41 1AU. MD Insurance Services Limited is authorised and regulated by the Financial Conduct Authority (FCA). **Your Policy** is insured with MD Insurance Services Limited acting in its capacity as managing general agent for and on behalf of HSB Engineering Insurance Limited (HSBEIL).

HSBEIL is registered in England and Wales under company number 02396114. Registered Office: New London House, 6 London Street, London, EC3R 7LP, Tel: +44 (0)20 7264 7000.

HSBEIL is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority in the UK (FCA registration number 202738).

The Financial Conduct Authority's website includes a register of all regulated firms.

You can contact the Prudential Regulation Authority at:

The Prudential Regulation Authority
20 Moorgate
London
EC2R 6DA
Phone: +44 207 601 4444
Website: www.bankofengland.co.uk

You can contact the Financial Conduct Authority at:

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS
Phone 0800 111 6768 or +44 (0)20 7066 1000
Website: www.fca.org.uk

TERMS AND CONDITIONS OF INSURANCE

These Terms and Conditions of Insurance consist of:

1. **INFORMATION** on **LABC Commercial Buildings**.
2. **DEFINITIONS AND INTERPRETATION**, detailing all definitions and rules of interpretation applicable to the **Policy**.
3. **THE INSURANCE COVER** giving precise details of the cover, as applicable, any special conditions or specific exclusions, the **Financial Limits** and how to make a claim:
 - **Section 3.1 – Structural Insurance Period.**
4. **ADDITIONAL COVER** detailing automatic extensions in cover to the **Policy**.
5. **EXCLUSIONS** detailing exclusions applicable to the whole **Policy**.
6. **CONDITIONS** applicable to the whole **Policy**.
7. **HOW TO MAKE A COMPLAINT** detailing the options **You** have for making a complaint about the **Policy**.

1. INFORMATION

We can provide **Policyholders** with protection in a number of ways. It should, however, be noted that the section of the **Policy** may not necessarily be applicable for every **Property Insured**. The **Development Initial Certificate / Property Insured Initial Certificate** and **Certificate of Insurance** will detail the exact cover provided.

In order to illustrate the service which we provide, the following bullet points provide examples of the kinds of cover which a typical **Policy** *might* provide.

- Insuring the **Property Insured** for a period of 10 or 12 years against:
 - the risk of **Major Damage** to the **Structure** of the **Property Insured**. See section 3.1 for details.

It should be noted that the examples provided above are given for illustrative purposes only. Since each contract of insurance will differ according to individual requirements, the **Policyholder** should refer to the **Property Insured Initial Certificate / Certificate of Insurance** and the **Policy** to ascertain the precise cover in force at any time.

THE QUALITY OF YOUR PROPERTY INSURED

All **Properties Insured** under a **Policy** are the subject of a system of checks and inspections:

- The **Builder** has to comply with **Building Regulations** and the authorised Local Authority **Building Control** Body involved inspects their work. These Regulations are statutory requirements and are concerned mainly with health and safety, access for the disabled and conservation of fuel and power issues.
- **Surveyors** will have completed inspections before the **Certificate of Insurance** was issued. Such inspections are carried out solely for the purpose of satisfying the **Underwriter** that the **Property Insured** represents a normal risk for insurance under **LABC Commercial Buildings**. It should not be inferred that the inspections are for any other purpose.
- It is the first **Policyholder's** responsibility to ensure that a thorough inspection of the **Property Insured** is carried out prior to hand-over. If the inspection identifies any defects, they should be reported to the **Builder** and remedied prior to completing the purchase of the **Property Insured**.
- The **Building Control** function will have been undertaken by a **Local Authority Building Control Inspector** on behalf of the Local Authority and subject to confirmation that;
 - a) a satisfactory final inspection has been carried out by the **Surveyor**; and
 - b) the **Local Authority Building Control Inspector** has confirmed that they are not aware of any circumstances that would restrict their ability to issue a **Completion Certificate**; and
 - c) subject to satisfaction of all **Policy** conditions,

then a **Cover Note** will be issued, if requested, for the **Property Insured**.

- The **Certificate of Insurance** will be issued to the **Policyholder** by the **Scheme Administrator** on behalf of the **Underwriter** provided that a **Certificate of Approval** has been issued by the **Surveyor** and, if applicable, a **Completion Certificate** has been issued by the **Local Authority Building Control Inspector** and subject to satisfaction of all **Policy** conditions. The **Certificate of Insurance** should be filed with the **Policy**.
- Any extensions in cover at the time of issue of the **Policy** and subsequent alterations will be confirmed by separate endorsements, which should also be filed with the **Policy**. The **Policyholder** should refer to these endorsements and the **Policy** to ascertain the precise cover in force at any time.
- This **Policy** is transferrable to future owners of the **Property Insured**.

YOUR PRIVACY

We will store personal information about **You** safely and keep confidential. We will normally keep personal information about **You** confidential. We may need to pass on personal information such as **Your** name and address to the **Builder** to assist in the resolution of a claim. If required by a court or government body, we may be required to pass on personal information. We may need to tell a subsequent owner(s) about claims an earlier owner has made, if it affects what a subsequent owner of the **Property Insured** can claim under the **Policy**. For further details please refer to www.labcwarranty.co.uk/privacy-policy.

We will also pass on **Your** personal information to the **Underwriter** who may use **Your** personal information to make decisions about the cover we provide to **You**, any claims **You** make, or to detect and prevent fraud. The **Underwriter** also may record incoming and outgoing telephone calls with you for training, monitoring and quality control purposes.

For further details on how the **Underwriter** uses **Your** information and **Your** rights in relation to your information, please see the **Underwriter's** Privacy Statement at <https://www.munichre.com/HSBEIL>

YOUR RESPONSIBILITIES

If **You** are a consumer, **You** are responsible for answering any questions in relation to any proposal for insurance cover honestly and to the best of **Your** knowledge, providing complete and accurate information which the **Underwriter** will require. This also applies to **Your** responses in relation to any assumptions **You** may agree to in the process of applying for insurance cover. This is particularly important before taking out a policy but also at renewal or if you make a mid-term amendment to **Your Policy**.

If **You** fail to disclose information, or misrepresent any fact which may influence the **Underwriter's** decision to accept the risk or the terms offered, this could invalidate the **Policy** and mean that claims may not be paid.

If **You** are a commercial customer **You** have a duty to give a fair presentation of risk to us. This means that **You** should disclose every material circumstance relevant to the risk being insured following a reasonable search within **Your** business to identify and verify such information. This should include information which **You** and where applicable **Your** senior management, persons responsible for arranging **Your** insurance or other relevant third parties know or ought to know and should include all information that would influence the judgement of the **Underwriter** or that would put the **Underwriter** on notice that it needs to make further enquiries.

Examples of material circumstances are:

- Special or unusual circumstances relating to the risk;
- Any particular concerns which led **You** to seek insurance cover for the risk; and
- Anything which those concerned with the class of insurance and field of activity in question would generally understand as being something that would be dealt with in a fair presentation of risks for this type of insurance.

The information must be presented in a way, which would be reasonably clear and accessible to a prudent insurer. If **You** are unsure whether to disclose any information **You** should speak to us. **You** need to take into account the size and complexity of **Your** business, and allow **You** sufficient time to consider and / or assess **Your** insurance requirements.

Failure to provide a 'fair representation' may result in a number of remedies by the **Underwriter**. If the breach was deliberate or reckless the **Underwriter** can void the contract and keep the premium. If the breach was not deliberate or reckless the **Underwriter** can void the contract, proportionately reduce a claim settlement or amend the insurance policy terms and conditions then review the merits of a claim on this basis.

You should therefore always provide complete and accurate information to us when we ask **You** about the insurance risks **Your** business faces before taking out a policy, at renewal and throughout the life of the **Policy**. This also applies to **Your** responses in relation to any assumptions **You** may agree to in the process of applying for insurance cover.

YOUR RIGHT TO CANCEL

You have the right to cancel cover under the **Policy**. If **You** wish to cancel the cover, **You** must do so within 14 days starting on the day after **You** receive the **LABC Commercial Buildings Policy** documents. **Your** request to cancel must reach the **Scheme Administrator** by letter or email. Contact details are:

Scheme Administrator,
MD Insurance Services Limited,
2 Shore Lines Building,
Shore Road,
Birkenhead,
Wirral,
CH41 1AU

Email: customerservices@labcwarranty.co.uk

You should make any request for the cancellation of a **Policy** in writing or by email and any relevant **Certificate of Insurance** should be promptly returned to the **Scheme Administrator**.

Before cancelling the cover, please check with **Your** financier, because they may require **You** to have this cover (or its equivalent) as a condition of their loan. Please remember also that if **You** sell the **Property Insured** within the period of cover, a purchaser (and any lender at that time) will usually require the cover to be in place.

If **Your** multi-occupied building includes **Common Parts**, **Your** cancellation will apply to both the cover on **Your** individual **Property Insured** and the cover for **Your** share of the cost of any claim relating to the **Common Parts**. **You** may be obliged under **Your** lease or title to contribute to the cost of repairs along with **Your** neighbours and this may include the costs of repairs which would otherwise be covered under the **Policy**.

CANCELLATION PRIOR TO CERTIFICATE OF INSURANCE BEING ISSUED

In the event of cancellation, charges for our services will apply as follows:

As construction contracts can be of varying duration and there is always a technical audit, our fees will vary depending on the stage at which notification of cancellation is given. The amount retained by us will be a pro-rata rate based on the cost of any inspections carried out and any plan checks undertaken prior to the notification of cancellation. For the section of cover which has not commenced an administration fee of up to 35% of the insurance premium will also be charged subject to a minimum fee of £100.00.

CANCELLATION FOLLOWING CERTIFICATE OF INSURANCE BEING ISSUED

In the event of cancellation after the **Certificate of Insurance** has been issued, **You** will not be entitled to a return of premium.

2. DEFINITIONS AND INTERPRETATION

2.1 DEFINITIONS

Wherever any of the following words or expressions are used in the **Policy** (including in the welcome and introductory pages), then such word or expression shall, unless the context otherwise requires, have the meaning given below. Where a word is given a particular contractual meaning, it will appear throughout the contract in bold.

Builder	Any person, sole trader, partnership, company or other organisation which is registered with LABC Warranty and with whom the Policyholder has entered into an agreement or contract to construct the Property Insured(s) at the New Development .
Building Control	The function of checking that building work has been carried out in accordance with the Building Regulations (England and Wales) and associated legislation.
Building Regulations	The Building Regulations are a set of standards for the design and construction of new and altered buildings.
Certificate of Approval	The certificate issued by the Surveyor to the Scheme Administrator on behalf of the Underwriter on or following satisfactory completion of the Property Insured .
Certificate of Insurance	The certificate issued by the Scheme Administrator on behalf of the Underwriter to signify acceptance of a Property Insured for insurance under this Policy following issue of the Certificate of Approval by the Surveyor and satisfaction of all Policy conditions.
Completion Certificate	The Certificate issued by the Local Authority Building Control Inspector following completion of the Building Control function for a Property Insured at the New Development .
Common Parts	Those parts of a multi-occupied building for which the Policyholder is legally obliged to contribute for the cost and upkeep with the owners of other parts of such building, or by way of contribution to the Management Company .
Continuous Structure	A single building or structure containing more than one property (such as blocks of offices) which does not rely on any other building or structure to sustain and transmit combined loads safely to the ground.
Contract	The contract or agreement between the Builder and the Policyholder in respect of the construction, conversion, refurbishment and / or renovation of the Property Insured(s) at the New Development .
Cover Note	A document issued by the Scheme Administrator confirming that a Surveyor has carried out a satisfactory final inspection of the Property Insured and that the Certificate of Insurance will be issued subject to satisfaction of all Policy conditions.
Development Initial Certificate	The certificate issued by the Scheme Administrator on behalf of the Underwriter signifying its agreement to the provision of the insurance cover for the New Development as set out in this Policy , subject to receipt of a Certificate of Approval and a Completion Certificate (if required) for each Property Insured , and satisfaction of all Policy conditions.
Excess	<p>The amount the Policyholder is required to pay in the event of a valid claim under each section of the Policy. The Excess is index-linked in accordance with the condition of the Policy in section 6 entitled 'Indexation'.</p> <p>Note that a separate Excess shall apply to each separately identifiable cause of loss or damage for which a payment is made under the Policy by the Underwriter, regardless of whether more than one cause of loss is notified at the same time.</p>

External Envelope	The basement, ground floors, external walls, roofs, skylights, windows and doors of a Property Insured .
Final Certificate	The Certificate issued by the Approved Inspector following completion of the Building Control function for a Property Insured at the New Development .
Financial Limit	The maximum the Underwriter will pay for any claims under the terms of a particular section.
LABC for Commercial Buildings	The insurance cover provided by the Underwriter in accordance with, and subject to, the provisions of this Policy .
Limit of Indemnity	The maximum liability of the Underwriter during the Structural Insurance Period , being the amount shown as the Sum Insured on the Certificate of Insurance or the Financial Limit in the relevant section, whichever is the lesser. The Limit of Indemnity is index-linked in accordance with the condition of the Policy in section 6 entitled 'Indexation'.
Local Authority Building Control Inspector	The officer(s) of the Local Authority Building Control Department appointed to carry out the Building Control function.
Major Damage	<p>Either:</p> <p>a) Destruction of or physical damage to any portion of the Property Insured for which a Certificate of Insurance has been issued, caused by a defect in the design, workmanship, materials or components of:</p> <ul style="list-style-type: none"> i. the Structure; or ii. the waterproofing elements of the External Envelope; <p>and which is first discovered during the Structural Insurance Period.</p> <p>Or:</p> <p>b) A condition requiring immediate remedial action to prevent actual destruction of, or major physical damage to, any portion of the Property Insured for which a Certificate of Insurance has been issued, caused by a defect in the design, workmanship, materials or components of:</p> <ul style="list-style-type: none"> i. the Structure; or ii. the waterproofing elements of the External Envelope; <p>and which is first discovered during the Structural Insurance Period.</p> <p>The term Major Damage shall include any physical loss, destruction or damage to the Property Insured caused by contamination or pollution as a direct consequence of a defect in the design, workmanship, materials or components of the Structure of the Property Insured.</p>
Management Company	The person(s) (in the context of a multi-occupied building) having contractual responsibility for the repair and maintenance of the Structure and / or the Common Parts under any applicable agreement.
New Development	A Property Insured or group of Properties Insured located at the site noted on the Development Initial Certificate / Property Insured Initial Certificate for the New Development .
Policy	These Terms and Conditions of Insurance, the Development Initial Certificate , the Property Insured Initial Certificate and the Certificate of Insurance .
Policyholder / You / Your	The owner acquiring a freehold or leasehold interest, or their successors in title, or any mortgagee in possession or lessor and for whom a Certificate of Insurance has been issued for the Property Insured showing that the relevant cover applicable.

Property Insured	<p>The whole and any and every part of the building(s) at the address stated in the Certificate of Insurance comprising:</p> <ul style="list-style-type: none"> a) the Structure; b) other works: <ul style="list-style-type: none"> i) all other non-load bearing parts of the building; ii) landlord's fixtures and fittings including all permanent electrical and mechanical apparatus; iii) all external non-structural works owned by the Policyholder located within the curtilage of the property. <p>Note that Property Insured does not include any swimming pool, lift, escalator, or associated plant and equipment and / or mechanical or electrical equipment, temporary structure, free-standing household appliance, fence, retaining or boundary wall not forming part of or providing support to the Structure. Property Insured does not include any garage or permanent outbuilding not included within the scope of the works undertaken by the Builder. For the avoidance of doubt, personal chattels do not fall within the definition of Property Insured.</p>
Property Insured Initial Certificate	The certificate issued by the Underwriter signifying its agreement to the provision of the insurance cover under section 3.1, as applicable, subject to (and commencing upon) the issuance of the Certificate of Insurance for the Property Insured .
Scheme Administrator	MD Insurance Services Limited, 2 Shore Lines Building, Shore Road, Birkenhead, Wirral, CH41 1AU (acting as agent on behalf of the Underwriter). The terms 'we', 'us' or 'our' denote MD Insurance Services Limited.
Structural Insurance Period	The period defined on the Certificate of Insurance .
Structure	<p>Is comprised of the following elements of a Property Insured:</p> <ul style="list-style-type: none"> a) foundations; b) load-bearing parts of ceilings, floors, staircases and associated guard rails, walls and roofs, together with load-bearing retaining walls necessary for stability; c) non-load bearing partition walls; d) roof covering; e) any external finishing surface (including rendering) necessary for the water-tightness of the External Envelope; f) internal floor decking and screeds, where these fail to support normal loads; g) double or triple glazed panes to external windows and doors; and h) the underground drainage that the Policyholder is responsible for maintaining.
Sum Insured	The sum specified as such within the Certificate of Insurance .
Surveyor	The party appointed by the Scheme Administrator and the Underwriter who carries out checks and inspections solely on behalf of the Underwriter and who, prior to the issue of the Certificate of Insurance for the Property Insured , issues a Certificate of Approval .
Underwriter	HSB Engineering Insurance Limited (HSBEIL).

2.2 INTERPRETATION

1. References to this **Policy** or to any other document or contract referred to in this **Policy** means this **Policy** or such other document or contract as amended, varied, supplemented, modified or novated from time to time.
2. In this **Policy** (unless the context otherwise requires):
 - a) the words “including” and “include” and words of similar effect shall be deemed to have the words “without limitation” following them;
 - b) words importing persons shall include natural persons, firms, associations or other unincorporated bodies, companies, corporations or other bodies corporate and vice versa;
 - c) words importing the singular shall include the plural and vice versa;
 - d) references to a section are to a section of this **Policy**;
 - e) words importing the masculine shall include the feminine.
3. The headings in this **Policy** are for ease of reference only and shall not affect its construction or interpretation.

3. TYPES OF COVER

3.1. STRUCTURAL INSURANCE

- 3.1.1. The **Underwriter** will indemnify the **Policyholder** against all claims discovered and notified to the **Underwriter** during the **Structural Insurance Period** in respect of the cost of complete or partial rebuilding or rectifying work to the **Property Insured** which has been affected by **Major Damage**, provided always that the liability of the **Underwriter** does not exceed the reasonable cost of rebuilding the **Property Insured** to its original specification and subject to section 3.1.3;
- 3.1.2. In the event of a valid claim being made under this section, the **Underwriter** will either (at its sole discretion) arrange to have such damage corrected or pay the cost of repairing, replacing or rectifying any damage.

3.1.3. FINANCIAL LIMITS FOR SECTION 3.1 (STRUCTURAL INSURANCE)

1. **Your Certificate of Insurance** will state the maximum **Limit of Indemnity** which the **Underwriter** will pay for all claims relating to a **Property Insured**. If there is a cumulative maximum applicable (a total of all claims made by all **Policyholders** relating to any **Property Insured** within the same **Continuous Structure**), this will also be detailed on the **Certificate of Insurance**.
2. The maximum the **Underwriter** will pay for any claim relating to **Common Parts** will be the proportion of the loss represented by the number of individual **Certificates of Insurance** issued to the **Policyholders** that share those **Common Parts**. The **Underwriter** is not responsible for the proportion of any loss where individual **Properties Insured** have not received a **Certificate of Insurance**.
3. Unless stated otherwise in the **Certificate of Insurance**, the **Financial Limits** are index-linked in accordance with the condition of the **Policy** in section 6 entitled '**Indexation**'.
4. Claims under this section are subject to the **Excess** as detailed in the **Certificate of Insurance**.
5. Please note in the event that **You** are not the first owner of the **Property Insured**, the **Financial Limits** may have already been utilised by a previous owner and **You** will only be entitled to the remainder.

3.1.4. EXCLUSIONS TO SECTION 3.1 (STRUCTURAL INSURANCE)

1. The **Underwriter** is only liable under this section in respect of the **Contract** for the **Property Insured** and not in respect of any extras agreed subsequently.
2. The **Underwriter** shall not be liable to the **Policyholder** for any:
 - a) ceilings that are not in an enclosed part of the **Property Insured** (such as balcony ceilings);
 - b) replacement of any solar roof tiles or panels solely due to failure to generate heat or electricity or any failure to generate anticipated amounts of heat or electricity;
 - c) sound transmission;
 - d) cracking, spalling or mortar erosion, which does not impair the structural stability or weather tightness of the **Property Insured**;
 - e) damage to the roof covering (including any underlays, fixings, mortar and weatherproofing details) unless damage results in the entry of water into the **Property Insured**.
 - f) ingress of water into the **Property Insured** to the extent that such ingress of water was planned for or allowed for in the original design, or which occurs within 12 months of the commencement of the Period of Insurance.

3.1.5. CLAIMS PROCEDURE FOR SECTION 3.1 (STRUCTURAL INSURANCE)

1. On discovery of any occurrence or circumstance that is likely to give rise to a claim under this section, the **Policyholder** must immediately notify the **Scheme Administrator** on **0151 650 4318**, and request a claim form.
2. When notifying the **Scheme Administrator** of a claim, the **Policyholder** must also;
 - a) complete the claim form and send evidence (including photographs and reports if appropriate) to the **Scheme Administrator** confirming that there has been **Major Damage**; and
 - b) take all responsible steps to prevent further loss or damage; and
 - c) allow access to the **Property Insured** during normal working hours; and
 - d) obtain permission to access neighbouring land and obtain any other permission needed to allow investigations and work; and
 - e) provide the **Scheme Administrator** with all information and documentation it may request in relation to investigating the claim.

4. ADDITIONAL COVER

In addition to any applicable cover under section 3, in the event of a valid claim under section 3.1, the **Underwriter** will pay within the **Limit of Indemnity**:

1. **ADDITIONAL COSTS**

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

2. **FEES**

Such architects', surveyors', legal, consulting engineers' and other fees as are necessarily and reasonably incurred by the **Policyholder** in relation to the complete or partial rebuilding or rectifying work to the **Property Insured** (excluding any costs or fees incurred by the **Policyholder** in investigating and / or preparing a claim).

3. **REMOVAL OF DEBRIS**

The costs and expenses incurred by the **Policyholder** in respect of:

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

the **Property Insured**.

5. EXCLUSIONS

The **Underwriter** shall not be liable to the **Policyholder** for any of the following:

1. ALTERATIONS

Loss or damage due to or arising from any alteration, modification or addition to a **Property Insured** after the issue of the **Certificate of Approval** unless (in each case) the **Scheme Administrator** has been informed, the **Policy** endorsed and any applicable additional premium paid to the **Scheme Administrator**.

2. ASBESTOS

Loss or damage arising from or in relation to asbestos or the presence of asbestos on the **Property Insured**.

3. CHANGE IN COLOUR

Any change in colour, texture, opacity or staining or other ageing process to any element of the **Property Insured**.

4. ENDORSEMENT

Anything excluded by an endorsement issued by the **Scheme Administrator** and noted on the **Certificate of Insurance**.

5. FLOODING AND WATER TABLE

Loss or damage resulting from flooding or failure of flood prevention / defence measures, however caused, or from a change in the water table level.

6. GLAZED PANES

Loss of, or damage to, any existing double or triple glazing panes in any **Property Insured** that has been converted, refurbished or renovated, unless such double or triple glazing panes were newly installed by the **Builder** at the time of such conversion, refurbishment or renovation.

7. HUMIDITY

Loss or damage caused by or consequent upon humidity in the **Property Insured** that is not the direct result of **Major Damage**.

8. INDIRECT LOSS

Unless expressly provided for in this **Policy**, economic loss of any description (including costs arising from inconvenience or distress, loss of enjoyment, loss of use, reduction in value of the **Property Insured**, loss of income or business opportunity) arising either directly or indirectly as a result of the events or circumstances that led to **Your** claim or complaint.

9. MAINTENANCE AND USE

Inadequate maintenance of a **Property Insured** or the imposition of any load greater than that for which the **Property Insured** was designed or the use of a **Property Insured** for any purpose other than that for which it was designed, unless (in each case) the **Scheme Administrator** has been informed in writing, the **Policy** endorsed and any applicable additional premium paid to the **Scheme Administrator**.

10. PERSONAL INJURY

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

11. PRIOR KNOWLEDGE

Anything which would constitute a valid claim under the **Policy** and about which the **Policyholder** was aware prior to purchasing the **Property Insured** and as a consequence agreed a reduction in the purchase price for the **Property Insured** or obtained any other remedy, benefit or compensation of any kind.

12. RADIOACTIVE CONTAMINATION, CHEMICAL, BIOLOGICAL, BIO-CHEMICAL AND ELECTROMAGNETIC WEAPONS

Any loss or destruction of or damage to any property, any loss or expense whatsoever, any consequential loss or any legal liability directly or indirectly caused by or contributed to by, or arising from:

- (a)
 - (i) ionising radiations or contamination by radioactivity from nuclear fuel or from nuclear waste from the combustion of nuclear fuel;
 - (ii) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
- (b) the use of any weapon or device:
 - (i) dispersing radioactive material and / or ionising radiation; or
 - (ii) using atomic or nuclear fission and / or fusion or other like reaction
- (c) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter but this will not apply in respect of radioactive isotopes (other than nuclear fuel or nuclear waste) used for the purposes for which they were intended;
- (d) any chemical, biological, bio-chemical, or electromagnetic weapon.

13. REASONABLENESS

If items can be found to match existing items at a reasonable cost (being no more than a maximum of 20% higher than the original cost of the item(s)) the **Underwriter** will endeavour to facilitate this. However, the **Underwriter** will have no liability and will not be responsible for any additional costs if a similar match is not possible at a reasonable cost (being no more than a maximum of 20% higher than the original cost of the item(s)).

14. SEEPAGE

Loss or damage caused by or consequent upon moisture ingress and related damage resulting from a defect in the design, workmanship or materials of any area enclosed below external ground level of a **Property Insured**.

15. SETTLEMENT

Loss or damage caused by or consequent upon normal settlement or bedding down of a **Property Insured**.

16. SONIC BANGS

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

17. SPECIAL PERILS

Loss or damage caused by or consequent upon fire, lightning, explosion, earthquake, storm, tempest, flood, subterranean fire, aircraft or other aerial devices or articles therefrom, escape of water, oil or any other liquids from tanks, pipes, heating system or other apparatus, malicious persons, theft, attempted theft, impact or any accidental cause.

18. SUBSIDENCE

Loss or damage caused by or consequent upon subsidence, heave or landslip, except where such loss or damage is as a result of a defect in the design, workmanship, materials or components of the **Structure** of a **Property Insured**.

19. TERRORISM

Any loss or damage directly caused by an act of terrorism. For the purposes of this exclusion, an act of terrorism shall mean an act involving the use of force or violence and / or the threat thereof that is committed for political, religious, or ideological purposes and with the intention to influence any government and / or to put the public, or any section of the public, in fear. The perpetrators of an act of terrorism can be acting alone or on behalf of, or in connection with, any organisation(s) or government(s).

20. TOXIC MOULD

Loss or damage arising out of any bacteria, yeasts, mildew, viruses, fungi, mould or their spores, mycotoxins or other metabolic products in a **Property Insured**.

21. VERMIN

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

22. WAR RISKS

Any consequence whatsoever which is the direct or indirect result of any of the following, or anything connected with any of the following, whether or not such consequence has been contributed to by any other cause or event:

- (a) war, invasion, act of a foreign enemy, hostilities or a warlike operation or operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, mutiny or military uprising, martial law; and
- (b) nationalisation, confiscation, requisition, seizure, damage or destruction by or by order of any government or any local or public authority; and
- (c) any action taken in controlling, preventing, suppressing or in any way relating to (a) and/or (b) above.

23. WEAR AND TEAR

Wear and tear, normal dampness, condensation, thermal movement, movement between different types of materials or shrinkage or normal deterioration (whether caused by neglect or otherwise).

24. WILFUL ACTS

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

6. CONDITIONS

1. APPLICABLE LAW

The law of England and Wales will apply to this contract unless:

- a) **You** and We agree otherwise; or
- b) at the date of the contract **You** are a resident of (or, in the case of a business, the registered office or principal place of business is situated in) Scotland, Northern Ireland, the Channel Islands or the Isle of Man, in which case (in the absence of agreement to the contrary) the law of that country will apply.

2. ARBITRATION

If any difference shall arise as to the amount to be paid under section 3.1 (liability being otherwise admitted) then such difference shall be referred to an arbitrator to be appointed by the parties in accordance with the Arbitration Act 1996.

3. AVERAGE

The proportional reduction for under-insurance will only apply if the full replacement cost of the **Property Insured** exceeds the original **Sum Insured** increased by the percentage indexation factor specified in the **Policy** over the period expired since inception of the **Policy**, to the date of notification of the claim.

Should the proportional reduction for the under-insurance apply, the **Policyholder** shall only be entitled to recover such proportion of the said adjusted loss as the adjusted **Sum Insured** herein bears to the full replacement cost. Notwithstanding the foregoing, the **Limit of Indemnity** stated in the **Policy** shall not be increased unless amended by the terms of the Condition of the **Policy** entitled 'Indexation'.

4. CANCELLATION

Unless otherwise agreed in writing by the **Scheme Administrator** the **Underwriter** reserves the right to cancel the **Policy** and return any premium, less any retentions in line with the cancellation procedures of the **Policy** in the event of:

- (i) the building works exceeding three years from the start date notified to the **Scheme Administrator** when the original application was made;

or

- (ii) If building work ceases for 180 days or more before the **Property Insured** is complete.

5. CONTRIBUTION

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

- a) there is (or would be, but for the existence of this insurance) any other insurance applicable; or
- b) the **Policyholder** has entitlement to any statutory damages, damage or compensation; or
- c) the **Policyholder** has initiated legal proceedings from which compensation may be received,

then any applicable cover under this **Policy** shall be limited to such amount in excess of such insurance, damages or compensation (without prejudice to any **Financial Limits** specified in the **Policy**) and shall not be called into contribution.

6. FRAUD

If a claim made is fraudulent or fraudulently exaggerated or supported by a false statement or fraudulent means or fraudulent evidence is provided to support the claim, the **Underwriter** may:

- (a) refuse to pay the claim,
- (b) recover any sums paid in respect of the claim,
- (c) by notice to the **Policyholder** cancel the policy with effect from the date of the fraudulent act without any return of premium.

If the **Underwriter** cancels the policy under (c) above, then the **Underwriter** may refuse to provide cover after the time of the fraudulent act. This will not affect any liability the **Underwriter** may have in respect of the provision of cover before the time of the fraudulent act.

7. INDEXATION

The **Limit of Indemnity** and **Excess** referred to within the **Certificate of Insurance** will be increased in line with the RICS House Re-Building Index or 5% per annum compound (whichever is the lesser) on each anniversary of the commencement of the period of insurance for section 3.1. For the purpose of settlement of any claim hereunder, the **Limit of Indemnity** and **Excess**, as adjusted in accordance with the foregoing provisions, shall be regarded as the **Limit of Indemnity** and **Excess** at the time of discovery by the **Policyholder** of such claim.

8. MULTI-OCCUPIED BUILDINGS

Where the **Property Insured** is part of a multi-occupied building (where a number of properties are contained within one building), the **Management Company** shall normally co-ordinate the claim in respect of all **Policyholders** of the multi-occupied building and where that is the case the **Scheme Administrator** shall not be obliged to correspond with the individual **Policyholder** regarding such claims.

9. NON DISCLOSURE, MISREPRESENTATION OR MISDESCRIPTION

*Before the **Policy** was entered into:*

If the **Policyholder** has breached their duty to make a fair presentation of the risk to the **Underwriter** before the **Policy** was entered into then where the breach was deliberate or reckless, the **Underwriter** may avoid this **Policy** and refuse all claims, and keep all premiums paid.

Where the breach was neither deliberate nor reckless, and but for the breach:

- a) The **Underwriter** would not have agreed to provide cover under this **Policy** on any terms, the **Underwriter** may avoid this policy and refuse all claims, but will return any premiums paid, and / or
- b) The **Underwriter** would have agreed to provide cover under this **Policy** but on different terms (other than premium terms), the **Underwriter** may require that this **Policy** includes such different terms with effect from its commencement, and / or
- c) The **Underwriter** would have agreed to provide cover under this **Policy** but would have charged a higher premium,

the **Underwriter's** liability for any loss amount payable shall be limited to the proportion that the premium the **Underwriter** charged bears to the higher premium the **Underwriter** would have charged, as outlined in Schedule 1 to the Insurance Act 2015.

*Before a variation to the **Policy** was agreed*

If the **Policyholder** has breached their duty to make a fair presentation of the risk to the **Underwriter** before any variation to this **Policy** was agreed, then where the breach was deliberate or reckless, the **Underwriter** may cancel this **Policy** with effect from the date of the variation, and keep all premiums paid.

Where the breach was neither deliberate nor reckless, and but for the breach:

- a) The **Underwriter** would not have agreed to the variation on any terms, the **Underwriter** may treat this **Policy** as though the variation was never made, but will return any additional premiums paid, and / or
- b) The **Underwriter** would have agreed to the variation but on different terms (other than premium terms), the **Underwriter** may require that the variation includes such different terms with effect from the date it was made, and / or
- c) The **Underwriter** would have agreed to the variation but would have increased the premium, or would have increased it by more than the **Underwriter** did, or would not have reduced it or reduced it by less than the **Underwriter** did,

the **Underwriter's** liability for any loss amount payable shall be limited on a proportionate basis, as outlined in Schedule 1 to the Insurance Act 2015.

This condition operates in addition to any provisions relating to underinsurance in this **Policy**.

10. RECOVERIES FROM THIRD PARTIES

The **Underwriter** is entitled (and the **Policyholder** gives consent to the **Underwriter**) to take proceedings, at its own expense, to enforce any right the **Policyholder** may have against any third party before or after any admission of or payment of a claim under this **Policy**.

11. REINSTATEMENT OF LIMIT OF INDEMNITY

Where any successful claim has been made under section 3.1 and which is met by the **Underwriter** for less than the **Limit of Indemnity** for the relevant section, such **Limit of Indemnity** shall (in accordance with the provisions of this **Policy**) be reduced to the extent such claim has been met by the **Underwriter**. In such circumstances, the **Policyholder** may request that the **Limit of Indemnity** be reinstated. The decision to reinstate any **Limit of Indemnity** shall be at the sole discretion of the **Underwriter** and shall in any event be subject to:

- a) payment by the **Policyholder** of any fee charged by the **Surveyor** for checking the design of the **Property Insured** and inspecting any work for the repair or rebuilding of any **Property Insured** which has been the subject of a claim under this **Policy**; and
- b) the **Surveyor** certifying that such repair or rebuilding work meets the **Underwriter's** required standards; and
- c) payment by the **Policyholder** of any additional premium required to be paid in respect of any such reinstatement, as notified by the **Underwriter**.

For the avoidance of doubt, the **Policyholder** shall be required to pay the **Surveyor's** fee referred to above regardless of whether or not the **Limit of Indemnity** is reinstated.

12. SEVERAL LIABILITY NOTICE

The subscribing **Underwriters'** obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the respective proportions set against their names as detailed on the **Certificate of Insurance**. The subscribing **Underwriters** are not responsible for the subscription of any co-subscribing **Underwriter** who for any reason does not satisfy all or part of its obligations.

13. TERMINATION

This **Policy** will terminate automatically without refund of premium in the event that:

- a) the **Property Insured** is destroyed by a cause other than that insured against in this **Policy**; or
- b) the **Underwriter** has paid the maximum amount for which it will be liable under the **Policy** in accordance with the **Limit of Indemnity** unless the **Limit of Indemnity** has been reinstated in line with the Reinstatement of **Limit of Indemnity** Condition.

The cover under this **Policy** in respect of section 3.1 will terminate automatically without refund of premium in the event that the **Underwriter** has paid the maximum amount for which it will be liable under the relevant section in accordance with the relevant **Limit of Indemnity**.

14. THIRD PARTY RIGHTS

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

15. UNDERWRITER'S RIGHTS

In the event of any occurrence which may give rise to a claim under this **Policy**, the **Underwriter** and its agents (including the **Builder** and / or their subcontractors) shall, with the permission of the **Policyholder**, be entitled to enter the **Property Insured** in order to carry out rectification works or the complete or partial rebuilding of the **Property Insured**. If such permission is unreasonably withheld by the **Policyholder** then the **Policyholder** shall be responsible for any additional costs caused by the delay in carrying out such works and the **Underwriter** has the sole option to void the **Policy** from inception.

7. HOW TO MAKE A COMPLAINT

1. We have the authority to administer complaints on behalf of the **Underwriter**. We aim to provide a first class service to every **Policyholder**. However, occasionally an enquiry or a complaint may arise, often as a result of a misunderstanding, which will usually be resolved quickly and to the satisfaction of the **Policyholder**.
2. If **You** have an enquiry or cause to make a complaint regarding **Your Policy** then **You** should, in the first instance, contact the insurance agent who arranged the insurance for **You**. If they are unable to resolve the problem, please contact:

The Complaints Officer
MD Insurance Services Limited,
2 Shore Lines Building,
Shore Road,
Birkenhead,
Wirral,
CH41 1AU

Email: complaints@mdinsurance.co.uk
Tel: 0151 650 4318

3. A copy of our Complaints Procedure will be provided with an acknowledgement of **Your** complaint.
4. Any complaint that cannot be resolved by us may be referred to the Financial Ombudsman Service. Further details will be provided at the appropriate stage of the complaint process or are available on request. This complaint procedure is without prejudice to the **Policyholder's** right to take legal action. Their address is:

The Financial Ombudsman Service
Exchange Tower
London E14 9SR

Or via the website: www.financial-ombudsman.org.uk

5. In all cases, the Reference Number appearing in the **Development Initial Certificate / Property Insured Initial Certificate** and **Certificate of Insurance** should be quoted.

6. FINANCIAL SERVICES COMPENSATION SCHEME

Policies issued by us on behalf of the **Underwriter** are covered by the Financial Services Compensation Scheme. **You** may be entitled to compensation from the scheme if the **Underwriter** is unable to meet its obligations under the terms of the **Policy**. If **You** are entitled to compensation under the Scheme, the level and extent of the compensation would depend on the nature of the **Policy** contract. Further information about compensation scheme arrangements are available from the Financial Services Compensation Scheme. Their address is:

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

Or via the Scheme website: www.fscs.org.uk



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