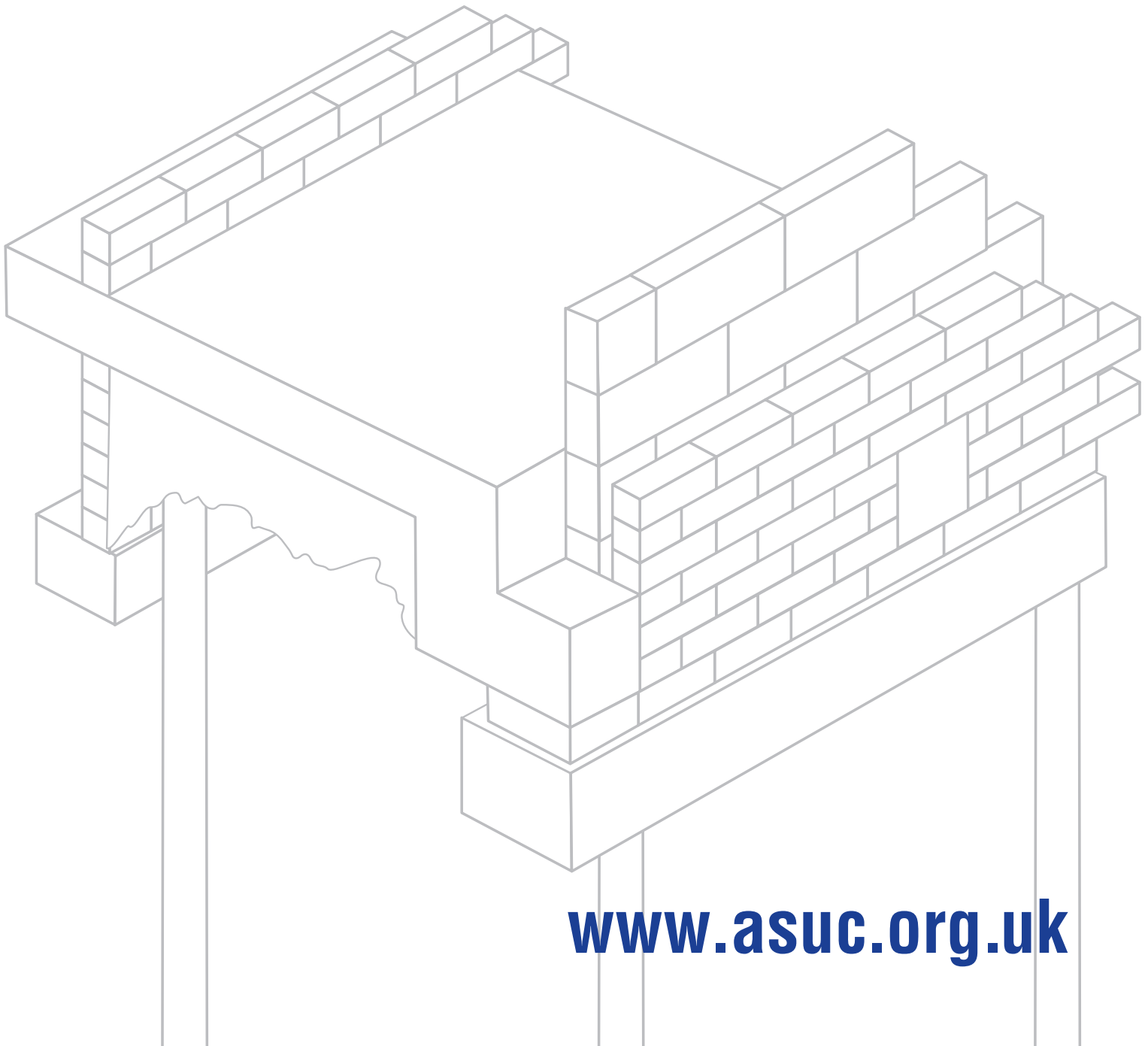




DEFECTS INSURANCE GUARANTEE

POLICY DOCUMENT

Version 9



www.asuc.org.uk



1. INFORMATION

The **Policyholder** is requested to read the Policy and Certificates. These are important documents. If any information is not clear please contact the **Scheme Administrator**.

This Policy consists of:

- 1) **INFORMATION** on the **Defects Insurance Guarantee**;
- 2) **DEFINITIONS** detailing all definitions applicable to the Policy;
- 3) **INSURING AGREEMENT** giving precise details of the cover subject to variation by endorsement;
- 4) **WARRANTIES** detailing warranties that apply to the whole Policy;
- 5) **EXCLUSIONS** detailing exclusions that apply to the whole Policy;
- 6) **CONDITIONS** defining the terms that apply to the whole Policy;
- 7) **CLAIMS NOTIFICATION PROCEDURES** detailing the procedures that should be followed when notifying a claim under the Policy.

This Policy sets out the insurance cover provided by the **Defects Insurance Guarantee**.

This insurance cover is subject to a number of definitions, conditions, exclusions and financial limits as detailed in the Policy.

The **Defects Insurance Guarantee** is only available to members of ASUC. The ASUC member who has carried out the work at the **Premises** has applied for insurance on your behalf. The **Certificate of Insurance** enclosed with this policy details the extent of the works insured.

It is a Policy of indemnity and does not provide any cover for any legal liabilities that the **Policyholder** may have to third parties arising out of the use or ownership of the **Premises**.

The policy insures the **Building Works** identified in the **Certificate of Insurance** and consequential damage and costs, as specified in this policy document, for a period of 12 years from completion.

The **Limit of Indemnity** for the **Defects Insurance Guarantee** is the value of the **Building Works** as detailed on the **Certificate of Insurance**. The **Policyholder** may increase the **Limit of Indemnity** on application to the **Scheme Administrator**. An additional premium will be charged. The maximum **Limit of Indemnity** available under the **Defect Insurance Guarantee** is £1,000,000.

LAW APPLICABLE TO THIS POLICY

The parties to a contract covering a risk in the United Kingdom are free to choose the law applicable to that contract. In the absence of any written agreement to the contrary the law applicable to this contract shall be law of England and Wales.

INTERPRETATION

Where any word or expression is given a specific meaning then such word or expression shall, unless the context otherwise requires, have the same meaning wherever it appears.

NOTES:

- 1) For this Policy to be binding there should be a signed **Certificate of Insurance**. Please look carefully at the Certificate issued to ensure that the details have been correctly entered. This should be filed with the Policy.
- 2) Extensions in cover at the time of issue of the Policy and subsequent alterations will be confirmed by separate Endorsements, which should be filed with the Policy. The **Policyholder** should refer to these Endorsements and the Policy to ascertain the precise cover in force at any time.
- 3) This Policy is transferable to future owners of the **Premises** provided that such owners contact the **Scheme Administrator** to notify their details.



NOTICE TO THE POLICYHOLDER

As a **Policyholder** you have a number of options for making complaints about your **Defects Insurance Guarantee** policy. These are listed below. Before making any enquiry or complaint please consider carefully the most suitable option to address your concern.

In all cases the Policy/Certificate number appearing in the **Certificate of Insurance** should be quoted.

- 1) You may have received advice on the cover provided by the **Defects Insurance Guarantee** prior to taking out the policy. This advice may have been given by MD Insurance Services Ltd.

If you wish to make a complaint please contact:

The Complaints Officer
MD Insurance Services Ltd
2 Shore Lines Building
Shore Road
Birkenhead
CH41 1AU

Email: complaints@mdinsurance.co.uk
Telephone: 0151 650 4300

MD Insurance Services Ltd is authorised and regulated by the UK Financial Conduct Authority.

A copy of the MD Insurance Services Ltd Complaints Procedure will be provided on request.

- 2) MD Insurance Services Ltd also acts as the **Scheme Administrator** for the **Defects Insurance Guarantee**. If you have any complaint about the way in which MD Insurance Services Ltd has performed the duties as the **Scheme Administrator** please contact:

The Complaints Officer
MD Insurance Services Ltd.
2 Shore Lines Building
Shore Road
Birkenhead
CH41 1AU

Email: complaints@mdinsurance.co.uk
Telephone: 0151 650 4300

A copy of the MD Insurance Services Ltd Complaints Procedure will be provided on request.

- 3) If you have any enquiry or complaint about the insurance provided by the **Defects Insurance Guarantee** this should in the first instance be addressed to:

MD Insurance Services Ltd
2 Shore Lines Building
Shore Road
Birkenhead
CH41 1AU

Email: complaints@mdinsurance.co.uk
Telephone: 0151 650 4300

or

The Complaints Department
AmTrust Europe Limited
Market Square House
St James's Street
Nottingham
NG1 6FG

AmTrust Europe Limited is authorised and regulated by the UK Financial Conduct Authority

NOTE:

- A. If after following the procedures set out in 1 to 3 on Pages 1 and 2 of this Policy, your complaint has not been resolved to your satisfaction, and you are an eligible complainant you have the right to refer the matter to the Financial Ombudsman, at the following address:

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

Email: enquiries@financial-ombudsman.org.uk



B. The **Underwriter** and the **Scheme Administrator** are covered by the Financial Services Compensation Scheme. As a **Policyholder** you may be entitled to compensation from the Financial Services Compensation Scheme if the **Underwriter** and/or **Scheme Administrator** are unable to meet their obligations.

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

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

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

YOUR RIGHT TO CANCEL

You have the right to cancel cover under the **Defects Insurance Guarantee**. If you wish to cancel the cover you must do so within 14 days starting on the day after you receive the **Defects Insurance Guarantee** policy documents. Your cancellation must reach the **Scheme Administrator** by letter or email. Contact details are:

- Scheme Administrator
MD Insurance Services Ltd.
2 Shore Lines Building
Shore Road
Birkenhead
CH41 1AU

Email: info@mdinsurance.co.uk

Please quote your **Defects Insurance Guarantee** policy number when cancelling. If you choose to cancel the premium will be returned. Any return of premium will only be made to the party that has paid the premium.

The **Scheme Administrator** reserves the right to charge an administration fee.

All **Defects Insurance Guarantee** policy documents should be returned to the **Scheme Administrator** with the cancellation request.

2. DEFINITIONS

1. BUILDING WORKS

The works carried out at the **Premises** under a contract or agreement between the **Contractor** and the **Policyholder** or any other party who has entered into an agreement or contract for the **Building Works** and who is named in the **Certificate of Insurance**.

2. CERTIFICATE OF INSURANCE

The Certificate issued by the **Scheme Administrator** on behalf of the **Underwriter** to signify acceptance of the **Building Works** for insurance hereunder.

3. CONTRACTOR

Any member of ASUC with whom the **Policyholder** or any other party has entered into an agreement or contract for the **Building Works** and who is named in the **Certificate of Insurance**.

4. DAMAGE

Any defect in the design, specification, workmanship, materials or components of the **Building Works** affecting or causing physical loss, destruction or damage and/or affecting or causing imminent instability to a **Premises** which is first discovered during the **Period of Insurance**.

5. DEFECTS INSURANCE GUARANTEE

The policy containing the insurance cover provided by the **Underwriter**.

6. LIMIT OF INDEMNITY

The liability of the **Underwriter** shall not exceed during the **Period of Insurance** the amount shown as the **Limit of Indemnity** on the **Certificate of Insurance**. The **Limit of Indemnity** is index linked in accordance with Condition 5 of the Policy.

7. MINIMUM CLAIM VALUE

The amount relating to each and every loss in respect of the **Premises** below which the **Underwriter** has no liability under this Policy. If the loss is greater than the **Minimum Claim Value** the **Underwriter** will be responsible for the full amount of the **Policyholder's** claim covered by this Policy.

A separate **Minimum Claim Value** shall apply to each separately identifiable cause of loss or damage for which a claim is made under the Policy.



8. PERIOD OF INSURANCE

The period as detailed in the **Certificate of Insurance**.

9. POLICYHOLDER

The owner or any other party having a financial interest in the **Premises** which is the subject of this insurance or their successor in title and whose interest has been noted under the Policy.

10. PREMISES

The property described in the **Certificate of Insurance** including the structure, all non-load bearing elements and fixtures and fittings for which the **Policyholder** is responsible. **Premises** shall be deemed to include the **Building Works** which are the subject of this Policy.

11. SCHEME ADMINISTRATOR

MD Insurance Services Ltd
2 Shore Lines Building
Shore Road
Birkenhead
CH41 1AU

Telephone: 0151 650 4300

12. UNDERWRITER

AmTrust Europe Limited.

3. INSURING AGREEMENT

The **Underwriter** will indemnify the **Policyholder** against all claims discovered and notified to the **Underwriter** during the **Period of Insurance** in respect of the cost of complete or partial rebuilding or rectifying work to the **Building Works** which has been affected by **Damage**.

This insurance is only for works carried out by the **Contractor** and does not provide cover for parts of the **Premises** not underpinned.

Provided always that the liability of the **Underwriter** does not exceed the reasonable cost of rebuilding the **Building Works** to its original specification.

The **Minimum Claim Value** shall be as specified in the **Certificate of Insurance**.

In the event of a claim under this Policy the **Underwriter** has the option either of paying the cost of putting right any **Damage** or itself arranging to have such **Damage** corrected.



4. ADDITIONAL EXTENSIONS

In addition, in the event of a claim, the Underwriter will with its consent pay:

A. ADDITIONAL COSTS

Such additional costs and expenses as are necessarily incurred by the **Policyholder** in repairing, replacing or rectifying any part of the **Premises** other than the **Building Works** which has been affected by **Damage** provided always that the liability of the **Underwriter** does not exceed 25% of the **Limit of Indemnity** for the **Building Works** as stated in the **Certificate of Insurance**.

B. ALTERNATIVE ACCOMMODATION COSTS

All reasonable additional costs and expenses that are necessarily incurred by the **Policyholder** for a period not exceeding 26 weeks in respect of removal, storage and alternative accommodation whilst the **Premises** are uninhabitable.

C. FEES

Such Architects', Surveyors', Legal, Consulting Engineers' and other fees as are necessarily and reasonably incurred in relation to the complete or partial rebuilding or rectifying work to the **Premises** which has been subject to **Damage**, but shall not include costs or fees incurred by the **Policyholder** in preparing a claim.

D. REMOVAL OF DEBRIS

For each **Premises** the costs and expenses necessarily incurred by the **Policyholder** in respect of:

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

the **Premises**.

The liability of the **Underwriter** during the **Period of Insurance** for any one claim in respect of Extensions **B** and **C** shall not exceed £10,000 indexed as per the provisions of Condition 5 herein.

WARRANTY

It is hereby warranted that the **Policyholder** shall comply with all recommendations stipulated by the Structural Engineer appointed in respect of the **Building Works**, in so far as such recommendations are applicable to the maintenance and or removal of trees at the **Premises** or adjoining properties.

The compliance by the **Policyholder** of such recommendations shall be deemed to be a Condition Precedent to this Policy.



5. EXCLUSIONS

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

1. ALTERATIONS

Loss or damage to the **Building Works** due to or arising from any alteration, modification or addition to the **Premises** after the issue of the **Certificate of Insurance** unless the **Underwriter** has been informed, the **Certificate of Insurance** endorsed, and any applicable additional premium paid to the **Underwriter**.

2. CHANGE IN COLOUR

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

3. CONSEQUENTIAL LOSS

Consequential loss of any description except as expressly provided for in this Policy.

4. DEFECTS IN EXISTING WORKS

Loss or damage due to or arising out of any defect in the design, workmanship, materials or components of the **Premises** which do not form part of the **Building Works**.

5. HUMIDITY

Loss or damage caused by or consequent upon humidity in the **Premises** that is not the direct result of the ingress of water caused by a defect in the design, workmanship, materials or components of the waterproofing elements of the **Building Works**.

6. MAINTENANCE AND USE

Inadequate maintenance of **Building Works** or the imposition of any load greater than that for which the **Building Works** were designed or the use of the **Premises** for any purpose other than that for which it was designed.

7. PERSONAL INJURY

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

8. PRIOR KNOWLEDGE

Anything which would constitute a valid claim under the Policy and about which the **Policyholder** was aware prior to purchasing the **Premises** and as a consequence agreed a reduction in the purchase price for the **Premises** or other contractual remedy.

9. PROPERTY NOT INSURED

Loss or damage to temporary structures, free-standing household appliances, floors, tiles, carpets or other floor coverings and all other contents other than as provided for within Extension A of the Insuring Agreement.

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

In no case shall this insurance cover loss damage liability or expense directly or indirectly caused by or contributed to by or arising from

- i) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or 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.
- iii) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
- iv) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes.
- v) any chemical, biological, bio-chemical, or electromagnetic weapon.



11. REASONABLENESS

In the event of a valid claim under the Policy the **Underwriter** shall only be responsible for costs and expenses that a reasonable person would incur if spending their own money. Whenever possible if items can be found to match existing items at a reasonable cost the **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.

12. SEEPAGE

Loss or damage caused by seepage of water into the **Premises** below ground floor slab level.

13. SETTLEMENT

Loss or damage caused by or consequent upon normal settlement or bedding down of the **Building Works**.

14. SONIC BANGS

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

15. SPECIAL PERILS

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

16. SUBSIDENCE

Loss or damage caused by or consequent upon subsidence, heave or landslip unless such loss or damage is as a result of a defect in the design, workmanship, materials or components of the **Building Works**.

17. THIRD PARTY DESIGN

Loss or damage caused by failure by a third party (i.e. not the **Contractor**) to properly design the Building Works.

18. TOXIC MOULD

Loss, damage or bodily injury arising out of any pathogenic organisms regardless of any other cause or event that contributed concurrently or in any sequence to that liability.

Pathogenic organisms means any bacteria, yeasts, mildew, viruses, fungi, mould or their spores, mycotoxins or other metabolic products.

19. TREES

Loss or damage due to or arising from trees planted after the completion of the **Building Works** that cause damage to the **Premises** during the **Period of Insurance**.

20. VERMIN

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

21. WAR RISKS

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

22. WATER TABLE

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

23. WEAR AND TEAR

- a) wear and tear;
- b) normal dampness, condensation or shrinkage;
- c) normal deterioration whether caused by neglect or otherwise.

24. WILFUL ACTS

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



6. CONDITIONS

1. ARBITRATION

If any difference shall arise as to the amount to be paid under this Policy (liability being otherwise admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with the statutory provisions then in force. Any making of an award shall be a condition precedent to any right of action against the **Underwriter**.

2. AUTOMATIC REINSTATEMENT OF THE LIMIT OF INDEMNITY

In consideration of the **Limit of Indemnity** not being reduced by the amount of any loss, the **Policyholder** agrees to pay if required by the **Underwriter** the pro-rata additional premium on the amount of such loss from the date of notification of claim to the date of expiry of the **Period of Insurance**.

3. CONTRIBUTION

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

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

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

4. FRAUD

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

5. INDEXATION

The **Limit of Indemnity** and **Minimum Claim Value** referred to within the **Certificate of Insurance** will be increased by 5% per annum compound on each anniversary of the commencement of the **Period of Insurance**. For the purpose of settlement of any claim hereunder the **Limit of Indemnity**, as adjusted in accordance with the foregoing provisions, shall be regarded as the **Limit of Indemnity** at the time of discovery by the **Policyholder** of such claim.

6. UNDERWRITER'S RIGHTS

In the event of any occurrence which may give rise to a claim under this Policy, the **Underwriter** and its agents shall, with the permission of the **Policyholder**, be entitled to enter the **Premises** in order to carry out rectification works or the complete or partial rebuilding of the property. If such permission is unreasonably withheld the **Policyholder** shall be responsible for any additional costs caused by the delay in carrying out such works.

7. MISREPRESENTATION

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

8. RECOVERIES FROM THIRD PARTIES

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

9. 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 the Act.

For the purpose of this Condition any third party shall not be deemed to include the **Contractor** who is named in the **Certificate of Insurance**.



7. CLAIMS NOTIFICATION PROCEDURES

NOTIFICATION OF A CLAIM

On discovery of any occurrence or circumstance that is likely to give rise to a claim under the Policy the **Policyholder** shall as soon as reasonably possible:

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

2 Shore Lines Building | Shore Road | Birkenhead | Wirral | CH41 1AU

T 0151 650 4300 | **F** 0151 650 4344 | **E** info@mdinsurance.co.uk

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