

Property Developers' Policy



INSURANCE
CORPORATION

Customer Service

At Insurance Corporation we have a real commitment to customer care. We have built a reputation as an Insurer that puts our customers first

You can help us to maintain this position by letting us know if you consider that our service has been unsatisfactory

We aim to give our customers a high standard of service at all times

If you are unhappy with our service for any reason, you should write initially to the Service Manager of Insurance Corporation at the address shown on your Policy Schedule who will ensure that the matter receives attention

If matters are not resolved to your satisfaction, you are invited to write to:

General Manager

Insurance Corporation of the Channel Islands Ltd

P O Box 160 Dixcart House

Sir William Place

Guernsey

GY1 4EY

Insurance Corporation of the Channel Islands Ltd is regulated by the Guernsey Financial Services Commission

It is possible to choose the law applicable to a contract of insurance covering a risk situated in the United Kingdom. We have chosen payment of your premium as evidence of acceptance of our choice. If any other law is to apply it must be agreed by both parties and evidenced in writing

Your right as a policyholder to take legal action remains unaffected by the existence or use of any complaints procedure referred to above

Property Developers' Insurance Policy

Introduction

Please read this Policy (and the Schedule which forms part of the Policy) to ensure it meets your requirements.

Property Developers' Insurance Policy

The Insurers' and the Insured agree that:

- a) this Policy the Schedule (including any Schedule issued in substitution) and any endorsements shall be considered one document and any word or expression to which a specific meaning has been attached shall bear such meaning wherever it appears
- b) where the policy includes Property Damage insurance and Legal Liabilities Insurance each of these shall be considered as one document and any word or expression to which a specific meaning has been attached in any of these Sections shall bear such meaning only in relation to the Section in which it appears
- c) the Proposal or any information supplied by the Insured shall be incorporated in the contract
- d) the Insurer will provide the insurance described in this Policy subject to the terms and conditions for the Period of Insurance shown in the Schedule and any subsequent period for which the Insured shall pay and the Insurer shall agree to accept the premium

This Policy shall be governed by English Law and Guernsey Courts shall have exclusive jurisdiction in any dispute arising under this Policy

The Insurers' Liability

For all purposes including but not limited to the application of the Sums Insured or Limits of Indemnity and consideration of when and how the Policy will respond all parties included in the definition of the insured in the Schedule or Persons Entitled to Indemnity shall constitute one Insured or one party or legal entity so that there will be only two parties to the contract of insurance between the Insured and the Insurers

Indemnity to Policyholder

The Insurer assigns to the Insured the benefit of the indemnity issued by the Insurer's parent company Royal & Sun Alliance Insurance plc and in respect of any Employers' Liability coverage issued in Jersey the Isle of Man Northern Ireland or Great Britain all references to the Insurers shall mean or refer to Royal & Sun Alliance Insurance plc

For risks written from the Bailiwick of Jersey or Bailiwick of Guernsey the Insurance Contract is governed by Jersey Law or Guernsey Law respectively

General Conditions applicable to the Policy

1 Policy Voidable

This insurance shall be voidable the event of misrepresentation misdescription or non-disclosure in any material particular

2 Alteration

This insurance shall be avoided if any changes occur materially varying any of the facts existing when the insurance was effected unless admitted by the Insurer in writing

3 Reasonable Precautions

The Insured shall

- A) take all reasonable precautions to prevent
 - 1) Damage
 - 2) any occurrence which may give rise to liability under this insurance
- B) maintain in good condition all buildings furnishing ways works machinery plant and vehicles and comply with any statutory requirements to have such property inspected
- C) as soon as possible after discovery make good or remedy any defect or danger and in the meantime shall take such additional precautions as the circumstances may require

Claims Conditions applicable to the Policy

1 Action by the Insured

- A) In the event of Damage which may give rise to a claim under this insurance the Insured shall
- 1) notify the Insurer immediately
 - 2) if it becomes evident that the Damage has been caused by a criminal or malicious act notify the Police immediately
 - 3) take and permit to be taken any action which may be reasonably practicable to prevent further Damage and minimise the loss
- B) In the event of a claim being made under this insurance the Insured shall at the Insured's expense provide the Insurer with
- 1) full information in writing of the amount of the claim together with details of all insurances covering the Damage or any part of it or any resulting loss in respect of Income such information to be supplied within
 - thirty days after the occurrence of the Damage (seven days in the case of Damage caused by an criminal or malicious act) in respect of any claim for Damage to property
 - thirty days after the expiry of the Maximum Indemnity Period in respect of any claim in respect of Income or within such further time as the Insurer may allow
 - 2) all such plans documents books proofs accounting and other information explanations and evidence relating to the claim as may be reasonably required
- Any accounting information required may be produced by professional accountants if at the time they are regularly acting as such for the Insured and their report shall be prima facie evidence of the information to which the report relates
- 3) a statutory declaration of the truth of the claim (and of any matters connected with it) if requested by the Insurer
- C) If the terms of this condition are not complied with
- no claim under this Policy shall be payable
 - any payment on account of the claim already made shall be repaid to the Insurer forthwith

except that non-compliance with any terms of this condition solely in relation to any claim in respect of Income shall not be a bar to any claim for Damage to Property

2 Notice of Adjudication

The Insured shall upon receipt of a Notice of Adjudication relating to any circumstance which has given or may give rise to a claim under this Policy provide immediate notice (or on the first working day thereafter) thereof by telephone to the Insurer

A Notice of Adjudication means any notice issued to a party to a contract to which the Housing Grants, Construction and Regeneration Act 1996 applies stating an intention to refer a dispute under the contract to adjudication

3 Fraud

If a claim is fraudulent in any respect or if fraudulent means are used by the Insured or anyone acting on the Insured's behalf to obtain any benefit under this insurance or if any Damage is caused by the wilful act or with the connivance of the Insured all benefit under this insurance shall be forfeited

4 Rights of the Insurer

On the happening of any Damage in respect of which a claim is made the Insurer and any person it authorises may

- 1) enter take or keep possession of the premises where such Damage has occurred
- 2) take possession of or require to be delivered to them the Property Insured
- 3) deal with such property for all reasonable purposes and in any reasonable manner

without thereby incurring liability or diminishing any of the Insurer's rights under this insurance

No claim under this insurance shall be payable unless the terms of this condition have been complied with

No property may be abandoned to the Insurer whether taken possession of by the Insurer or not

5 Contribution

In respect of the Property Insurance and Income Insurance sections only

If at the time of any Damage there is any other insurance effected by or on behalf of the Insured covering any of the loss insured by these sections the Insurer's liability hereunder shall be limited to its rateable proportion of such loss

In respect of the Property Insurance section only

If any such other insurance is subject to any provision whereby it is excluded from ranking concurrently with this insurance either in whole or in part or from contributing rateably the Insurer's liability hereunder shall be limited to that proportion of the Damage which the sum insured under this insurance bears to the value of the property

In respect of the Public Liability Insurance section only

If at the time of any claim there is or but for the existence of this insurance would be any other insurance covering the same legal liability the Insurer shall not be liable under this insurance to indemnify the Insured except in respect of any amount beyond that which would have been payable under such insurance had this insurance not been effected

6 Subrogation

Any claimant under this insurance shall at the request and at the expense of the Insurer take and permit to be taken all necessary steps in the name of the Insured for enforcing rights against any other party before or after any payment is made by the Insurer

The Insurer will not pursue any rights

- A) against any Insurer being Parent of or Subsidiary to the Insured or any Insurer which is a Subsidiary of a Parent Insurer of which the Insured are themselves a Subsidiary in each case within the meaning of Section 736 and 744 of the Companies Act 1985 or Articles 2 and 4 of the Companies (Northern Ireland) Order 1986
- B) against any sub-contractor engaged by the Insured if the contract is being performed under the JCT Standard forms of Building Contract incorporating the 1986 Amendments to the Insurance and Related Liability Provisions (or the equivalent thereof)

but this shall only apply to the extent that such waiver of subrogation is required in the above mentioned Amendments and only in so far as such a waiver is required by the sub-contract

7 Arbitration

In respect of the Property Insurance and Income Insurance sections only

If any difference arises as to the amount to be paid under this insurance (liability being otherwise admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with statutory provisions Where any difference is by this condition to be referred to arbitration the making of an award shall be a condition precedent to any right of action against the Insurer

Property Insurance Section

Definitions applicable to this Section

1 Damage shall mean

physical loss physical destruction or physical damage

2 Development shall mean

the constructional work as described in the Schedule together with any existing buildings if insured

3 Property Insured shall mean

| | | |
|----------------------|---|--|
| Constructional Works | } | all as defined below or more fully described in the Schedule and all being the property of the Insured or for which they are responsible at the site of the Development used or for use in connection with the Development |
| Existing Buildings | | |
| Temporary Buildings | | |
| Constructional Plant | | |
| Hired-in Property | | |

but excluding

- A) property which is more specifically insured
- B) deeds bonds bills of exchange promissory notes cash bank notes cheques securities for money and stamps
- C) aircraft hovercraft or watercraft or any property therein or thereon

4 Constructional Works shall mean

the permanent works and temporary works executed in performance of the Development including materials and equipment to be incorporated therein

but excluding

- A) the Completed Works except as specifically provided
- B) property (including property being altered or repaired) existing at the time of the commencement of the Development other than materials supplied and delivered for incorporation therein

Completed Works shall mean any part of the permanent works

- i) which has been completed and handed over or taken into use with the permission of the Insured for a purpose other than for the performance of the Development
- or
- ii) in respect of which a certificate of completion has been issued by or to the Insured except subcontract works for which responsibility is transferred to the main contractor

If the handover or usage of any part of the Development or if a certificate of completion in respect thereof is subject to testing and commissioning of machinery or plant those works shall not be considered as being Completed Works during the period of testing or commissioning up to a maximum of 14 days

5 Existing Buildings shall mean

- A) buildings (including foundations) built mainly of brick stone concrete or other non-combustible materials
- B) landlord's fixtures and fittings (including fixed glass and fitted carpets) and tenants improvements for which the Developer is responsible in on or around the Buildings
- C) furnishings and other contents of common parts of the Buildings
- D) walls gates fences and Services

existing at the commencement of the Development but excluding unless specifically notified to and accepted as insured by the Insurer land roads pavements car parks and hardstandings piers jetties bridges culverts excavations and trees

Services shall mean telephone gas electricity water mains drains and sewers electrical instruments meters piping cabling and the accessories thereon providing services to or from the Existing Buildings

All being the property of the Developer or for which they are responsible and situate at the site of the Development

- 6 Temporary Buildings** shall mean temporary buildings including their fixtures and fittings but excluding Hired-In Property
- 7 Constructional Plant** shall mean constructional plant tools and equipment but excluding Temporary Buildings and Hired-In Property
- 8 Hired-In Property** shall mean Temporary Buildings and Constructional Plant (both as defined above) which are on hire
- 9 Contract Value** shall mean the Contract Price plus
- i) the value of any materials and equipment provided by the Developer for incorporation in the Constructional Works
 - ii) professional fees incurred in the design and construction of the Development
 - iii) Value Added Tax which is irrecoverable by the Insured
- 10 Territorial Limits** shall mean Great Britain Northern Ireland the Isle of Man or the Channel Islands

The Insurance Provided by the Property Insurance Section

If Damage by any cause not excluded occurs at the site of the Development to any of the Property Insured described in the Schedule the Insurer will pay to the Insured in accordance with the provisions of the insurance the amount of loss or at its option reinstate or replace such property

Provided that

- 1 the Insurer's liability in respect of all losses arising out of any one occurrence of Damage shall not exceed in the whole the total sum insured or in respect of any item its sum insured or any other stated limit of liability
- 2 the Insured's Contribution (meaning the amount(s) specified in the Schedule which the Insured agrees to pay) will be payable before the Insurer shall become liable to make any payment
- 3 if the Insured described in the Schedule comprises more than one insured party each operating as a separate and distinct entity then cover hereunder shall apply in the same manner and to the same extent as if individual policies had been issued to each Insured party

subject to the total liability of the Insurer to all of the Insured parties collectively shall not exceed the Sums Insured and Limits of Indemnity including any inner limits set up by memorandum or endorsement stated in the policy

It is understood and agreed that any payment or payments by the Insurer to any one or more such Insured parties shall reduce to the extent of that payment the Insurer's liability to all such parties arising from any one event giving rise to a claim under this policy

In respect of Existing Buildings and Constructional Works which have suffered Damage the Insurer will pay the following costs

A the cost of removing debris being

the cost incurred with the Insurer's consent in

- i) removing debris dismantling demolishing shoring up and propping portions of the Property Insured
- ii) clearing cleaning or repairing Services at the site of the Development as a result of Damage to the Property Insured

but excluding any costs or expenses

- a) incurred in removing debris from outside the site of the Development (or other locations insured) other than from the surface area immediately adjacent to the perimeter thereof
- b) incurred or arising from pollution or contamination howsoever caused of property not covered by this insurance

Provided that in respect of pollution or contamination the Insurer's liability arising from the removal of debris from car parks roads pavements and similar surfaces all constructed of solid materials shall not exceed in respect of any one occurrence 10% of the Sum Insured or £250,000 whichever is the less and in the aggregate in any one Period of Insurance £1,000,000

B the cost of reinstatement being

- i) where the property is destroyed or lost the cost of rebuilding or in the case of materials and equipment the cost of its replacement by similar property
- ii) where the property is damaged the cost of repairing or restoring the damaged portions

to a condition substantially the same as but not better or more extensive than its condition when new

C the cost of complying with European Union and Public Authorities' Stipulations being

such additional cost of rebuilding or repair of the Property Insured as may be incurred with the Insurer's consent in complying with Stipulations first imposed upon the Insured following the Damage

The Insurer's liability in respect of the cost of complying with Stipulations relating to undamaged portions of the building (other than foundations) is limited to 15% of the amount the Insurer would have been liable to pay to reinstate the building or item of contents had it been wholly destroyed

The Insurer shall not be liable for any rate tax duty development or other charge or assessment which may arise out of capital appreciation as a result of complying with any of the Stipulations

Stipulations shall mean European Union legislation or Building Regulations or public authority or other statutory requirements

D the cost of professional fees being

those necessarily incurred in the repair reinstatement or replacement of the Property Insured consequent upon Damage thereto for which indemnity is provided by this Policy (but not for preparing any claim) The amount payable shall not exceed that authorised under the scales of the various institutes and bodies regulating such charges

E the cost of replacing plans and documents being

the clerical costs necessarily incurred in re-writing redrawing or reproducing plans drawings or other Development documents damaged within the Territorial Limits provided that the liability of the Insurer shall not exceeding £50,000 in respect of any one occurrence of Damage

F the cost of expediting repair reinstatement or replacement being

the additional costs of overtime weekend and shift working plant hire charges express delivery (including air freight) necessarily and reasonably incurred in expediting repair reinstatement or replacement of such Damage provided that the liability of the Insurer shall not exceeding £50,000 in respect of any one occurrence of Damage

G the cost of replacing free issue materials being

materials supplied by the Employer for incorporation into the Constructional Works provided that the value of such materials is included within both the Contract Value and declaration value in accordance with General Memorandum 3 of this insurance

The undernoted provisions apply

Alternative Basis of Settlement

The Insurer's liability shall be limited to the Alternative Basis of Settlement (as defined below)

- i) until the cost of reinstatement has actually been incurred
- ii) if the work of reinstatement is not carried out as quickly as is reasonably practicable
- iii) if in the Schedule it is stated that the Alternative Basis of Settlement applies

Under the Alternative Basis of Settlement the Insurer will pay the cost of reinstatement as defined under paragraph B) above less an appropriate deduction for wear and tear plus the costs under paragraphs A C D E F and G above

Partial Damage

Where Damage occurs to only part of the property the Insurer's liability shall not exceed the amount which the Insurer would have been liable to pay had the property been wholly destroyed

European Community and Public Authorities' Requirements

The Insurer shall not be liable in respect of cost B for any rate tax duty development or other charge or assessment which may arise out of capital appreciation as a result of complying with any of the Stipulations referred to in cost B

Underinsurance

Unless otherwise stated in the Schedule this provision is applicable to any item covering Existing Buildings

If at the time of the Damage the Declared Value (as stated in the Schedule) is less than 85% of the Insurable Amount the Insurer shall only be liable for that proportion of the amount otherwise payable which the Declared Value bears to the Insurable Amount

Declared Value shall mean

the base value shown in brackets below the sum insured but if the loss is settled under the Alternative Basis of Settlement the Declared Value shall be 115% of the base value shown or if no base value is shown it shall be deemed to be the sum insured

Insurable Amount shall mean

the total cost of reinstating the Property Insured (if destroyed) to a condition substantially the same as will exist on completion of the Development (or in the case of an item covering only Existing Buildings to a condition substantially the same as existing at the commencement of the Period of Insurance) at the level of costs applying at the commencement of the Period of Insurance

The total cost referred to shall include the costs of removing debris or complying with European Community and Public Authorities Stipulations and professional fees

In respect of Temporary Buildings Constructional Plant and Hired-In-Property

the Insurer will pay

the value of the property at the time of its loss or destruction or the amount of the damage including the cost of

- i) removing debris
- ii) complying with European Community and Public Authorities Requirements
- iii) professional fees

as stated in costs A C and D above and subject to the provisions and exceptions applying to those costs

The undernoted extension applies

Immobilised Plant

The Insurer will pay the cost of recovery or withdrawal of constructional plant or equipment which is unintentionally immobilised provided that such recovery or withdrawal is not necessitated solely by reason of electrical or mechanical breakdown or derangement

Exclusions applicable to the Property Insurance Section

The indemnity will not apply to

- 1** the costs of
 - A) replacing repairing or rectifying any
 - i) Property Insured which is in a defective condition due to a defect in design plan specification materials or workmanship of such Property Insured or any part thereof
 - ii) Property Insured which is damaged to enable the replacement repair or rectification of Property Insured by i) aboveExclusion 1 A) i) above shall not apply to other Constructional Work which is free of the defective condition but is damaged in consequence thereof
 - B) replacing repairing or rectifying any
 - i) Property Insured which is in a defective condition by reason of wear and tear rust mildew or other gradual deterioration of such Property Insured or any part thereof
 - ii) Property Insured which is damaged to enable the replacement repair or rectification of Property Insured by i) aboveExclusion 1 B) i) above shall not apply to other Constructional Work which is free of the defective condition but is damaged in consequence thereof
 - C) normal upkeep or normal making good
- 2** Damage
 - A) for which the Insured is relieved of responsibility under the conditions of any contractual agreement
 - B) to any item of machinery plant tools or equipment caused by its own breakdown or its own explosion
 - C) to any item of machinery or plant caused by its testing or commissioning but this shall not apply to Damage
 - i) which occurs within 14 days from the start of the testing or commissioningor
 - ii) caused by fire
 - D) to any property in transit which is left unattended within the vicinity of or at the permanent address of the Insured or any of the Insured's employees unless held within a secure compound warehouse or garage
- 3** unexplained disappearance or inventory shortage misfiling or misplacing of information
- 4** penalties under contract for delay or non-completion or consequential loss of any nature whatsoever except as specifically insured
- 5** Damage
 - A) occasioned by pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds
 - B) occasioned by war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection military or usurped power or nationalisation confiscation requisition seizure or destruction by the government or any public authority
 - C) to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss directly or indirectly caused by or contributed to by or arising from
 - i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
 - ii) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

6 This insurance does not cover Damage or loss resulting from Damage occasioned by or happening through or in consequence directly or indirectly of

A) Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss and

B) in Northern Ireland

1) riot or civil commotion

2) strikers locked-out workers or persons taking part in labour disturbances or malicious persons but this shall not apply to damage by fire or explosion

This insurance also excludes Damage or loss resulting from Damage directly or indirectly caused by resulting from or in connection with any action aimed at controlling preventing suppressing or in any way relating to an act of Terrorism

Terrorism shall mean any act including but not limited to the use of force or violence or the threat thereof of any person or group of persons whether acting alone or on behalf of or in connection with any organisation or government committed for political religious ideological or similar purposes including the intention to influence any government or to put the public or any section of the public in fear

In any action suit or other proceedings where the Insurer alleges that by reason of this exclusion any Damage or loss resulting from Damage is not covered by this Policy the burden of proving that such Damage or loss is covered shall be upon the Insured

7 the Insured's Contribution (as shown in the Schedule or any Memorandum) being the first part of each and every loss to be borne by the Insured as ascertained after the application of all other terms and conditions of the insurance

In the event of Damage to property where more than one Insured's Contribution is applicable then only the highest amount shall be deducted

8 Damage caused to the Existing Buildings happening during the Period of Insurance and caused by collapse subsidence heave vibration weakening or removal of support or lowering of ground water arising out of or in the course of or by reason of the carrying out of the Constructional Works

- 9 a) Damage to Data which shall include but shall not be limited to
- i) loss destruction or corruption of Data whether in whole or in part
 - ii) unauthorised appropriation of use of access to or modification of Data
 - iii) unauthorised transmission of Data to any third parties
 - iv) damage arising out of any misinterpretation use or misuse of Data
 - v) damage arising out of any operator error in respect of Data
- b) Damage to the Property Insured arising directly or indirectly from
- i) the transmission or impact of any Virus
 - ii) unauthorised access to a System
 - iii) interruption of or interference with electronic means of communication used in the conduct of the Insured's Business including but not limited to any diminution in the performance of any website or electronic means of communication
 - iv) Failure of a System
 - v) Any of the matters described in paragraph a) above

but this shall not exclude Damage to the Property Insured caused by fire lightning explosion earthquake aircraft or other aerial devices or articles dropped therefrom riot civil commotion except in Northern Ireland strikers locked-out workers persons taking part in labour disturbances storm flood escape of water from any tank apparatus or pipe impact by any road vehicle or animal accidental escape of water from any automatic sprinkler system installation subsidence ground heave or landslip provided that such Damage does not arise by reason of any malicious act or omission or theft

Definitions applicable to Exclusion 9

| | |
|---------------------|---|
| Damage | means for the purposes of this Exclusion accidental loss or destruction of or damage to the Property Insured and any accidental loss or destruction or damage to Data |
| Data | means information represented or stored electronically including but not limited to code or series of instructions operating systems software programs and firmware |
| Failure of a System | means the complete or partial failure or inability whether in terms of availability functionality and/or performance or otherwise of a System whether or not owned by the Insured to operate at any time as desired as specified or as required in the circumstances of the Insured's business activities |
| System | includes computers other computing and electronic equipment linked to computer hardware electronic data processing equipment Microchips and anything which relies on a Microchip for any part of its operation and includes for the avoidance of doubt any computer installation |
| Microchip | a unit of packaged computer circuitry manufactured in small scale and made for program logic and/or computer memory purposes and expressly including integrated circuits and microcontrollers |
| Virus | programming code or series of instructions designed to achieve an unexpected unauthorised and/or undesirable effect or operation when loaded onto a System transmitted between Systems by transfer between computer systems via networks extranets internet or electronic mail or attachments thereto or via floppy diskettes or CD-ROMs or otherwise and whether involving self replication or not |

General Memoranda applicable to the Property Insurance Section

1 Automatic Reinstatement after a Loss

In the absence of written notice by the Insured or the Insurer to the contrary within 30 days of the occurrence of any Damage the Insurer's liability shall not be reduced by the amount of any loss and the Insured shall pay the appropriate additional premium for such automatic reinstatement of cover from the date of the incident to the date of the expiry of the Period of Insurance and any such additional premium will be disregarded for the purposes of any adjustment of premium under General Memorandum 3

2 Cessation of Work

If from any cause work ceases on the site of the Development for a continuous period of 90 days immediate notice in writing must be given to the Insurer with the details of work completed and outstanding and the Insurer on receipt of such notice may at its discretion agree continuation of this insurance at special terms to be agreed

3 Contract Value and Contract Period Declaration

The premium for this insurance being based upon the estimated Contract Value and estimated date of completion the Insured shall upon final completion of the Development declare the actual Contract Value and date of completion and pay any additional premium due

4 Defects Liability (or Maintenance) Period and I.C.E. Standard Conditions of Contract

The Insurer will indemnify the Insured subject to the provisions and exclusions of the Policy for Damage to the permanent works or any part thereof occurring during

- A) any Maintenance or Defects Liability Period not exceeding 12 months duration or as specified in the Schedule but only in respect of Damage for which the Insured is liable arising from a cause occurring prior to the commencement of the maintenance period
- B) a period of 14 days after the Engineer shall have issued a certificate of completion where required under Clause 21 of the Institute of Civil Engineers' Contract Conditions (Fifth Edition) if applicable (or any subsequent revision or substitution thereof)

or for Damage to work actually being undertaken during such maintenance period solely in connection with the Insured's obligations under the Contract to remedy a defect or complete any snagging list and any constructional plant insured under items 4 and 5 for use in connection therewith

5 Joint Code of Practice on the Protection from Fire of Construction Sites etc.

This Memorandum shall apply where the Estimated Contract Value of the Development is greater than or equal to £3,000,000

The Insured undertakes to comply with the Joint Code of Practice on the Protection from Fire of Construction Sites and Buildings Undergoing Renovation dated June 1997 or any subsequent amendment thereto or revised edition thereof current at inception of the policy herein after referred to as The Joint Code

For the purpose of Paragraph 6.3 of the June 1997 edition of The Joint Code any contract having an original contract price in excess of £20m shall be deemed to be a Large Project

The appointed representative of the Insurer shall have the right at all reasonable times to enter and inspect the contract site for the purpose of checking whether the conditions thereon in all respects comply with The Joint Code

In the event of the Insurer becoming aware of a breach of The Joint Code the Insurer may inform the Main/Management Contractor's Construction Site management of the nature of the breach specifying the remedial measures required by the Insurer (the Remedial Measures) and the period within which these must be completed

Where the Insurer considers such a breach is of sufficient importance the Insurer may confirm the same by notice in writing to the Developer and the Main/Management Contractor and the first named party forming the Insured when this is not the Developer or Main/Management Contractor at their respective addresses nominated by the Insured at inception of cover or as subsequently amended

Under the terms of this or any subsequent notice the Insurer may suspend or cancel all cover under the policy from the date named in the notice not being a date earlier than the date named for completion of the Remedial Measures it being understood that upon suspension such cover shall be reinstated when the Insurer is satisfied that the Remedial Measures have been completed Such notice shall be given by registered post recorded delivery facsimile transmission or by hand

This Memorandum shall not in itself be considered a condition precedent to liability but inclusion shall not prejudice waive or remove the rights of the Insurer under the terms of other policy exclusions and conditions

In the event of cancellation only the Insurer agrees to return to the Insured a pro rata proportion of the relevant part of the policy premium

6 Other Interests

The interest in the Property Insured of any party entering into an agreement with the Insured (or any principal of the Insured) is noted in this insurance in respect of that part of the Property Insured to which the agreement relates and to the extent that the agreement requires such interest to be noted

7 Property Away from the Site of Development

Subject to all the provisions and exclusions the cover granted by this insurance is extended to apply to the undernoted Property Insured (in so far as it is not otherwise insured) elsewhere in Great Britain Northern Ireland the Isle of Man the Channel Islands and the Republic of Ireland (other than at any contract site) as indicated below

- A) In respect of the item on Constructional Works materials and equipment whilst
 - i) temporarily stored (but not whilst being worked upon) in a secure compound or warehouse
 - ii) in transit
- B) In respect of the items on Temporary Buildings Constructional Plant and Hired-In-Property
 - i) property (other than mechanically propelled constructional vehicles and plant) whilst stored in a secure compound or warehouse or in transit
 - ii) mechanically propelled constructional vehicles and plant whilst being transported to or from the site of the Development

Under extension A) i) the limit of liability for any one loss is 15% of the sum insured by the item in respect of the Constructional Works or £25,000 (whichever is the less) but this shall not apply where and in so far as it is necessary for the Insured to comply with Clauses 16 and 30 of the JCT Conditions of Contract or Clause 54(3) of the I.C.E. Form of Contract or any equivalent thereof

8 Reinstatement by the Insurer

The Insurer may at its own option reinstate or replace any property which suffers Damage without being bound to reinstate exactly or completely but only as circumstances permit and in reasonably sufficient manner

9 Secondary Contracts

The insurance includes Damage (as insured) in respect of subsequent contracts awarded by the Developer for fitting out or installation of plant or machinery subject to the value of such contracts not exceeding 20% of the Estimated Contract Value of the Development and being included in the declaration of the Contract Value on final completion

10 Series Losses

Where Damage of or to the Property Insured occurs continuously or intermittently during one period of 72 consecutive hours caused by storm tempest flood escape of water or earthquake it shall be deemed to be a single event and therefore constitute one loss for the purpose of the application of the Insured's Contribution

11 Concealed Damage

In the event of Damage to Property Insured by a cause not excluded being discovered after the risk has terminated under any Marine Insurance policy and after proper investigation it is not possible to ascertain whether the cause of such loss or damage happened prior to termination of the marine venture or subsequently the Insurer shall contribute 50 per cent of the properly adjusted claim provided that the Marine Cargo Transportation Insurers also agree to contribute 50 per cent of such adjusted claim to be without prejudice to the subsequent final apportionment of the claim as may be agreed between the Insurer and the Marine Cargo Transportation Insurers

12 Minimisation of Loss Expenses

If upon the happening of any cause not excluded resulting in actual Damage or the threat of imminent Damage to the Property Insured expenses are necessarily and reasonably incurred by or on behalf of the Insured in an attempt to prevent or minimise further Damage arising from that occurrence or to allow execution of the Constructional Works to continue then the Insurer will (subject to the terms of this Section insofar as they can apply) indemnify the Insured in respect of such expenses

Provided that

- i) the liability of the Insurer shall be limited to 10 per cent in respect of any one occurrence of Damage or such larger amounts as the Insurer may in writing approve
- ii) the Insurer shall not be liable for costs and expenses incurred to prevent or minimise further occurrences or happenings of a similar nature

13 Exhibitions and Models

Subject to all the provisions and exclusions the cover granted by this insurance is extended to apply to exhibition display models and similar promotional equipment subject to a limit of £50,000 in respect of any one occurrence of Damage in addition to the Limits of Liability shown in the Schedule under Items 1 and 2 thereof

14 Munitions

Exclusion 5 B) will not apply to Damage from or occasioned by the presence of munitions of war in or about the vicinity of the site of the Development insured hereunder

Provided that the presence of such munitions does not result from a state of war current at the time of such Damage

Income Insurance Section

Definitions applicable to this Section

- 1 Damage** shall mean
physical loss physical destruction or physical damage
- 2 Development Cost** shall mean
the total of all costs of the Development including the costs of site acquisition financing construction selling and overheads
- 3 Property Insured** shall mean
- | | | |
|----------------------|---|---|
| Constructional Works | } | all being the property of the Insured or for which they are responsible at the site of the Development used or for use in connection with the Development |
| Existing Buildings | | |
| Temporary Buildings | | |
| Constructional Plant | | |
| Hired-in Property | | |
- but excluding
- i) property which is more specifically insured
 - ii) deeds bonds bills of exchange promissory notes cash bank notes cheques securities for money and stamps
 - iii) aircraft hovercraft or watercraft or any property therein or thereon
- 4 Development Profit** shall mean
the amount by which the selling price (being the price at which but for the Damage the Development would have been sold at the commencement of the Indemnity Period) exceeds the Development Cost
- 5 Indemnity Period** shall mean
the period of delay in the letting (or sale) of the Development in consequence of the Damage beginning with the date upon which but for the Damage rent would have commenced to be earned (or the sale of the Development would have been completed) and ending not later than the Maximum Indemnity Period (as shown in the Schedule) subject to the Defer Period
- 6 Defer Period**
The Indemnity Period shall not commence until after the Defer Period (being the number of days shown in the Schedule) has elapsed
- 7 Insurable Amount** shall mean
- | | | |
|---|---|---|
| for the purpose of indemnity provision 1) in respect of a delay in the letting of the Development | } | such amount to be proportionately increased if the Maximum Indemnity Period exceeds twelve months |
| - the annual amount of Rent at which but for the Damage the Development would have been fully let | | |
| for the purpose of indemnity provision 2) in respect of a delay in the sale of the Development | | |
- the interest which would be payable for a period of twelve months from the commencement of the Indemnity Period on loans equivalent to the selling price of the Development
- 8 Rent** shall mean
the income (including service charges) which would have been payable to the Insured for accommodation and services to be provided at the Development

The Insurance Provided by the Income Insurance Section

The Insurer will pay to the Insured in accordance with the provisions of the insurance the amount of loss resulting from the interruption or interference if Damage by any cause not excluded occurs at the site of the Development to property comprising the Development or to other property used in connection with its construction and such Damage causes interruption of or interference with the programme for the construction and marketing of the Development

provided that

- 1 payment has been made or liability admitted for the Damage under an insurance covering the interest of the Insured in the property
or
payment would have been made or liability admitted for the Damage but for the operation of a proviso in such insurance excluding liability for losses below a specified amount
- 2 the Insurer's liability in respect of all losses arising out of any one occurrence of Damage shall not exceed in the whole the total sum insured or in respect of any item its sum insured or any other stated limit of liability

The Insurance Provided

In respect of Loss of Rent (or Interest) the Insurer will pay as indemnity any loss as described below unavoidably suffered or reasonably incurred by the Insured solely in consequence of the Damage

- 1 **in respect of a delay in the letting of the Development**
the loss of Rent the amount payable being the actual shortfall in Rent received during the Indemnity Period less any savings in charges or expenses which would have been payable out of the Rent
or
- 2 **in respect of a delay in the sale of the Development**
 - A) the loss relating to the Development Cost the amount payable being
 - i) the additional interest incurred on capital borrowed to finance the Development Cost during the Indemnity Period
 - ii) the investment interest lost by the use of the Insured's own funds to finance the Development Cost during the Indemnity Period
 - B) the loss relating to the Development Profit the amount payable being
 - i) the interest incurred on capital borrowed (solely to offset in whole or part the loss of use of Development Profit) for the purpose of financing other developments during the Indemnity Period
 - ii) the investment interest lost to the Insured during the Indemnity Period on any balance of the Development Profit (after deduction of any capital borrowed as provided for under i))
 - C) the loss in respect of acquisition costs and associated expenses of raising (or extending) the loans referred to in A) and B) the amount payable being the actual amount of such expenditure

In respect of Additional Costs of Construction (Unbuilt Works) in the event of delay in completion of the Development or any part thereof due solely to Damage to the permanent or temporary works the Insurer will pay to the Insured the additional amount by which the actual cost of the permanent or temporary works uncommenced at the date of the Damage shall exceed the cost which would have been incurred had the Damage not occurred provided that such additional amount shall solely relate to the effect of inflation on the cost of materials usage of plant and labour

This item does not include any amount

- A) which would have been incurred irrespective of whether the Damage had occurred
- B) incurred solely to expedite the completion of the Development or any part thereof at an earlier date than would have been attained had the Damage not occurred
- C) incurred in redesigning the permanent and temporary works or any increase in costs as a result of such redesigning
- D) resulting from any delay due to the inability of the Insured to provide sufficient funds for the repair or replacement of the permanent or temporary works suffering Damage
- E) in respect of any
 - i) additional insurance premiums
 - ii) head office management expenses of any contractor or sub-contractor
 - iii) idle time plant and labour costs
 - iv) additional finance charges or legal expenses
 - v) out of sequence working
- F) arising from any other consequential losses not specifically provided for herein
- G) incurred which is excluded elsewhere in the Policy
- H) incurred in respect of alterations additions improvements rectification of defects or faults or elimination of any deficiencies carried out after the occurrence

In respect of Additional Overhead Costs the Insurer will pay in the event of delay in completion of the Development or any part thereof due solely to Damage to the permanent or temporary works to the Insured any additional overhead costs (including additional legal fees marketing letting selling and administration costs) incurred by the Insured

The undernoted provisions apply to Item 1 of the Schedule only

Expediting Costs

The Insurer will also pay any

- A) costs of expediting reconstruction
- B) other additional costs

necessarily and reasonably incurred solely in consequence of the Damage to avoid or minimise the loss otherwise payable but excluding any costs which can be covered by any other item of this insurance

Income from other Developments

If because of the Damage delaying completion of the Development the Insured shall let or sell other developments or premises the loss payable shall be reduced by the amounts of

- A) Rent received
- B) savings in interest payable
- C) interest earned (or which could have been earned) on the balance of the sale proceeds after repayment of capital borrowed

which accrue to the Insured's benefit during the Indemnity Period in consequence of the Damage

Maximum Interest Rate

The assessment of the loss in respect of interest shall be at a rate of not more than 4% above the London Interbank Offered Rate applying during the Indemnity Period

Underinsurance

If the Sum Insured by Item 1 of the Schedule is less than 85% of the Insurable Amount the Insurer's liability for any loss shall be limited to that proportion of the amount otherwise payable which the Sum Insured bears to the Insurable Amount

Exclusions applicable to the Income Insurance Section

This insurance does not cover loss resulting from

- 1** A) replacing repairing or rectifying any
- i) Property Insured which is in a defective condition due to a defect in design plan specification materials or workmanship of such Property Insured or any part thereof
 - ii) Property Insured which is damaged to enable the replacement repair or rectification of Property Insured by i) above

Exclusion 1 A) i) above shall not apply to other Constructional Work which is free of the defective condition but is damaged in consequence thereof

- B) replacing repairing or rectifying any
- i) Property Insured which is in a defective condition by reason of wear and tear rust mildew or other gradual deterioration of such Property Insured or any part thereof
 - ii) Property Insured which is damaged to enable the replacement repair or rectification of Property Insured by i) above

Exclusion 1 B) i) above shall not apply to other Constructional Work which is free of the defective condition but is damaged in consequence thereof

- C) normal upkeep or normal making good

2 Damage

- A) to any item of machinery plant tools or equipment caused by its own breakdown or its own explosion
- B) to any item of machinery or plant caused by its testing or commissioning but this shall not apply to Damage
- i) which occurs within 14 days from the start of the testing or commissioning
 - or
 - ii) caused by fire
- C) to any property in transit which is left unattended within the vicinity of or at the permanent address of the Insured or any of the Insured's employees unless held within a secure compound warehouse or garage

3 unexplained disappearance or inventory shortage misfiling or misplacing of information

4 penalties under contract for delay or non-completion or consequential loss of any nature whatsoever except as specifically insured

5 Damage

- A) occasioned by pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds
- B) occasioned by war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection military or usurped power or nationalisation confiscation requisition seizure or destruction by the government or any public authority
- C) occasioned by or happening through or occasioning loss or destruction of or Damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss directly or indirectly caused by or contributed to by or arising from
- i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
 - ii) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

6 This insurance does not cover Damage or loss resulting from Damage occasioned by or happening through or in consequence directly or indirectly of

- C) Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss and
- D) in Northern Ireland
- 3) riot or civil commotion
- 4) strikers locked-out workers or persons taking part in labour disturbances or malicious persons but this shall not apply to damage by fire or explosion

This insurance also excludes Damage or loss resulting from Damage directly or indirectly caused by resulting from or in connection with any action aimed at controlling preventing suppressing or in any way relating to an act of Terrorism

Terrorism shall mean any act including but not limited to the use of force or violence or the threat thereof of any person or group of persons whether acting alone or on behalf of or in connection with any organisation or government committed for political religious ideological or similar purposes including the intention to influence any government or to put the public or any section of the public in fear

In any action suit or other proceedings where the Insurer alleges that by reason of this exclusion any Damage or loss resulting from Damage is not covered by this Policy the burden of proving that such Damage or loss is covered shall be upon the Insured

- 7**
- a) Damage to Data which shall include but shall not be limited to
 - i) loss destruction or corruption of Data whether in whole or in part
 - ii) unauthorised appropriation of use of access to or modification of Data
 - iii) unauthorised transmission of Data to any third parties
 - iv) damage arising out of any misinterpretation use or misuse of Data
 - v) damage arising out of any operator error in respect of Data
 - b) Damage to the Property Insured arising directly or indirectly from
 - i) the transmission or impact of any Virus
 - ii) unauthorised access to a System
 - iii) interruption of or interference with electronic means of communication used in the conduct of the Insured's Business including but not limited to any diminution in the performance of any website or electronic means of communication
 - iv) Failure of a System
 - v) Any of the matters described in paragraph a) above

but this shall not exclude Damage to the Property Insured caused by fire lightning explosion earthquake aircraft or other aerial devices or articles dropped therefrom riot civil commotion except in Northern Ireland strikers locked-out workers persons taking part in labour disturbances storm flood escape of water from any tank apparatus or pipe impact by any road vehicle or animal accidental escape of water from any automatic sprinkler system installation subsidence ground heave or landslip provided that such Damage does not arise by reason of any malicious act or omission or theft

Definitions applicable to Exclusion 7

| | |
|---------------------|---|
| Damage | means for the purposes of this Exclusion accidental loss or destruction of or damage to the Property Insured and any accidental loss or destruction or damage to Data |
| Data | means information represented or stored electronically including but not limited to code or series of instructions operating systems software programs and firmware |
| Failure of a System | means the complete or partial failure or inability whether in terms of availability functionality and/or performance or otherwise of a System whether or not owned by the Insured to operate at any time as desired as specified or as required in the circumstances of the Insured's business activities |
| System | includes computers other computing and electronic equipment linked to computer hardware electronic data processing equipment Microchips and anything which relies on a Microchip for any part of its operation and includes for the avoidance of doubt any computer installation |
| Microchip | a unit of packaged computer circuitry manufactured in small scale and made for program logic and/or computer memory purposes and expressly including integrated circuits and microcontrollers |
| Virus | programming code or series of instructions designed to achieve an unexpected unauthorised and/or undesirable effect or operation when loaded onto a System transmitted between Systems by transfer between computer systems via networks extranets internet or electronic mail or attachments thereto or via floppy diskettes or CD-ROMs or otherwise and whether involving self replication or not |

General Memoranda applicable to the Income Insurance Section

1 Automatic Reinstatement after a Loss

In the absence of written notice by the Insured or the Insurer to the contrary within 30 days of the occurrence of any Damage the Insurer's liability shall not be reduced by the amount of any loss and the Insured shall pay the appropriate additional premium for such automatic reinstatement of cover

2 Professional Accountants Charges

The Insurer will pay the reasonable charges payable by the Insured to their professional accountants for producing information required by the Insurer under the terms of the Claims Conditions and for reporting that such information is in accordance with the Insured's accounts

Extensions applicable to the Income Insurance Section

1 Damage to Other Property including Prevention of Access

The insurance is extended to include loss as insured resulting from

- A) Damage in Great Britain Northern Ireland the Isle of Man and the Channel Islands (other than at any site of the Development or at the premises of any of the Insured's suppliers manufacturers or processors of components goods or materials) to
 - i) a) materials and equipment to be incorporated in the Development whilst temporarily stored in a secure compound or warehouse or in transit (but excluding transit by sea unless otherwise accepted in writing by the Insurer)
 - b) temporary buildings and constructional plant (including such property hired-in) other than mechanically propelled constructional vehicles and plant whilst temporarily stored in a secure compound or warehouse or in transit (but excluding transit by sea unless otherwise accepted in writing by the Insurer)
 - c) mechanically propelled constructional vehicles and plant whilst being transported to or from the site of the Development (but excluding transit by sea unless otherwise accepted in writing by the Insurer)
 - ii) any premises occupied by the Insured solely as offices
 - iii) any premises occupied solely as offices by any contractor or professional firm engaged by the Insured in connection with the design construction letting or sale of the Development
- B) Damage to any phase or other part of the Development which is not the subject of this insurance
- C) prevention or hindrance of access to or use of the Development in consequence of Damage to property in the vicinity of the Development

provided that the Insurer's liability after the application of all other terms and conditions of the insurance shall not exceed in respect of any one occurrence 20% of the Sum Insured by Item 1 or £250,000 whichever is the less

2 Unspecified Suppliers

The insurance is extended to include loss as insured resulting from Damage at the premises of any of the Insured's suppliers manufacturers or processors of components goods or materials but excluding the premises of any supply undertaking from which the Insured obtains electricity gas or water provided that the Insurer's liability after the application of all other terms and conditions of the insurance shall not exceed in respect of any one occurrence 5% of the Sum Insured by Item 1 or £250,000 whichever is the less (unless otherwise stated in the Schedule)

3 Failure of Utilities

In respect of the insurance by this Section the term Damage is extended to include the failure of the public supply of

- a) electricity at the terminal ends of the supply authority's service feeders at the Development
- b) gas at the supply authority's meters at the Development
- c) water at the supply authority's main stop cock serving the Development

by any accidental cause other than the deliberate act of any supply authority or by any such authority exercising its power to withhold or restrict supply or by drought

provided that the Indemnity Period shall not begin until 24 hours after the commencement of the failure of supply and that the Insurer's liability after the application of all other terms and conditions of the insurance shall not exceed in respect of any one occurrence 5% of the Sum Insured by Item 1

4 Denial of Access (Non-Damage)

The insurance includes loss as insured caused by prevention or hindrance of access to the Development or prevention of use of the Development in consequence of any property or rights of way in the immediate vicinity of the Development being

- A) occupied by terrorists or persons thought to be terrorists
- B) unlawfully occupied by third parties except in the course of a dispute between any employer and employee or group of workers
- C) thought to contain or actually containing a harmful device provided that the police are immediately informed
- D) closed down or sealed off in accordance with instructions issued by the police or by any other statutory body except where the cause of such closure or sealing off is
 - i) the condition of the Development or the business carried on within the Development
 - ii) the Insured's non compliance with a prior order of the police or any statutory body
 - iii) action taken as a result of drought or diseases or other hazards to health

provided that

- a) the Insurer shall not be liable for
 - i) loss arising from any cause within the control of the Insured
 - ii) loss which is the direct result of repairs or maintenance being carried out to property as a result of inherent defect or wear and tear
 - iii) any incident involving prevention or hindrance of access or use for less than 24 hours duration
- b) for the purposes of this extension only the Indemnity Period shall mean:
 - the maximum period from the date of the Damage for which the Insurer shall be liable to pay any loss such period being three months
- c) the Insurer's liability after the application of all other terms and conditions of the insurance shall not exceed in respect of any one occurrence 5% of the Sum Insured by Item 1 or £100,000 whichever is the less

Public Liability Insurance Section

Definitions applicable to this Section

1 Person Entitled to Indemnity shall mean

- A) the Insured
- B) the personal representatives of the Insured in respect of legal liability incurred by the Insured
- C) at the request of the Insured
 - i) any principal
 - ii) any director or partner of the Insured
 - iii) any Person Employed

against legal liability in respect of which the Insured would have been entitled to indemnity under this Policy if the claim had been made against the Insured

- iv) the officers committees and members of the Insured's canteen social sports and welfare organisations and first aid fire ambulance and security services in their respective capacities as such but this shall not include medical or dental practitioners in relation to medical services provided

each of whom shall as though the Insured be subject to the terms of this Policy so far as they can apply

2 Employee shall mean

any individual under a contract of service or apprenticeship with the Insured

3 Person Employed shall mean

any

- A) Employee
 - B) labour master and individuals supplied by him
 - C) individual employed by labour only sub-contractors
 - D) self employed individual (not being in partnership with the Insured)
 - E) individual hired to or borrowed by the Insured
 - F) individual undertaking study or work experience while under the supervision of the Insured
- } while under the direct control and supervision of the Insured

4 Injury shall mean

bodily injury mental injury death disease illness wrongful arrest or false imprisonment

5 Property shall mean

material property but shall not include Data

6 Data shall mean

information represented or stored electronically including but not limited to code or series of instructions operating systems software programs and firmware

7 Business shall mean

Completion of the Development stated in the Schedule including

- A) ownership repair and maintenance of the Insured's own property
- B) provision and management of canteen social sports and welfare organisations for the benefit of any Person Employed and first aid fire and ambulance services

The Business is conducted at or from premises in Great Britain Northern Ireland the Channel Islands or the Isle of Man

8 Event shall mean

one occurrence or all occurrences of a series consequent on or attributable to one source or original cause

9 Insured's Contribution shall mean

the amount or amounts specified in the Schedule which the Insured agrees to pay

- 10 Asbestos** shall mean
crocidolite amosite chrysotile fibrous actinolite fibrous anthrophyllite or fibrous tremolite or any mixture containing any of those minerals
- 11 Asbestos Dust** shall mean
fibres or particles of Asbestos
- 12 Asbestos Containing Materials** shall mean
any material containing Asbestos or Asbestos Dust

The Insurance Provided by the Public Liability Insurance Section

The Insurer will provide indemnity to any Person Entitled to Indemnity

- 1 up to the Limit of Indemnity against legal liability for damages in respect of
 - A) accidental Injury of any person
 - B) accidental loss of or damage to Property
 - C) nuisance trespass to land or trespass to goods or interference with any easement right of air light water or way other than legal liability for damages which result from a deliberate act or omission of the Insured or which is a natural consequence of the ordinary conduct of the Business and which could reasonably have been expected by the Insured having regard to the nature and circumstances of such act or omission happening during any Period of Insurance in connection with the Business
- 2 against legal liability for claimant's costs and expenses in connection with 1 above
- 3 in respect of
 - A) costs of legal representation at
 - i) any coroner's inquest or inquiry in respect of any death
 - ii) proceedings in any court arising out of any alleged breach of statutory duty resulting in any occurrence specified in 1 above which may be the subject of indemnity under this Section
 - B) all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under 1 above incurred with the Insurer's written consent

Provided that in respect of

- A) any one Event
- B) all Events happening during any Period of Insurance in respect of products supplied
- C) all incidents considered by the Insurer to have occurred during any Period of Insurance in respect of pollution or contamination of buildings or other structures or of water or land or of the atmosphere

the following shall apply

- 1 the total amount payable by the Insurer in respect of 1 above and all Extensions and Memoranda shall not exceed the Limit of Indemnity
- 2 the Insured's Contribution in respect of damages and claimant's costs and expenses will be payable before the Insurer shall be liable to make any payment
- 3 the Insurer may at any time pay the Limit of Indemnity (less any sums already paid as damages) or any less amount for which at the absolute discretion of the Insurer the claims arising out of such Event can be settled The Insurer will then relinquish control of such claims and be under no further liability in respect thereof except for costs and expenses for which the Insurer may be responsible prior to the date of such payment
- 4 if the Insured described in the Schedule comprises more than one insured party each operating as a separate and distinct entity then cover hereunder shall apply in the same manner and to the same extent as if individual policies had been issued to each Insured party

Provided that the total liability of the Insurer to all of the Insured parties collectively shall not exceed the Sums Insured and Limits of Indemnity including any inner limits set up by memorandum or endorsement stated in the policy

It is understood and agreed that any payment or payments by the Insurer to any one or more such Insured parties shall reduce to the extent of that payment the Insurer's liability to all such parties arising from any one event giving rise to a claim under this policy

Exclusions applicable to the Public Liability Insurance Section

The indemnity will not apply to legal liability

- 1 arising from or out of the ownership possession or use by or on behalf of the Insured or any Person Entitled to Indemnity of any
 - A) mechanically propelled vehicle other than legal liability arising out of
 - i) the use of plant as a tool of trade on site
 - ii) the use of plant at the premises of the Insured
 - iii) the loading or unloading of any vehicle
except where indemnity is provided by any motor insurance contract or where insurance or security is required by law
 - B) aircraft or other aerial device
 - C) aerospace device
 - D) hovercraft
 - E) water-borne craft (other than hand-propelled or sailing craft in inland or territorial waters)
- 2 for bodily injury or mental injury to or death disease or illness of any Person Employed arising out of and in the course of employment by the Insured in the Business
- 3 for or arising from loss of or damage to any Property which at the time of the Event giving rise to such legal liability is owned by or held in trust by or in the custody or control of the Insured other than
 - A) Employees' directors' partners' or visitors' personal effects including vehicles and their contents
 - B) premises and their contents not owned by or leased or rented to the Insured at which the Insured is undertaking work in connection with the Business
 - C) premises and their fixtures and fittings leased or rented to the Insured unless such legal liability
 - i) has been accepted by agreement in which case the indemnity will only be provided to the extent that such liability would have attached in the absence of such agreement
 - ii) arises from an agreement to maintain in force insurance in respect of loss of or damage to such premises and their fixtures and fittings
- 4 caused by or arising out of pollution or contamination of buildings or other structures or of water or land or the atmosphere unless the pollution or contamination is caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific moment in time and place during any Period of Insurance
Provided that all pollution or contamination which arises out of one incident shall be considered by the Insurer for the purposes of this Policy to have occurred at the time such incident takes place
- 5
 - A) in respect of loss of or damage to any
 - i) product supplied
 - ii) contract work executed } by the Insured
caused by any defect therein or the unsuitability thereof for its intended purpose
 - B) for the costs of recall removal repair alteration replacement or reinstatement of any
 - i) product supplied
 - ii) contract work executed } by the Insured
necessitated by any defect therein or the unsuitability thereof for its intended purpose
- 6 arising from or in connection with
 - A) advice
 - B) design
 - C) specification } provided for a fee
- 7 arising from or in connection with any
 - A) product supplied
 - B) contract work executed } by the Insured
where such legal liability has been accepted by agreement except to the extent that such liability would have attached in the absence of such agreement

- 8** for the costs of remedying
- A) any defect or alleged defect
 - B) the presence of Asbestos Asbestos Dust or Asbestos Containing Materials in premises disposed of by the Insured
- 9** for mental injury or fear of suffering bodily injury death disease or illness arising out of actual or suspected exposure to Asbestos Asbestos Dust or Asbestos Containing Materials
- 11** for the costs of management (including those of any persons under any statutory duty to manage) removal repair alteration recall replacement or reinstatement of any property or part thereof arising out of the presence of Asbestos Asbestos Dust or Asbestos Containing Materials
- 12** for
- A) fines or penalties
 - B) compensation ordered or awarded by a court of criminal jurisdiction
 - C) aggravated exemplary or punitive damages awarded by any court outside Great Britain Northern Ireland the Channel Islands or the Isle of Man
- 13** of whatsoever nature directly or indirectly caused by or contributed to by or arising from
- A) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
 - B) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
- 14** arising from any consequence of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power

Extensions applicable to the Public Liability Insurance Section

1 Compensation for Court Attendance

In the event of any of the undermentioned persons attending court as a witness at the request of the Insurer in connection with a claim in respect of which the Insured is entitled to indemnity under this Section the Insurer will provide compensation to the Insured at the following rates per day for each day on which attendance is required

- A) any director or partner of the Insured £500
- B) any Employee £250

2 Contingent Motor Liability

Notwithstanding Exclusion 1A) the Insurer will provide indemnity to the Insured against legal liability arising out of the use in the course of the Business by any Employee of any mechanically propelled vehicle not the property of nor provided by the Insured

The indemnity will not apply to legal liability

- A) in respect of loss of or damage to such vehicle or to property conveyed therein
- B) arising while such vehicle is being driven by the Insured
- C) in respect of which the Insured is entitled to indemnity under any other insurance
- D) arising elsewhere than in Great Britain Northern Ireland the Channel Islands or the Isle of Man

3 Cross Liabilities

If the Insured comprises more than one party the Insurer will provide indemnity to each in the same manner and to the same extent as if a separate Policy had been issued to each

Provided that the total amount payable in respect of damages shall not exceed the Limit of Indemnity

4 Data Protection Act 1998 or equivalent Channel Islands' laws

The Business shall include the provision of any reciprocal arrangement for the storage or processing of computer data or for use of computer facilities

Provided that the indemnity will not apply to legal liability in respect of any loss or damage sustained by any party to such an arrangement

The Insurer will also provide an indemnity to the Insured and if the Insured so requests any Employee or director or partner of the Insured against legal liability to pay damages and claimant's costs and expenses for damage or distress as described in Section 13 of the Data Protection Act 1998 or any equivalent Channel Islands' laws

Provided that the Insured is registered in accordance with the terms of the Act or has applied for such registration which has not been refused or withdrawn and has taken all reasonable care to comply with the requirements of the Data Protection Act 1998 or any equivalent Channel Islands' laws

This Extension shall not apply in respect of

- A) the payments of fines or penalties
- B) the costs of replacing reinstating rectifying or erasing blocking or destroying any personal data
- C) liability arising from or caused by a deliberate or intentional act by or omission of any person eligible for indemnity by this Extension if the result thereof could reasonably have been expected by the Insured or any other person having regard to the nature and circumstances of such act or omission
- D) claims which arise out of circumstances notified to previous insurers or known to the Insured at inception of this Extension
- E) legal liability where indemnity is provided by any other insurance

5 **Overseas Personal Liability**

The Insurer will provide indemnity to the Insured and if the Insured so requests any Employee or director or partner of the Insured against legal liability incurred in a personal capacity while temporarily outside Great Britain Northern Ireland the Channel Islands or the Isle of Man in connection with the Business

The indemnity will not apply

- A) to legal liability arising out of the ownership or occupation of land or buildings
- B) where indemnity is provided by any other insurance

Conditions applicable to the Public Liability Insurance Section

- 1 Observance of the terms of this section relating to anything to be done or complied with by the Insured is a condition precedent to any liability of the Insurer
- 2 The Insured shall give to the Insurer immediate written notice with full particulars of any occurrence which may give rise to a claim (regardless of the Insured's Contribution)
- 3 Every letter claim writ summons and process in connection with such occurrence shall be forwarded to the Insurer immediately on receipt
- 4 Written notice shall also be given by the Insured to the Insurer immediately the Insured shall have knowledge of any prosecution inquest or inquiry in connection with any occurrence which may give rise to liability under this insurance
- 5 No admission offer promise payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Insurer which shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any claim or to prosecute any claim in the name of the Insured for its own benefit and shall have full discretion in the conduct of any proceedings and in the settlement of any claim
- 6 The Insured shall give all such assistance as the Insurer may require

Legal Defence Costs Insurance Section

The Insurer will provide indemnity to the Insured and if the Insured so requests any Employee or director or partner of the Insured up to the Limit of Indemnity in respect of

- A) legal costs and other expenses incurred with the Insurer's written consent
- B) costs awarded against the Insured or any director partner or Person Employed

in connection with the defence of criminal proceedings brought or in appeal against a conviction arising from such proceedings relating to an offence alleged to have been committed during the Period of Insurance in the course of the Business but only in respect of proceedings brought as stated below

In respect of a breach of

- 1** the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 or any equivalent Channel Islands' laws where the proceedings relate to the health safety and welfare of any person other than a Person Employed director or partner of the Insured
- 2** Part II of the Consumer Protection Act 1987 or any equivalent Channel Islands' laws

Provided that

- 1** the indemnity will not apply
 - A) to fines or penalties of any kind
 - B) to compensation ordered or awarded by a Court of Criminal Jurisdiction
 - C) where Injury of any person or loss of or damage to Property has occurred
 - D) where indemnity is provided by any other insurance
 - E) to proceedings consequent upon any deliberate act or omission by
 - i) the Insured
 - ii) any partner or director of the Insured
 - iii) any Employee with any specific responsibility for compliance with the legislation specified in this Section which could reasonably have been expected to constitute a breach of the legislation specified in this Section
- 2** the indemnity will apply only where shown in the Schedule
- 3** the Insurer may at any time pay the Limit of Indemnity (less any sums already paid) or any less amount for which at the absolute discretion of the Insurer the claims arising can be settled but including any amount for which the Insurer may be responsible prior to the date of such payment The Insurer will then relinquish control of such claims and be under no further liability in respect thereof
- 4** if the Insured described in the Schedule comprises more than one insured party each operating as a separate and distinct entity then cover hereunder shall apply in the same manner and to the same extent as if individual policies had been issued to each Insured party

Provided that the total liability of the Insurer to all of the Insured parties collectively shall not exceed the Sums Insured and Limits of Indemnity including any inner limits set up by memorandum or endorsement stated in the policy

It is understood and agreed that any payment or payments by the Insurer to any one or more such Insured parties shall reduce to the extent of that payment the Insurer's liability to all such parties arising from any one event giving rise to a claim under this Policy

- 5 The indemnity will not apply to proceedings which result directly or indirectly by or arises out of the Failure of a System
Definitions applicable to Exclusion 5

For the purposes of this Exclusion

- A. Failure of a System means the failure or inability of a System (whether or not owned by the Insured)
 - 1) correctly to recognise or utilise any data concerning a date (whether a date in the Year 2000 or any other date) as being such calendar date as the data is intended to represent
 - 2) to operate as a result of any command programmed into the System utilising any date (whether a date in the Year 2000 or any other date)
- B. System includes computers other computing and electronic and mechanical equipment linked to a computer hardware software programs data electronic data processing equipment Microchips and anything which relies on a Microchip for any part of its operation
- C. Microchip includes integrated circuits and microcontrollers

JCT Clause 21.2.1 (or equivalent) Insurance Section

Definitions applicable to this Section

- 1 **Insured's Contribution** shall mean
The amount or amounts specified in the Schedule which the Insured agrees to pay
- 2 **Works** shall mean
All work executed or to be executed in respect of the Development except in so far as any part or parts thereof are the subject of a practical completion certificate
- 3 **Period of Insurance** shall mean
The period of Insurance shown in the Schedule plus the maintenance or defects liability period also as shown in the Schedule

The Insurance Provided by the JCT Clause 21.2.1 (or equivalent) Insurance Section

The Insurer will indemnify the Insured in respect of any expense liability loss claim or proceedings which the Employer may incur or sustain by reason of injury or damage to any property happening during the Period of Insurance and caused by collapse subsidence heave vibration weakening or removal of support or lowering of ground water arising out of or in the course of or by reason of the carrying out of the Works

Provided that in respect of

- A) any one occurrence
- B) all incidents considered by the Insurer to have occurred during the Period of Insurance in respect of pollution or contamination of buildings or other structures or of water or land or of the atmosphere
- 1 the Insured's Contribution will be payable before the Insurer shall become liable to make any payment
- 2 the liability of the Insurer shall not exceed the Limit of Indemnity in respect of any one occurrence or all occurrences of a series consequent on or attributable to one source or original cause but the Insurer will in addition pay all costs and expenses incurred with its written consent in the defence investigation or settlement of any claim
- 3 in connection with any claim or claims against the Insured the Insurer may at any time pay to the Insured the Limit of Indemnity (after deduction of any sums already paid other than for costs and expenses) or any less amount for which such claim or claims can be settled and the Insurer shall thereupon relinquish the control of such claim or claims and be under no further liability in connection therewith except for costs and expenses for which the Insurer may be responsible in matters prior to the date of such payment
- 4 if the Insured described in the Schedule comprises more than one insured party each operating as a separate and distinct entity then cover hereunder shall apply in the Same manner and to the same extent as if individual policies had been issued to each Insured party

Provided that the total liability of the Insurer to all of the Insured parties collectively shall not exceed the Sums Insured and Limits of Indemnity including any inner limits set up by memorandum or endorsement stated in the policy

It is understood and agreed that any payment or payments by the Insurer to any one or more such Insured parties shall reduce to the extent of that payment to the Insurer's liability to all such parties arising from any one event giving rise to a claim under this policy

Exclusions applicable to the JCT Clause 21.2.1 (or equivalent) Insurance Section

The indemnity will not apply

- 1** in respect of injury or damage
 - A) caused by the negligence omission or default of the contractor his servants or agents or of any sub-contractor his servants or agents
 - B) attributable to errors or omissions in the designing of the Works
 - C) which can reasonably be foreseen to be inevitable having regard to the nature of the work to be executed or the manner of its execution
 - D) for which cover is provided under any other insurance effected for the benefit of the Insured singly or jointly
 - E) which is the responsibility of the Employer under clause 22C.1 of the JCT Standard Form of Building Contract (1980 Edition) or any equivalent thereof
- 2** in respect of damage to the Works or to property of any kind brought on to the site of the Development for the purpose of the execution of the Development
- 3** in respect of any costs or expenses incurred by the Employer or any other sums payable by the Employer in respect of damages for breach of contract except to the extent that such costs or expenses or damages would have attached in the absence of such contract
- 4** in respect of any expense liability loss claim or proceedings by reason of injury or damage to property directly or indirectly caused by or arising out of pollution or contamination of buildings or other structures or of water or land or the atmosphere unless the pollution or contamination is caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific moment in time and place during any Period of Insurance

Provided that all pollution or contamination which arises out of one incident shall be considered by the Insurer for the purposes of this Policy to have occurred at the time such incident takes place
- 5** in respect of damage to property directly occasioned by pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds
- 6** to any expense liability loss claim or proceedings of whatsoever nature directly or indirectly caused by or contributed to by or arising from
 - A) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
 - B) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
- 7** in respect of any consequence of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power

Conditions applicable to the JCT Clause 21.2.1/19(2)(a) (or equivalent) Insurance Section

- 1** The Insured shall give to the Insurer immediate written notice with full particulars of any occurrence which may give rise to a claim (regardless of the Insured's Contribution)
- 2** The Insured shall forward to the Insurer every letter writ summons and process in connection with such occurrence immediately on receipt
- 3** The Insured shall give written notice to the Insurer immediately the Insured has knowledge of any prosecution in connection with any occurrence which may give rise to liability under this insurance
- 4** No admission offer promise payment or indemnity shall be made or given by or on behalf of the Insured singly or jointly without the written consent of the Insurer
- 5** The Insurer shall (in the name of the Insured singly or jointly) be entitled to take over and conduct the defence or settlement of any claim or to prosecute any claim for its own benefit and shall have full discretion in the conduct of any proceedings and in the settlement of any claim
- 6** The Insured shall give all such assistance as the Insurer may require
- 7** There shall be no material deviation from the working methods advised to the Insurer without prior notification to and acceptance by the Insurer
- 8** In the event of any loss or damage as insured under this Policy the Insured shall without delay cease the operation causing or which may be causing the loss or damage until the Insurer has approved in writing the resumption of such activities



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