

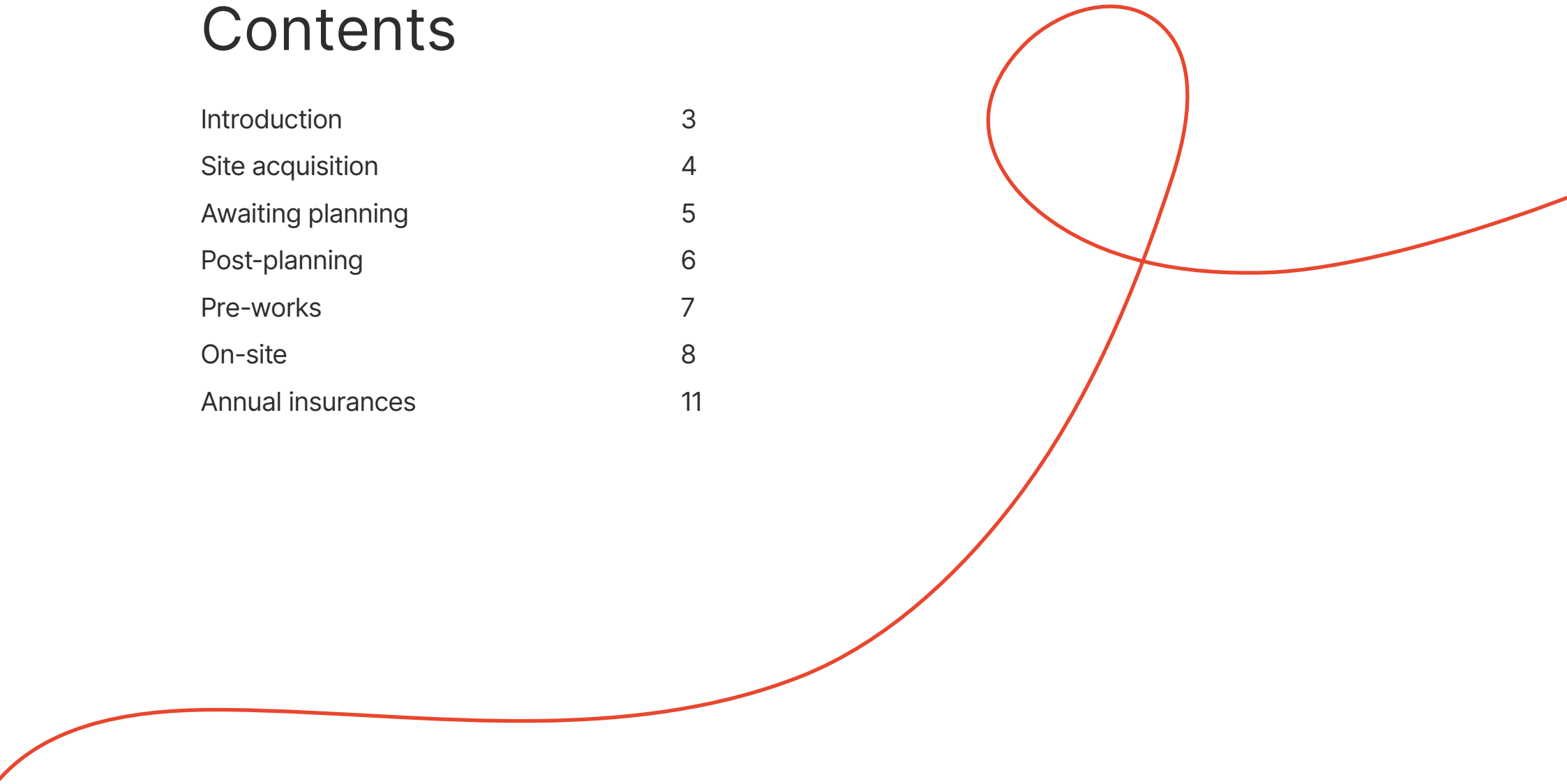


Real Estate Acquisitions, Development and Investments

A Simple Guide to the Insurance Options
and the Thomas Carroll Difference

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This document is intended to educate, support, advise and act as a starting point for understanding the risks and available insurance options for the various parties within a development, acquisition or investment.

Every real estate or construction professional's overarching goal is to deliver on time, on budget, and with efficient execution.

To aid this process, our experienced team specialise in providing individual and specialised advice to mitigate risk and protect your assets and liabilities regardless of where you sit in the contractual chain.

We like a challenge and are comfortable with the complex and unique to enable your ideas, visions and plans to come to life.

Our goal is to provide you and your stakeholders with peace of mind, clarity and insurance protection that performs in the manner expected should it be called upon.

We would welcome you to use this document as an aide memoire on your desktop or internal folder, and to share it with your colleagues and trusted connections.

STAGE

Site acquisition

Insurance product

Legal Indemnities (LI)

Including but not limited to:

- » Defective Title
- » Judicial Review
- » Restrictive Covenants
- » Absence of Easement
- » Mines & Minerals
- » Lack of Searches
- » Planning/Building Regulations

Overview of cover

During the property due diligence process and as part of your plan to purchase or commit to a site, property or project, you may find that you identify a potential legal concern relating to the title deeds. Depending on your findings, these risks can be reduced through a range of potential insurance policies.

There are a breadth of potential policies for a range of circumstances with the majority providing cover on an in-perpetuity basis and extended to include successors in title (a lender(s), lessees and other interested parties who might suffer a loss).

Why choose Thomas Carroll

We have a specialist Legal Indemnity team with a varied background in legal practice, engineering and underwriting. This enables us to understand the requirements of all stakeholders involved in a transaction and their individual needs.

For complex transactions and risks, we negotiate best and bespoke terms from across the market whether on a single project or across a portfolio. For simpler risks on existing-use projects, our online platform provides a rapid response.

Cover can be sought at any stage in the transaction, including either pre or post planning.



STAGE

Awaiting planning

Insurance product

Overview of cover

Property Owners' Liability

Provides cover for your legal liability to pay compensation and claimants' costs and expenses in respect of accidental third-party injury or damage caused and arising out of your ownership of your land.

This may include liability owed to trespassers, visitors and those in proximity caused by slips, trips and falls or hazards within the boundary of your land.

Why choose Thomas Carroll

We work with you to understand the risks pertaining to a particular site and then approach a variety of A-rated insurers to provide terms on a basis that suits the individual circumstances (whether short-term, standalone, annual or over a portfolio of sites)

STAGE

Post-planning

Insurance product

Overview of cover

Right to Light Insurance

A right to light is an easement granted to all properties that have received natural daylight for more than 20 years. It guarantees landowners their qualifying buildings will continue to receive natural light. If not, they will be awarded compensation for their buildings' loss of light. A Right to Light policy will save time, cover a developer's legal costs, settlements, injunction costs and other associated costs, such as abortive costs and diminution in value.

Why choose Thomas Carroll

We work alongside your surveyor to create a bespoke solution, based on the findings of their report. We have superb relationships with the leading insurers in the market enabling us to negotiate the best terms and offer expert advice as required.

Cover can be sought pre or post planning on either a wait and see basis (with or without an excess) or on a Proactive or Reactive Negotiation basis which would be driven by the appetite of all parties. Cover can also be sought on an envelope basis if firm plans are not in place, a two-stage basis with varying triggers and policies can be extended for additional losses such as delay costs and loss of revenue.



STAGE

Pre-works

Insurance product

Overview of cover

Latent Defects Insurance (LDI) and/or Structural Warranties

Latent Defects Insurance (LDI) or a Structural Warranty are interchangeable terms for broadly the same thing, a building warranty.

A building warranty provides first party protection for building defects that occur post-completion for a period up to 10 or 12 years.

The policy is for the benefit of the building so there is no requirement to establish negligence which is a major benefit and increases saleability.

For a residential asset that will be sold, a warranty will be a necessity if a purchaser or purchasers are to seek to mortgage or lend against the asset.

For a commercial asset, it may be a lending requirement or seen to be crucial to adding an additional layer of protection to a newly built property.

Bonds

Including:

- » Surety Bonds
- » Performance Bonds
- » Road and Sewer Bonds
- » Advance Payment Bonds

A bond is a guarantee, issued by a third party in favour of the beneficiary, that the contractual obligations of the principal will be fulfilled. Not a contract insurance, though it does provide financial protection for the beneficiary against loss if the principal breaches contract and does not discharge damages.

Why choose Thomas Carroll

Our Chartered status should give you the comfort that we have the necessary technical expertise. We have extensive experience in ensuring the needs of our clients and the wider stakeholders within a proposed project are met.

The financial stability and longevity of the chosen insurer or provider is paramount given the term of the policy being procured. We have a strong grasp of which providers to approach depending on the type and size of the project.

Moreover, unlike dealing directly with a building warranty provider, we can source whole of market, which means we are able to provide you with options to help achieve the best available terms and cover for your project.

We are entirely comfortable with the review and drafting of insurance clauses / requirements to ensure the legal wordings and insurance provisions dovetail.

With access to a wide range of surety providers, Thomas Carroll has an in-depth knowledge and understanding of the market and their appetite.

We understand the detail required and how this should be presented in order to obtain a proposal.

Cover will be suitable for your needs and meet all third-party requirements whether that is the lender or the local authority.

STAGE

On-site

Insurance product

Overview of cover

Why choose Thomas Carroll

Contractors All Risks (CAR)

A CAR policy is essential to property development. Depending on the building contract obligations, the CAR policy will be the responsibility of either the main contractor or the developer (employer) and will protect the interests of various parties involved in a construction project.

The policy itself covers the works, site materials, plant and machinery, temporary accommodation and a number of other core items against material damage.

Crucially, in some situations, it can be extended to include Delay in Start-Up (DSU) cover otherwise known as Advanced Loss of Profits (ALOP).

We pride ourselves on our ability to align your insurance policy with your building contract obligations. Whether this be project -specific on an Owner Controlled Insurance Programme (OCIP) or Contractor Controlled Insurance Programme (CCIP) or an annual programme procured by the Contractor or Developer/Contractor.

Any potential policy can look to include any existing structures or retained elements and we can look to include protection against loss in profits or loss of rent as a result of a delay caused by an insured peril.

We understand the nuances of design defects and can work with you to ensure any particular policy performs in the manner you expect should a design defect lead to damage.

Site Public Liability

Provides cover should members of the public suffer personal injury or property damage due to your activities at site.

It can be provided on a contingent basis and as a safety net in the event of an issue with the contractors' arrangements.

We can provide cover on the following basis; developer only, property owner only, contractor only or on an all-parties basis.

We work with a selection of A rated insurers to provide the most comprehensive and competitive solution, which can include any extensions as required under contract.

Contractors' Pollution Liability/ Environmental Impairment Liability

Third-party coverage for bodily injury, property damage, defence clean-up and related defence costs as a result of pollution on site.

We work with the leading specialist providers in this field and can obtain indications based on basic site information, guiding you through the process to the obtaining of a formal proposal.

STAGE

On-site Continued

Insurance product

Overview of cover

Why choose Thomas Carroll

Non-Negligence Liability (JCT 6.5.1)

JCT Clause 6.5.1 Insurance (otherwise known as “non-negligence cover”) provides liability cover for loss or damage to adjacent or surrounding property following a non-negligent event.

The policy is triggered by selection by the Employer within the JCT contract and is traditionally taken out by the Contractor for the benefit of the Employer.

Cover is extended to include work that is carried out by a contractor or sub-contractor. The relative need for this policy depends on the type of works you will be carrying out such as any underpinning, basement works, piling or other major ground shifting works, additionally it depends on how close the neighbouring properties are to the site.

We advise both Employer and Contractor on the potential requirement or need for this cover and how the cover should be obtained in any given circumstance.

We are content with reviewing sample JCT contracts to understand how the need has arisen and ensuring that this was the intention of all parties.

We use bespoke simplified proposal forms and details of the surrounding properties to create the best solution with your liability insurers.

Plant and Equipment Cover

Typically purchased in conjunction with the contract insurances. We can provide cover for hired-in plant, own plant, tools and equipment whilst on site, in transit or at specified premises.

Using only A-rated insurers we provide cost-effective solutions.

These policies can be provided on a short term, annual and longer-term basis depending on the length of the contract.

Performance Bonds

As mentioned above, a performance bond is not an insurance per se. Instead, it is a guarantee to an employer for the performance of a contract by the nominated contractor (in accordance with their terms and conditions).

We work directly with your contractors on your behalf to provide solutions that can protect you in the event of contractor insolvency.

We pride ourselves on being bond and surety specialists, with our own in-house team that deal with all the major providers in the marketplace.

STAGE

On-site Continued

Insurance product

Overview of cover

Insurance Backed Guarantee (IBG)

In the event your contractor is forced to cease trading, and they are unable to rectify a defect, an insurance backed guarantee (IBG) will cover the cost of rectification, guaranteeing the work.

Terrorism
Contract Specific

Provides cover in the event of acts of terrorism or sabotage causing physical damage to any new works undertaken, including protection against loss of profits or loss of rent where required.

Single Project Professional Indemnity Insurance (SPPI)

This type of Professional Indemnity insurance is arranged around the lifecycle and needs of a specific construction project. Unlike conventional annually renewable policies it has advantages for Project Owners and Joint Venture operators.

Why choose Thomas Carroll

With few A-rated providers left in this market, Thomas Carroll can help provide you with an IBG that you can trust and will not dematerialise before a claim. Often required in tandem with a latent defect policy to cover a flat roof or waterproofing, we can work with you or directly with your contractor to find the perfect solution.

As a member of an independent broking alliance (UNA), we have specialist wordings agreed with several underwriters and can provide terms for the duration of the project.

This provides wider cover, flexibility and more competitive rates than traditional Pool-Re backed cover.

Depending on your specific building contract and the decision on using an SPV or Joint Venture, (or another vehicle) an SPPI policy may suit your needs more. At Thomas Carroll we are real estate and construction specialists and can advise you on which is more suitable.



STAGE

Annual insurances

Insurance product

Overview of cover

Why choose Thomas Carroll

Public Liability

Legal liability to third parties for accidental loss or damage to property, or death, disease, illness or injury as a result of the business activities. Provided on an annual basis, with all the businesses' activities included.

We pride ourselves on gaining a detailed understanding of your operations, activity and responsibilities to enable us to ensure the policy is suitable and captures the nature of your work.

We take a project-wide view on liability to ensure responsibilities are clear and the corresponding policies align to avoid gaps in the event of an incident.

Employers' Liability

A legal requirement for protection to employees for death, disease or injury arising out of employment in the business.

We can provide a policy in isolation where required and have exclusive rates from composite insurers.

Contractors' All Risks

Usually taken out by either the main contractor or a developer (employer) to protect the interest of parties involved in a construction project against physical loss or damage to the works being undertaken. Depending on the building contract an annual policy may be more suitable.

Typically used by a contractor with multiple smaller contracts that occur at any given time and are all of a similar nature. Thomas Carroll is able to lean on our long-standing relationships with insurers to ensure you get the widest cover for the most competitive premium.

Directors' and Officers' Liability

Indemnity for actions brought against directors and officers for "wrongful acts" committed in the performance of their duties to ensure that their personal wealth is protected.

We review your structure chart and help ensure all subsidiaries and associated companies are captured within a single policy, ensuring there are no gaps in cover.

STAGE

Annual insurances Continued

Insurance product

Overview of cover

Why choose Thomas Carroll

Professional Indemnity

For damages plus legal costs arising out of a breach of duty, neglect, error or omission during the course of performing normal professional duties.

We can provide cover for all trades including solicitors and any trade that requires design and construct cover. We can provide group or specific policies to ensure your activities are covered correctly. We can also provide run off cover where SPVs are under duty to maintain cover under contract.

Cyber Liability

Insurance against first and third party financial loss, disruption or damage to the reputation of the insured from some sort of failure of its information technology systems resulting from deliberate, unauthorised, unintentional or accidental breaches of security, and cover for first and third party financial losses relating to use of the internet, emails, websites and social media.

We have a strong understanding of the breadth of cyber coverage and how wordings vary drastically across the marketplace. The cyber insurance marketplace has yet to mature to a level where cover is uniform so clear guidance on how a policy will perform and the practical benefits of the cover are imperative.

Commercial Crime

Insurance against theft, fraud, or dishonesty of an employee or third party. Given the number of invoices and the time restrictions on a construction project, crime is a key cover.

Working with our independent broking and insurer partners through the UNA Alliance, we look to blend covers where possible to avoid excessive costs and overspend. We will always look to provide you with robust coverage at a competitive premium.

Motor Fleet

Loss or damage to motor vehicles, owned, hired or leased by the business, used in carrying out the business activities.

We have a strong understanding of the appetite insurers have based on the size, profile and history of your motor fleet, to allow us to obtain the best commercially available terms.

STAGE

Annual insurances Continued

Insurance product

Overview of cover

Why choose Thomas Carroll

Operational Insurances/ Property Owners Cover

Commercial or Residential, single property or portfolio. Covering your completed property for material damage on an all-risk basis. Cover extends to include loss of rent and property owners' public liability.

Whether you have developed a residential block of flats, a hotel or several buy to let houses, Thomas Carroll can help to look after the freehold interest. Creating a policy that takes over immediately following completion we ensure there are no coverage gaps supplying you with an easy one-stop solution for your developments.


Engineering Inspection

Inspection of plant at varying intervals to comply with the statutory requirements. This will cover any elevators that have been installed in the project.

For items requiring statutory inspection under PUWER and LOLER, we understand the providers in the marketplace that are reliable, cost-effective and approachable.





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