Building contracts non-negligent insurance (single contract) section

Contents

Your schedule will show if this section is covered.

Meanings of defined terms

These meanings only apply within this section. They will be highlighted in bold blue print and will have the same meaning, whether shown in the singular or plural.

These are in addition to the defined terms that can be found within the **Meanings of defined terms** under the **General introduction** section of **your policy**.

Asbestos

Asbestos in any form, asbestos fibres or particles or derivatives of asbestos or any material containing asbestos.

Bodily injury

Death, bodily injury, illness or disease.

Claim costs

Costs and expenses

1 of any claimant which **you** become legally liable to pay

2 incurred, with **our** prior written consent, to investigate or defend a claim against **you** including solicitors fees at

   a any coroner's inquest or fatal accident inquiry

   b summary court proceedings.

Computer system

Any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet or wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.

Contract site

The site address shown in the schedule.

Contractual liability

Legal liability assumed by **you** under the terms of any contract or agreement that restrict **your** right of recovery, or increase **your** liability at law beyond that applicable in the absence of those terms.

Cyber act

An unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any **computer system**.

Cyber incident

1. Any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **computer system**
2. Any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **computer system**.

Data

Information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **computer system**.

Defects period

The maintenance period specified in the contract for the **works** shown in **your** schedule.

Employed person

1. Anyone under a contract of service or apprenticeship with **you**.
2. Anyone who is
   - a employed by **you** or on **your** behalf on a labour only basis
   - b self employed
   - c hired to **you** or borrowed by **you** from another employer
   - d a voluntary helper or taking part in a work experience or training scheme
   - e a driver or operator of hired-in plant
   - f an outworker or homeworker
   - g a prospective employee who is being assessed by **you** as to their suitability for employment
   - h a person on secondment to **you** from an overseas subsidiary company or **your** parent company whilst working within the **policy territories**
   - i a person engaged in community service working under the Criminal Justice Act 2003 or similar legislation

   and under **your** direct control or supervision.

Event

Claim or series of claims against **you** as a result of or attributable to a single source or the same original, repeated or continuing cause.

Insured peril

Collapse, subsidence, heave, vibration, weakening or removal of support or lowering of ground water.

Period of insurance

Period from the start date to the expiry date of **your** cover shown in **your** schedule inclusive of any **defects period**.

Pollutants

Any solid, liquid or gaseous pollutant, contaminant or irritant substance or any biological agent that is a danger to human health.

Schedule of dilapidations

A factual record of the condition of a property with descriptions and photographs.

Sudden incident

Sudden, identifiable, unintended and unexpected incident that does not originate from a gradual, continuous or repetitive cause.

Works

The permanent or temporary works including materials, executed or to be executed by **you** or on **your** behalf at the **contract site** for the period during which **you** are responsible under contract conditions.

✓ What is covered

We will cover **you** under the terms of

1. Clause 6.5.1 of the Joint Contracts Tribunal Conditions of contract or any subsequent amendment or replacement, or
2. the equivalent clause in other contract conditions

in respect of any expense, liability, loss, claim or proceedings which the **employer** may incur or sustain as the result of

a. **bodily injury**
b. damage to any property

occurring during the **period of insurance** and caused by an **insured peril** arising out of, in the course of or due to the carrying out of the **works** at the **contract site**.

Limit of Indemnity

1. The limit of indemnity shown in **your** schedule is the most **we** will pay for all damages arising from one **event**.
2. The amount payable by **us** in total, on behalf of all parties entitled to cover, shall not in any circumstances exceed the limit of indemnity shown in **your** schedule.
3. **We** will pay **Claim costs cover** in addition to the limit of indemnity applicable to the claim or claims, except if an action for damages is started or brought in the United States of America or Canada.
4. The accidental release of asbestos limit of indemnity shown in **your** schedule is the most **we** will pay in total for **Accidental release of asbestos (Claims made cover)** and **Claims cost cover** for all claims first made against **you** during the **period of insurance**.
5. If an action for damages is started or brought in the United States of America or Canada, **we** will not pay more than the limit of indemnity shown in **your** schedule, for the total of all damages and **Claim costs cover** arising from the action.
6. **We** may at any time pay
   a. the limit of indemnity applicable to the claim or claims, after deducting any amounts already paid, or
   b. any lesser amount for which a settlement can be made.

   We will not then be liable to make any further payment in respect of the claim or claims. If **we** have agreed to pay **Claim costs cover** in addition to the limit of indemnity, **we** will pay the costs incurred before the date of the claim payment.

Accidental release of asbestos (Claims made) cover

The **Asbestos exclusion** under the heading **What is not covered** does not apply in respect of this cover.

We will cover the amount of damages which **you** are legally liable to pay in respect of a claim first made against **you** and notified to **us** during the **period of insurance** arising from the accidental and unplanned release of **asbestos**.

We will not cover

1. claims
   a. relating to the fear suffered by any person of the consequences of exposure to **asbestos**
   b. in respect of damage to any property unless arising from contamination resulting from the unplanned release of **asbestos** due to a **sudden incident** which happens at a specific time and place during the **period of insurance** in the course of any work, process or other operation
   c. to rectify, remedy, repair, replace, re-apply, modify, investigate, access or remove **asbestos** in or on premises
      i. that **you** have disposed of
      ii. owned, leased, let, rented, hired or lent to **you**
      iii. for which **you** have any statutory duty to manage **asbestos**.
   d. for any incident known to **you** or for which **you** should have been aware before the start of this cover
2. the **excess** stated in **your** schedule in respect of damage to any property caused by or arising from **asbestos**.

If during the **period of insurance you** first become aware of any circumstances that may give rise to a claim under this cover and notification is given to **us** during or within 7 days of the expiry of the **period of insurance**, **we** will if a claim is subsequently made against **you** consider such circumstances as having been made during the **period of insurance** that **you** first become aware.

The following additional conditions apply to this section.

1 If **you** have contracted or reached agreement for the investigation, handling, removal, stripping out, demolition, transportation or disposal of **asbestos** , a written risk assessment must be undertaken and controls put in place to prevent the release of **asbestos**

2 If **you** discover any materials that are known or suspected to be **asbestos** prior to or in the course of any work, process or other operation, **you** must immediately upon discovery take steps to suspend or cease such work, process or other operation until the composition of the materials is established

3 **You** must ensure that any **asbestos** is investigated, handled, removed, stripped out, demolished, transported and / or disposed of in accordance with Health and Safety regulations in force within the **policy territories**.

If **you** do not comply with these conditions **you** will not be covered and **we** will not make any payment in respect of a claim.

Claim costs cover

We will cover **claim costs** in connection with a claim for which an award of damages is paid or may be payable under this **policy. We** will not pay **claim costs** for any part of a claim not covered by this **section**.

✘ What is not covered

Asbestos exclusion

We will not cover claims caused by or arising from

1 inhalation or ingestion of **asbestos**

2 exposure to or fear of the consequences of exposure to **asbestos**

3 the presence of **asbestos** in any property or on land

4 investigating, managing, removing, controlling or remediation of **asbestos**.

Contractors negligence exclusion

We will not cover claims caused by or arising from the negligence, breach of statutory duty, omission or default of

1 the **contractor**, their agents or any **employed person**

2 any sub-contractor, their employees or agents.

Contractual liability exclusion

We will not cover claims

1 where the terms of any contract or agreement prevent **us** from taking over the full defence or settlement of any claim

2 to pay liquidated damages, or any contractual fines or amounts payable under contractual penalty clauses.

Cyber and data exclusion

We will not cover claims directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with

1 any **cyber act** or **cyber incident** including but not limited to any action taken in controlling, preventing, suppressing or remediating any **cyber act** or **cyber incident**

2 loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft, distortion, erasure, corruption or alteration of any **data**, including any amount pertaining to the value of such **data**

3 failure of electronic, electromechanical data processing or electronically controlled

equipment or **data** to correctly recognise any given date or to process data or to operate properly due to failure to recognise any given date.

This exclusion shall not apply to claims

a for **bodily injury**

b for physical damage to any property

directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any **cyber act** or **cyber incident.**

Damage to works exclusion

We will not cover claims for loss of or damage to **works** or any plant, tools, equipment, temporary buildings or any other property used or to be used in connection with the **works**.

Defective design exclusion

We will not cover claims caused by or arising from errors or omissions in the designing of the **works**.

Deliberate act exclusion

We will not cover claims caused by or arising from any deliberate act, error or omission

a where the results are intended or expected, or are reasonably foreseeable by **you**

b by anyone other than **you**, so far as cover is requested for their own liability.

Employee injury exclusion

We will not cover claims for **bodily injury** sustained by any **employed persons** arising out of and in the course of their employment by **you**.

Employers' responsibility exclusion

We will not cover claims that are the sole responsibility of the **employer** to insure under the terms of the contract.

Excess exclusion

The **excess** shown in **your** schedule will apply to each **event**.

Inevitable damage exclusion

We will not cover claims that could be reasonably foreseen to be inevitable in view of the nature of the work to be executed or the manner of its execution.

Pollution exclusion

We will not cover claims caused by or arising from a release or escape of **pollutants** into the atmosphere or onto land, water, buildings or any structure, unless as a result of a **sudden incident** which happens at a specific time and place during the **period of insurance** within the **policy territories.**

All **bodily injury** or damage to any property arising from the release or escape of **pollutants** will be considered as having occurred at the time of the **sudden incident**.

Pressure waves exclusion

We will not cover claims caused by or arising from pressure waves caused by aircraft or other aerial devices.

Radioactive contamination exclusion

We will not cover claims caused by or arising from any type of nuclear radiation, nuclear material, nuclear waste, nuclear reaction or radioactive contamination.

Rectification of defects exclusion

We will not cover claims to rectify, remedy, repair, replace, re-apply, modify, investigate, access or remove defective or unsuitable work, process or other operations, or to make any refund.

War risk exclusion

We will not cover claims caused by or arising from war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or military or usurped power or confiscation or nationalisation or requisition, or loss of or damage to property by or under the order of any government or public or local authority.

Section conditions

These conditions of cover apply only to this section.

You must comply with these following conditions to have the full protection of **your policy**. If **you** do not comply then **we** may at **our** option take one or more of the following actions

1. Cancel **your policy**
2. Declare **your policy** void (treating **your policy** as if it had never existed)
3. Change the terms of **your policy**
4. Refuse to deal with all or part of any claim or reduce the amount of any claim payments.

Some conditions specify circumstances whereby non-compliance will mean that **you** will not be covered and **we** will not pay **your** claim. However **you** will be covered and **we** will pay **your** claim if **you** are able to prove that the non-compliance with these conditions could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

If **you** are unsure about these conditions or whether **you** need to notify **us** about any matter, please contact **us** or **your** insurance broker.

Arbitration condition

If **we** agree to pay **your** claim and **you** disagree with the amount to be paid, the amount of the difference will be referred to an arbitrator who is jointly appointed in accordance with the statutory requirements. **You** will not be able to take legal action against **us** over this disagreement until the arbitrators have made their award.

Cancellation condition

1. **You** may cancel this section within 14 days of receiving your **policy**, if for any reason **you** are dissatisfied or the policy cover does not meet **your** requirements. This section will be cancelled from the start date of **your policy** and no cover will have been provided. **We** will refund all of **your** premium less a deduction for any costs incurred by **us** in having a survey undertaken at the **contract site**.
2. **You** may cancel this section at any time if the **contract site** is sold or the **employer** ceases trading.
3. **We** can cancel this section
   a. if **you** fail to make payment; or
   b. at any time by giving 30 days' written notice to the **employer** at their last known address or to the **contract site**.

Where this section is cancelled in accordance with provisions **2** or **3**, **we** will not refund any of **your** premium.

Cancellation of this section will not affect any claims or rights **you** or **we** may have before the date of cancellation.

We do not have to agree to extend this section and cover will cease on the expiry date.

Party wall condition

You must undertake a **schedule of dilapidations** in respect of any **works** which comprise of a party wall or structure as defined by the Party Wall Act 1996 or any subsequent amendment in legislation, before commencing any work.

If **you** are unable to fulfil this obligation **you** must advise **us** before **works** commence.

If **you** do not comply with this condition **you** will not be covered and **we** will not pay **your** claim.

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