

A GUIDE TO INSURANCE TERMS

Aggregate Deductible

An “aggregate deductible” puts a limit on the total amount that can be deducted from losses during a period of insurance. Once losses have aggregated to the limit, the deductible either ceases to apply or reduces to a lower amount for each subsequent loss. A “stop loss” limit has the same meaning.

Average

“Average” is a word that comes from maritime law and means “an equitable apportionment of loss among interested parties”.

If a policy is “subject to average” and the sum insured is less than the full value at risk, the insured must bear a rateable proportion of each loss. For example, if property worth \$100,000 is insured for \$50,000, the insurer will pay 50% of each loss and the insured must bear the remaining 50%. If the property is fully insured, average has no effect because the insurer’s share of each loss will be 100% and the insured’s share will be 0%.

Deductible (Also known as Excess)

A “deductible” is an amount deducted from an insured loss in arriving at the amount of claim payable. An insurer may impose a deductible as a condition of the insurance, or an insured may accept a deductible in return for a discount in the premium. An “excess” has much the same meaning as a “deductible”.

First Loss

This is a name given to insurance that does not cover the whole value of the insured property. In some policies, a “First Loss” sum insured is separately available in full for each loss.

Indemnity

Indemnity is the amount required to put an Insured back, as nearly as can be done with money, in the same position as existed before a loss. The most common measures of indemnity are market value and cost of reinstatement, depending on which gives you the fairest result. Where indemnity is based on reinstatement, insurers may deduct an allowance for any betterment that results.

Inherent Vice

Inherent vice is a quality of property that results in its own damage without the aid of any outside agency. The perishable nature of fruit is an example.

Reinstatement

Reinstatement insurance covers the cost of reinstating damaged property without deduction for betterment. The insurance usually includes the extra cost of complying

with current building regulations, which would not be covered under ordinary indemnity insurance.

Subrogation

After paying indemnity to an insured, the insurer has a common law right to take over (become subrogated to) any right of recovery that the insured may have against other parties. This prevents an insured from recovering the same loss from more than one party, thereby making an "unjust gain". The Subrogation condition of an insurance policy often modifies common law before paying the indemnity. However, the insurer cannot keep any more of a recovery than it has paid out as a claim.

Other Interests

Covers the interest of any other party (such as debenture holder) where there is a contractual obligation to provide insurance. The interest of the other party must be declared before a claim is paid or the party will not be indemnified.

Breach of Warranty

A breach unknown to the Insured will not invalidate cover if the Insured advises the Underwriter on learning of it.

Cancellation

The insured may cancel the policy at any time by giving written notice to the Underwriter. The underwriter may cancel the policy giving 30 day written notice to the Insured.

Claims

See "Claim Procedures" at the end of this summary.

Cross Liability

If one Insured makes a claim against another, the insurance will apply as if each had been issued with a separate policy.

Diligence

The Insured must make reasonable endeavors to maintain vehicles in accordance with the manufacturer's recommendations; and must take reasonable precautions against loss or damage.

Observance of terms and Conditions

The Underwriter will not have to pay a claim if the Insured has failed to comply with the terms of the policy or has made false statements.

Other Insurance

If the Insured has other insurance on any loss covered under the policy, cover will be limited to loss in excess of the other insurance.

Reinstatement of Amount

A sum insured reduced by a loss will be returned to its original amount unless either party gives notice to the contrary. An additional premium renewal on less favourable terms.

Waiver of Recovery Rights (By Agreement)

A waiver of recovery rights in a business contract will not harm the insurance, providing the contract is not for the supply of the Insured's goods or services.

Your Duty of Disclosure

You have a common law duty to disclose all material facts before entering into, renewing or altering a contract of insurance. If you fail to do so, or if any material facts are misrepresented, the insurance could be made void.

The Insurance Law Reform Act defines a material fact as one that would influence a prudent insurer in accepting or rating a risk. Your common law duty of disclosure applies only before each contract is entered into, renewed or changed, but some policies have a condition that extends the duty throughout the period of insurance.

Your duty of disclosure does not include facts which are common knowledge. Nor does it include facts already known to your insurer, or which ought to have been known to your insurer in the ordinary course of business. If in doubt, it is safer to disclose information than to conceal it.

Because of its importance, we recommend that the duty of disclosure be impressed upon all management and senior staff.

Hold Harmless Agreements

If you sign a contract that has a clause preventing or limiting your right to sue another party for recovery of a loss, your insurers will be unable to exercise subrogation. The clause might therefore be deemed a material fact which, if not disclosed to your insurers, could result in your insurance being rendered void.

Some (but not all) policies contain a clause that permits certain kinds of waiver without having to disclose them. Before signing a contract that contains any kind of waiver, we advise you to refer to your servicing broker to check the effect on your insurance. This applies in particular to the kind of waiver that relieves other parties of liability for their own negligence.