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*Construction isn't
always smooth
sailing – I need
to know I'm
covered from
day one*



Contract Works Insurance

We undertake that if, during the *term of this insurance* policy for which the premium has been paid, any unintended and unforeseen *loss* occurs to the *insured property* or costs or losses arise which have been provided for by the policy, its *schedule* or any renewal advice, then we will compensate *you* in the manner and to the extent described in this document.

1. Your cover

1.1 Loss during the construction period

We will cover *you* up to the maximum of the *sum insured* for unintended and unforeseen *loss* to the *insured property*, during the *construction period* occurring at the *risk location*, including materials, supplies and all other property for incorporation into the *contract works*, all labour including sub-contractors if provided for in the *contract price*, and all goods, furnishings and other property to be installed as part of the *contract works* during the *construction period*.

Where we consider that it is not economic to repair any *loss* suffered we will pay the indemnity value of the *insured property* affected.

1.2 Loss during the maintenance period

We will also cover *you* up to the maximum of the *sum insured* for your liability to rectify *loss* to the *insured property* during the *maintenance period* provided the *loss*:

- (a) arises out of the performance of the *contract works* during the *construction period*; or
- (b) is caused by *you* or the *contractor* performing work under the maintenance clause of the *contract*.

1.3 Calculation of allowances

The following allowances (calculated as a percentage of the *contract price*) are included in the *sum insured*. The

maximum amount we will pay for any allowance in respect of any claim unless otherwise agreed by *us* will be the percentage of that part of the *contract price* relating to the *contract works* affected by the *loss*:

- | | |
|---|------|
| (a) Variations: | 5% |
| (b) Increased construction costs due to fluctuations: | 2.5% |
| (c) Professional fees to enable reinstatement after <i>loss</i> : | 5% |
| (d) Costs of demolition and disposal: | 10% |
| (e) Increased costs as a result of <i>loss</i> : | 2.5% |
| (f) Transit within New Zealand of materials for <i>contract works</i> : | 2.5% |
| (g) Materials in storage away from the <i>risk location</i> : | 2.5% |

1.4 Additions or deductions from contract price

The *sum insured* will be adjusted when any additions to or deductions from the *contract price* are made after the date of the *contract*, provided *you* give *us* written notice of any additions or deductions within ten business days of such change and *you* pay *us* any additional premium advised by *us*.

2. Excesses

2.1 The excesses applying to claims under the Disaster cover of this policy are:

- (a) 2.5% of the *sum insured* with a minimum of \$2,500 for *insured property* located in the *regions* of Bay of Plenty, Gisborne, Hawkes Bay, Taranaki, Manawatu-Wanganui, Nelson, Tasman, and West Coast;
- (b) 1% of the *sum insured* with a minimum of \$1,000 for *insured property* located in the *regions* of Northland, Auckland, Waikato, Otago, Southland and the Districts of Timaru and Waimate; and

- (c) 5% of the *sum insured* with a minimum of \$5,000 for *insured property* located in the *regions* of Canterbury, Wellington, Blenheim and Marlborough.

The *excess* shown in the *schedule* applies to all other claims.

2.2 The excess payable on a claim made under this policy:

- (a) excludes any goods and services tax (which will be added to the *excess*); and
- (b) is in addition to any *excess* payable under any other policy including under the Earthquake Commission Act 1993 for claims in respect of the same event or events.

3. Exclusions

Unless provided for in the *schedule*, you are not covered under this policy for:

- (a) any *loss* to the land including:
 - (i) settling or cracking of land caused by earth movements or underground water pressure other than as covered under the Earthquake Commission Act 1993; or
 - (ii) subsidence, landslip or erosion other than as covered under the Earthquake Commission Act 1993,
- (b) any existing structures on the *risk location* erected for the purpose and duration of the *contract works* unless expressly agreed by *us*
- (c) mechanical or electrical breakdowns, failures or breakages
- (d) *loss* to the *insured property* occurring after the *construction period* except as provided in clause 1.2
- (e) consequential loss of any kind, including loss of profits, except as expressly provided for under this policy (or otherwise allowed at *our* sole discretion)
- (f) the cost of:
 - (i) fixing faulty workmanship;
 - (ii) repairing or replacing faulty materials; or
 - (iii) fixing work done to a faulty design or specification,

however, this exclusion is limited to that part of the *insured property* immediately affected and does not apply to other parts of the *insured property* affected as a result of such faulty workmanship, materials or design:

- (g) any of the following types of *loss* to the *insured property*:
 - (i) slowly developing deformation or distortion
 - (ii) marring, scratching or denting
 - (iii) gradual deterioration including the action of light; or
 - (iv) rot, mildew corrosion, or rust;
- (h) *loss* resulting from:
 - (i) wear and tear, marring, scratching or denting

- (ii) gradual deterioration (including the action of light)
- (iii) rot or mildew
- (iv) unexplained disappearances or unexplained shortages
- (v) the testing or operation of any machinery, equipment or plant installation which forms part of the *insured property* (unless otherwise agreed by *us*)
- (vi) confiscation, requisition, destruction or damage by the government or any local authority unless caused in the attempt to prevent fire or other peril covered under this policy
- (vii) nuclear weapons material, the operations of a nuclear power plant, ionising radiation or contamination by radioactivity from any nuclear waste or the fusion or fission of nuclear fuel
- (viii) war, act of foreign enemy, warlike operations (whether war is declared or not), civil war, mutiny, rebellion, revolution, insurrection, military or usurped power
- (ix) the presence or use of asbestos, including the cost of its removal
- (x) earthquake, volcanic eruption, hydrothermal activity, tsunami (or fire following any of these), except as covered under disaster cover in section 4 of this policy if disaster cover is included in the *schedule*
- (xi) subsidence or landslip, subterranean fire or erosion of land, settling or cracking of land caused by earth movements or underground water pressure, other than as covered under the Earthquake Commission Act 1993, and subject to disaster cover in section 4 of this policy if disaster cover is included in the *schedule*; or
- (xii) any natural hazard (as defined in section 71 Building Act 1984) relating to the *risk location* that is registered under section 74 Building Act 2004 or other equivalent legislation, or to which you know the *risk location* is prone but which you have not disclosed to *us* and for which we have not expressly accepted liability;
- (i) any *loss*, liability, prosecution or expense of any type in connection with an act of *terrorism*, including in connection with controlling, preventing, suppressing, retaliating against, or responding to an act of *terrorism*;
- (j) *loss* resulting from:
 - (i) moisture or water build up or the penetration of external moisture or water; or
 - (ii) the action or effects of mould, fungi, mildew, rot, decay, gradual deterioration, micro-organisms, bacteria, protozoa, or any similar or like forms,
 that is caused directly or indirectly by:
 - (iii) non-compliance with the New Zealand Building Code

- (iv) faulty design or faulty specification, including but not limited to faulty sequence, procedure or programme

- (v) faulty materials; or

- (vi) faulty workmanship,

when the building or structure was constructed, manufactured, altered, repaired, renovated or maintained. This exclusion does not apply however to *loss* that is caused by or directly arises from the hidden leakage of internal pipes, internal water systems or internal cisterns that has first occurred during the term of this insurance policy.

- (k) *loss* or damage to electronic data (from any cause whatsoever including, but not limited to, a computer virus), including loss of use, reduction in functionality, or any other associated *loss* or expense in connection with electronic data. However, this exclusion does not apply to physical damage to other *insured property* that results from that loss of or damage to electronic data, and which is not otherwise excluded.

4. Disaster cover

- 4.1 This cover extends the policy to include *loss* caused by earthquake, natural landslide (as defined in the Earthquake Commission Act 1993 (Act)), volcanic eruption, hydrothermal activity, tsunami or fire following any of them where such *loss* is covered under the Act or would be covered if the *insured property* was a residential building (as defined in the Act) as follows:

- (a) Where the *insured property* is, or will upon completion of the *contract works*, be covered under the Act as a residential building, then subject to 4.1.(b) and (c) to the extent that the *loss* exceeds the liability (if any) of the Earthquake Commission under the Act, we will pay the difference between that liability and the maximum amount payable by us under this policy (which will include the amount of *loss* to any part of the *insured property* comprising domestic structures, permanent swimming and spa pools, walls, fences and gates and underground services, footpaths and driveways within the boundaries of the property and 60 metres of the dwelling, up to the *sum insured*). However, we will not pay the *excess* under the Act.
- (b) Where the *insured property* is, or will on *practical completion*, be a residential building (as defined in the Act) but cover under the Act for *loss* is not available or is or could be declined or limited under schedule 3 of the Act, we will not be liable to pay any amount under this policy for such *loss* unless we expressly agree.
- (c) Whether or not the *insured property* is covered under the Act, where a *loss* arises for which cover is excluded under clause 3(h)(xii) of this policy, we will not be liable for such *loss* unless we expressly agree.

5. Conditions

5.1 Alteration

If, during the *term of insurance*, there is a material alteration to the nature of the *insured property*, you must immediately tell us. We will not automatically terminate the policy but we retain a discretion to terminate the policy or to impose any additional conditions or to require the payment of an additional premium before we continue the policy.

5.2 Claims

- (a) If an event occurs which may give rise to a claim under this policy you must:
 - (i) immediately notify us
 - (ii) immediately notify the police if any criminal or malicious act is or may be involved
 - (iii) take all reasonable steps to prevent further *loss*; and
 - (iv) promptly supply us with any information and assistance that we may require for the conduct of any claim or any proceedings arising from a claim.
- (b) If any claim under this document is found to be in any respect fraudulent or if fraudulent devices have been used to obtain any benefit under this policy, all benefits will be forfeited.
- (c) You must not say or do anything (including negotiating, defending or settling any claim) that may prejudice our ability to defend any claim made against you, or make recovery for the *loss* from any other person who may be responsible for it.
- (d) You must not deal with or dispose of any property in a manner which exposes us to legal liability whether or not we take possession of the property after you have made a claim under this policy.
- (e) We are entitled to take over in full any legal right of recovery or indemnity that you may have arising as a result of the *loss*.
- (f) You must co-operate with us in all respects to allow us to do anything reasonably necessary to enforce that right. You must comply with this condition when required whether before or after having been indemnified by us. We will meet your expenses in complying with this condition which have reasonably been incurred to mitigate any further loss.
- (g) We retain all salvage rights in respect of the *insured property* to which the claim relates and you must not remove, dispose of or otherwise deal with any part of the *insured property* without our prior written consent.
- (h) You must take all reasonable steps in the selection of labour and materials and will comply with any statutory requirements designed to ensure the safe working of plant and equipment. We will at all times have access to such plant and equipment. You will also take all reasonable steps to prevent accidental damage and comply with all relevant health and safety laws, and in the event of any occurrence covered by the policy you must, at our expense, take all reasonable steps to minimise the *loss*.

- (i) *You* agree that *your* compliance with the terms and conditions of this policy as they relate to anything required to be done or complied with by *you* must be met before we are liable to make any payment under this policy.

5.3 Reinstatement of Amount of Insurance

Following partial *loss* for which a claim is made under this policy the cover will be reinstated upon *your* application:

- (a) at *our* discretion,
- (b) for the *sum insured* less the amount of the *loss*, unless otherwise agreed by *us*, and
- (c) upon *your* payment of any additional premium that may be required by *us*.

5.4 Manner of settlement of claims

We may, in *our* sole discretion, settle any claim for *loss* to the *insured property*, by either:

- (a) reinstating or replacing the *insured property* (or any part) lost (to the extent that circumstances permit); or
- (b) paying the amount of the *loss* to the *insured property* as reasonably determined by *us*, up to the maximum of the *sum insured*.

6. Separate liability of co-insureds and rights of subrogation

- 6.1 Where there is more than one person named in the *schedule* as insured parties under this policy (co-insureds), *you* are each separately responsible for the performance of *your* obligations and duties set out or referred to in this policy, and if any one of *you* fails to perform *your* obligations or is otherwise in default under this policy that failure does not prejudice the rights of the other co-insureds under this policy.
- 6.2 We agree not to exercise *our* rights of subrogation under this policy to bring claims against *you* in respect of any *loss* covered under this policy. This will not in any way limit *our* ability to exercise *our* rights of subrogation to take proceedings against parties other than *you*.
- 6.3 We may pay the amount of any *loss* (less the amount of any *excess*) to any mortgagee named in the *schedule* (or otherwise notified to *us*), and otherwise to the person named first in the *schedule*, and such payment will be a good discharge of *our* obligations to all of *you* under this policy.

7. Goods and Services Tax

The *sum insured* and any *excess* under this policy are expressed exclusive of Goods and Services Tax. Payments *we* or *you* make under this policy must be increased by any Goods and Services Tax chargeable.

8. Your duty of disclosure

When arranging this policy, *you* must tell *us* everything *you* know (or could be reasonably expected to know) that a prudent insurer would want to take into account in deciding whether to accept *your* proposal, and if so, on what terms. If *you* do not do so, this policy may be void and of no effect.

9. Other Insurance

If any part of the cover provided by this policy duplicates insurance effected elsewhere *we* will pay only the amount by which this policy exceeds the other insurance.

Where a co-insured has a domestic household policy with *us* which insures a dwelling at the *risk location*, our maximum aggregate liability to that co-insured under both this policy and that domestic household policy will not exceed the maximum amount payable for *loss* to that dwelling under the domestic household policy, except to the extent that the contract works increase the floor area of the existing dwelling.

10. Insurance Claims Register

- 10.1 The Insurance Register (Register) is a database of insurance claims to which *we* have access. It is operated by Insurance Claims Register Limited, PO Box 474, Wellington.
- 10.2 The purpose of the Register is to check prior claim histories and to prevent fraudulent claims.
- 10.3 We provide this insurance to *you* on the basis that *you* authorise *us* to:
 - (a) obtain details about *your* prior claims from the Register, and
 - (b) provide to the Register details of *your* claims with *us*.
- 10.4 You have rights of access to, and correction of, *your* personal information on the register under the Privacy Act 1993.

11. Definitions

Construction period: means the period starting on the date shown in the *schedule* or when the *contractor* takes possession of the *risk location*, whichever is the later, and ending on the date of *practical completion*.

Contract: means the contract for works between the *principal* and the *contractor* to perform the *contract works* attached as a *schedule* to this document.

Contractor: means the entity identified in the *contract* as the contractor or the party responsible for the completion of the *contract works* specified in the *contract*.

Contract price: means the price for the *contract works* specified in the *contract*.

Contract works: means the whole of the works, whether temporary or permanent, to be performed as described in the *contract*, including all building materials on the *risk location* used in connection with the *contract works*, being property for which you are responsible, and where *loss* occurs in respect of part only of the *contract works*, means that part.

Excess: means the first part of a claim which is required to be paid by *you*. At *our* discretion *we* may deduct it from *our* settlement with *you*.

Insured property: means the *contract works*, and includes the building (or that part of the building) under construction pursuant to the *contract works* any other property covered under this policy.

Loss: means physical loss, physical damage or physical destruction of tangible property as assessed by *us* and where applicable, includes costs and allowances provided for in this policy.

Maintenance period: means the period starting on the date of *practical completion* and ending on the earlier of the maintenance or defects liability period specified in the *contract*, or six months from the expiry date specified in the *schedule*.

Practical completion: means the earliest of:

- the date on which a *practical completion* certificate is issued for the *contract works* or
- the date on which the building comprising the *contract works* is occupied by the *principal*, or authorised person.

Principal: means the owner of the *risk location* and co-insured under this policy.

Risk location: means the location set out in the *schedule*, which is the location at which the *contract works* are to be performed.

Region: means the areas of land in the Regions and Districts as defined in Infomap 319B (dated June 1994) by Land Information New Zealand.

Schedule: means the most recent schedule to this policy *we* have issued to *you*.

Sum insured: means the amount specified as the sum insured in the *schedule* being the aggregate of the *contract price* and the allowances for variables set out in this policy calculated as a percentage of the *contract price*.

Term of insurance: means the period starting on the commencement date shown in the *schedule* and ending on the earlier of the date of *practical completion* or the expiry date set out in the *schedule*.

Terrorism: means an act, including but not limited to the use of force or violence and/or threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of, or in connection with any organisations(s) or government(s), committed for, or in connection with, political, religious, ideological, or similar purposes, including the intention to influence any government and/or to put the public, of any section of the public, in fear.

You and your: means the person or entity named on the *schedule* as 'The Insured', and when more than one person is named as a co-insured, the terms "you" and "your" mean each co-insured separately.

We, us or our: means Medical Insurance Society Limited.



