

300f014 Insured Contracts and Commercial Umbrellas

A liability policy has to restrict its coverage to handling the type of losses for which it was created and a commercial liability umbrella (CLU) is no exception. It contains an important provision that excludes losses involving contractual liability. In other words, an umbrella ignores losses created by an agreement an insured makes with other parties. Without this exclusion a CLU's coverage would be expanded far beyond what an insurer intended.

Example: General Cleaners Corp. (GC) is insured by a Commercial General Liability and a CLU. It signed a multi-year contract to clean and maintain all of the buildings owned by Suburban School System. As part of the deal, the owner of General Cleaners agrees to be responsible for any injury or damage that occurs while any GC employee is working their premises. A month after signing the contract, a GC cleaning crew is cleaning the first floor of a Suburban System high school. Unknown to the crew, a group of kids decide to trash the computer, biology and chemistry labs on the third floor. Suburban's property insurer pays the substantial losses and then sues GC because of their agreeing to handle the loss per their cleaning contract. GC turns to its insurer to defend the claim and handle any judgment. The CLU insurer points to its contractual liability exclusion and denies coverage as the loss did not involve an insured contract.

The policy does make two exceptions with contracts. First, the CLU will still respond to losses involving contractual liability when the agreement is about situations that would be covered anyway.

Example: Playtowne Toyz specializes in play and sports equipment for children. Playtowne is contacted by the Megaland state school board. They want Playtowne to become the official toy and sports equipment supplier for the entire state's public school system. As part of the deal, Playtowne has to sign a contract. The agreement has one part that requires Playtowne to respond to any injury caused during Playtowne making deliveries to any of its schools, such as a Playtowne Truck striking a student. This is a type of loss that would normally be covered by an umbrella. However, without the exception, the situation would become a type of contractual liability and would be excluded. The exception guarantees that a technicality does not unintentionally reduce an umbrella's intended coverage.

Under the second exception, the CLU insures situations that meet its definition of an "insured contract."

While a CLU, like any other policy, is written to control the loss exposures that it covers, it is also designed to deal with the realities of the business world. The insured contract exception allows coverage for many situations that companies must regularly perform in order to run their operations such as:

- Leasing a premises
- Sidetrack agreement
- Easements
- Municipal Ordinances
- Elevator maintenance agreements
- Auto leases

In order to have a clearer understanding of insured contracts and to get any needed coverage, be sure to talk things over with an insurance professional.

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