

Conditions of liability insurance of the possessor of recreational craft



TPV 20051

IF P&C INSURANCE AS. ÄRIREGISTRI KOOD 10100168

NB! This is a translation. In case of the dispute the Estonian wording shall prevail.

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Application of terms and conditions

- These policy conditions are applied together with the General policy conditions of If P&C Insurance AS. The rights and obligations specified in these policy conditions apply in addition to the rights and obligations specified in the General policy conditions.
- These general conditions are not part of the **obligatory** liability insurance contracts.

Purpose of insurance

- The purpose of the liability insurance stipulated in these policy conditions is to insure the civil liability of the legal possessor of recreational craft designated on the insurance policy within the extent specified by the insurance contract.
- The civil liability insurance cover of the possessor of recreational craft applies on the conditions that the recreational craft is registered according to the valid procedure and that the survey (inspection) of the recreational craft established by legal acts has been duly and timely passed.

Insured person

- Insured person (hereinafter also referred to as 'the insured') is the legal possessor of recreational craft designated on the insurance policy.

Injured party

- Injured party is a person, to whom the insured is liable for the compensation of the caused personal injury or damage to property.
- The insurer has no performance obligation, if the damage has been caused to the policyholder, the insured or the insurer, as well as the owner of the recreational craft or its equipment designated on the insurance policy.
- If the insured is a legal person, then in addition to the stipulations of clause 7 the insurer has no performance obligation, if the damage has been caused to the following persons:
 - Legal representative, member of the management body, liquidator, procurator, trustee in bankruptcy of the insured;
 - A person in the employment or service relationship with the insured;

- 8.3. A legal person belonging to the same group with the insured, a parent or a subsidiary undertaking.
9. If the insured is a natural person, then in addition to the stipulations of clause 7 the insurer has no performance obligation, if the damage has been caused to the following persons:
 - 9.1. The spouse of the insured (including cohabitee);
 - 9.2. The children of the insured;
 - 9.3. The parents, sisters, brothers of the insured;
 - 9.4. The other members of the family of the insured cohabiting with the insured;
 - 9.5. A person in the employment relationship with the insured;
 - 9.6. A person, for whom the insured is responsible (for example a person under guardianship).

Area of validity of the insurance

10. The performance obligation of the insurer is valid for the damage, which is caused by the accident (for example collision with another craft or other object) taking place in the area of validity of the insurance designated on the insurance policy.
11. If the accident has taken place in the Republic of Estonia, the insurer has the performance obligation in the extent not exceeding the limit stipulated for such damage by the Estonian law (substantive law).
12. If the accident has taken place in the area of validity of the insurance outside the Republic of Estonia, the determination of the liability of the insured and the extent of damage takes place pursuant to the law applicable in the place of occurrence of the accident. The determination of the insurance indemnity takes place pursuant to the conditions established by these policy conditions and the Estonian law on insurance contracts (exclusions, types of damages to be indemnified, calculation of insurance indemnity, etc.).

Insurance event

13. Insurance event is an accident taking place unexpectedly and unforeseeably (for example the collision of recreational craft with another recreational craft or other object), in case of which all the following circumstances occurred:
 - 13.1. The accident took place during **the period of insurance**;
 - 13.2. Personal injury or damage to property was caused to the injured party as a consequence of the accident;
 - 13.3. The insured is liable for the compensation for damage to the injured party pursuant to law.
14. The insurer has the performance obligation only in case if the claim for the compensation of damage is contingent upon the possession of the recreational craft designated on the insurance policy.
15. The insurer has the obligation of compensating for damage only in the part of these claims for the compensation of damages, which have been notified to the insurer within three years from the expiration of the insurance period, during which the accident occurred.
16. The rights and obligations resulting from the insurance contract are determined according to the conditions of the insurance contract (policy conditions, sum insured, indemnity limit, deductible, restrictions, etc.) valid during the insurance period, when the accident causing the claim took place.

Personal injury and damage to property

17. According to these policy conditions personal injury and damage to property are subject to compensation.
18. The insurer has no obligation to compensate for damages in the extent exceeding the compensation to the injured party under the law in case if the liability insurance contract had not been concluded.

PERSONAL INJURY

19. **Personal injury** is only the following damages resulting from generating bodily harm or causing health damage to the injured party or causing the death of the injured party:
 - 19.1. reasonable and necessary medical treatment expenses;
 - 19.2. reasonable and necessary expenses for purchasing and using technical aids necessary for coping;
 - 19.3. the loss or decrease of income resulting from the partial or total loss of capacity for work of the injured party. The amount of damage being the basis for the determination of insurance indemnity is found according to clauses 20 – 23;
 - 19.4. in case of death of a person direct funeral costs and the loss or decrease of the allowance of his/her dependant. The amount of damage resulting from the loss or decrease of the allowance of the dependant being the basis for the determination of insurance indemnity is found according to clauses 24 – 26.

THE CALCULATION OF THE AMOUNT OF LOSS RESULTING FROM THE LOSS OF CAPACITY FOR WORK OF THE INJURED PARTY

20. The amount of loss is the part of income lost by the injured party, for the compensation of which the insured is liable.
21. The income of the injured party in these conditions is the income of the injured party, for which social tax has been paid and from which income tax, other taxes and mandatory insurance premiums have been paid or withheld in the cases stipulated by the law (net income).
22. The average income received by the injured person during the 6 months immediately before the event causing the

loss of capacity for work is taken the basis for finding the amount of loss.

23. If the injured person did not receive any income during the 6 months immediately before the event causing the loss of capacity for work, the minimum monthly salary rate valid during the event causing the loss of capacity for work is considered the income of the injured person.

THE CALCULATION OF THE AMOUNT OF LOSS RESULTING FROM THE DECREASE OF THE ALLOWANCE OF THE DEPENDANT

24. The amount of loss is the part of allowance lost by the dependant, for the compensation of which the insured is liable.
25. The dependant in these conditions is a person, who is entitled under the law to claim for allowance from the deceased person.
26. The allowance of the dependant is found by dividing the income of the deceased person (see clauses 20 – 23) in equal parts between all the persons, who are entitled under the law to receive allowance from the deceased, and the deceased person himself.

DAMAGE TO THE PROPERTY

27. **Damage to property** is only the following damage resulting from the destruction or physical damaging (for example fracture, scuffing, collapsing) of property:
 - 27.1. reasonable expenses made for repairing the property. The expenses of repairing the damaged property are the basis for the determination of insurance indemnity only in case if the cost of repairing the damaged property is smaller than the decrease in the usual value of the property due to the damage;
 - 27.2. the decrease in the usual value of the property or the loss of the usual value (in case of the destruction of property);
 - 27.3. reasonable and necessary expenses for saving the damaged property;
 - 27.4. reasonable expenses made for purchasing equivalent property to replace the destroyed property.
28. **NB! Damage to property is not the damage occurring due to the property getting lost (losing, stealing, robbery of the property).** The damage proceeding from the drowning or wetting of property is considered damage to property.

RIGHTS OF RECOURSE (SUBROGATION)

29. **Rights of recourse (subrogation)** against the insured, which are based on personal injury or damage to property determined in these conditions, are considered personal injury or damage to property respectively.

Court expenses and costs for legal assistance

30. In case of submittal of a claim under the insurance cover against the insured, the insurer will compensate reasonable and necessary court expenses and costs for legal assistance made for repulsing the claim and defending the rights of the insured in court as well as unjudicially.
31. The insurer is obliged to compensate the costs for legal assistance and court expenses only in case if these have been co-ordinated with the insurer previously in writing or in the form enabling written reproduction.
32. The insurer will compensate the costs for legal assistance co-ordinated with the insurer even if the claim turns out to be groundless.
33. The insurer does not have the obligation to compensate the court expenses and costs for legal assistance, if the insurer would not have the performance obligation even in case if the insured were responsible for satisfying the claim.

Examples. The insurer is not obliged to compensate the costs for legal assistance related to the damage caused intentionally. The insurer is not obliged to compensate the costs for legal assistance related to the claims for interest, claims of contractual penalty, claims for the compensation of damages caused in state of intoxication, etc.

34. The insurer does not have the obligation to compensate the court expenses and costs for legal assistance, if the damage caused or the claim for compensation of damages, to which the costs are related, are smaller than the deductible designated in the insurance contract.
35. The insurer has the right to make a proposition to the insured to admit the claim of the injured party or to conclude a settlement with the injured party for solving the dispute. If the insured thereafter will not admit the claim or conclude the settlement, the insurer is not obligated to compensate the court expenses and costs for legal assistance, which proceeded after the expiration of the term given for replying to the proposition of the insurer.

Exclusions

IT IS NOT AN INSURANCE EVENT

36. Insurer has no obligation to compensate, if the characteristics of an insurance event are missing.
37. Insurer has no obligation to compensate, if the event causing the damage did not occur unexpectedly and unforeseeably.

EXCLUSIONS SPECIFIED IN THE GENERAL POLICY CONDITIONS

38. Insurer has no obligation to compensate, if the compensation of damage is excluded with the General policy

conditions of If P&C Insurance AS.

RECREATIONAL CRAFT SALVAGE EXPENSES

39. The insurer is not obliged to compensate the expenses of salvaging the recreational craft designated on the insurance policy.

ENVIRONMENTAL DAMAGES

40. The insurer has no performance obligation, if the damage has been caused by the pollution of the environment, i.e. the soil, air, water (including bodies of water) or the damage has occurred from the polluted soil, air or water.

INTENTIONALLY CAUSED DAMAGE

41. The insurer has no performance obligation, if the insured intentionally caused the damage or intentionally violated the contract, legal norm, instructions or safety requirements specified for using the property.

KNOWN CIRCUMSTANCES

42. The insurer has no performance obligation, if the policyholder was aware of the circumstance being the basis for the claim for the compensation of damages (for example the inconformity of the recreational craft, the generation of damage, complaint, etc.) or must have been aware prior to the conclusion of the insurance contract. This exclusion is applied even in case if the policyholder had informed the insurer of the abovementioned circumstance.

STATE OF INTOXICATION

43. The insurer has no performance obligation, if the person who causes the damage was in state of alcoholic, narcotic, toxic or other intoxication at the time of causing the damage.

DRIVING THE RECREATIONAL CRAFT WITHOUT THE RIGHT TO DRIVE

44. The insurer has no performance obligation, if the skipper of recreational craft did not have the right to drive required by the legal acts of the Republic of Estonia during the time of occurrence of the accident or if the right to drive had been suspended during the time of occurrence of the accident.

ILLEGAL ACTIVITY

45. The insurer has no performance obligation, if the claim results from the activity, which is forbidden by legal acts (for example illicit trafficking) or if the insured had no authorisation, qualification, preparation, licence, registration, activity licence or other required by the legal acts for performing that activity.

REFUSAL OF THE INSURED FROM THE SETTLEMENT

46. If the insurer requires the insured to admit and satisfy the claim, from which the insured refuses, the insurer will not compensate the damage and the increase of costs resulting from the refusal of the insured.

OBLIGATORY LIABILITY INSURANCE

47. The insurer has no performance obligation to the extent, which is subject to compensation on the basis of the Obligatory Liability Insurance Act or the obligatory liability insurance contract.

THE DATA AND PROPERTY IN THE POSSESSION OF THE INSURED

48. The insurer has no performance obligation, if the claim proceeds from the destruction or damage of the property of a third party during the time, when that property was in the possession of the insured (for example leased or rented). The abovementioned exclusion is applied regardless of the fact, whether the possession of the insured was legal or illegal.
49. The insurer has no performance obligation, if the claim proceeds from the loss, destruction or damage of the things (including money, documents, securities and valuables) during the time, when these had been entrusted to the insured or kept by him, was authorised to keep or check.

PIPES AND CABLES

50. The insurer is not obliged to compensate the damage resulting from the destruction or damage of pipelines or cables.

TOWAGE

51. The insurer is not obliged to compensate the damage, which has occurred in the course of towing (excluding towing in emergency).

WATER-SKIERS

52. The insurer is not obliged to compensate the damage, which has occurred to a water-skier, parachutist or other person, who is transported behind recreational craft by a rope, hawser or similar line.

COMPETITIONS AND TRAININGS

53. The insurer has no performance obligation, if the damage has been caused at a time, when the internal stern engine boat, internal engine boat or outboard engine boat was participating in a competition or training.

NON-PROPRIETARY DAMAGE

54. The insurer is not obliged to compensate non-proprietary (moral) damage.

LOSS OF PROFIT

55. The insurer is not obliged to compensate for loss of profit.

CONTRACTUAL INCREASED RESPONSIBILITY

56. The insurer has no performance obligation, if the basis for the claim is an agreement, by which the conditions of compensating damages stricter than the law have been established towards the insured (for example waiver of the presentation of objections, simplified proving, extension of the period of limitation, determination of the extent of damage, form of guilt or responsibility, contractual penalty, etc.).

57. The insurer is not obliged to compensate the damage, which has occurred due to the application of pecuniary or non-pecuniary private law sanction (fine for delay, contractual penalty, earnest money, etc.).

INTERESTS

58. The insurer has no obligation to compensate the interests.

EXPIRED CLAIMS

59. The insurer has no performance obligation, if the claim submitted against the insured is expired.

FINES

60. The insurer is not obliged to compensate the damages resulting from public law sanction (pecuniary punishment, fine, penalty payment, imprisonment, detention, etc.).

Obligations of the policyholder upon the occurrence of damage

61. After the occurrence of the loss event the policyholder (the insured) must act according to the procedure established by the law and depending on the nature of the event to **immediately** inform the organ performing the corresponding rescue works and examining the circumstances of the event (water rescue, port, police, fire fighting, border guard, etc.).
62. The policyholder is obliged to take all measures to restrain further damages, to avoid possible additional damages and to guarantee the rights of the insurer (for example by helping to ascertain the possible reason of damage, the circumstances of the occurrence of damage and the names of witnesses, by collecting documentary evidence, etc.).
63. Prior to the amount of damage and the circumstances of the loss event being established, the policyholder shall not make any changes with respect to the damaged thing or the place of the event within five days from the occurrence of the loss event without the permission of the insurer if such changes would influence the establishment of the cause or extent of the damage. The insurer has the right to establish a term of avoiding changes longer than the abovementioned.
64. Changes are allowed, if they are unavoidably necessary for the purpose of reducing the damage or in the public interest. The insured also has the rights to take the recreational craft designated on the insurance policy from the place of occurrence of the accident to the port or the storage facility of the recreational craft.
65. The policyholder must inform the insurer of the occurrence of the accident **upon first possibility**, but not later than within **three working days** in writing from the occurrence of the loss event or from the day, on which he found out or should have found out about the occurrence of the loss event.
66. The policyholder must inform the insurer of every claim for compensation of damages submitted against the insured **upon first possibility**, but not later than within **one week** in writing.
67. The policyholder shall notify the insurer of the submittal of claim against him and any circumstances, which may be the basis for a claim being filed (for example the violation of an obligation, the occurrence of damage, the initiation of judicial or extrajudicial proceedings, etc.) immediately, but not later than within one week from the time when the policyholder became aware of the circumstances or the claim being filed. The abovementioned notice must be submitted in writing or in the form enabling written reproduction (for example e-mail, notice through the Internet homepage of the insurer).
68. Each party to the insurance contract may cancel the insurance contract within three months from the day, when the policyholder notified the insurer of the circumstance, which may be the basis for a claim being filed (for example the violation of an obligation, the occurrence of damage, the complaint of a customer, etc.), notifying the other party to the insurance contract of it 31 day in advance.
69. In case of a loss event the policyholder is obliged to grant the insurer correct and complete information on the circumstances of the loss event, the amount of damage and the possible liable persons.
70. The policyholder obliges to enable the insurer the performance of the inspection of the place of event and the damaged property and the direct questioning of the persons, for whom the policyholder is responsible.
71. The policyholder obliges to submit documents and written explanations to the insurer, to answer the questions of the insurer orally and in writing, to participate in the inspection of the place of the event or the damaged property upon the request of the insurer.
72. The policyholder guarantees that the persons, for whom the policyholder is responsible, give evidence and information to the insurer in the abovementioned manner.

73. Upon the claim, complaint or action being filed against the policyholder, the latter must use the necessary legal remedies in time, including the submittal of a reply, challenge, complaint, pretension, etc., which is necessary for the protection of the rights of the policyholder pursuant to the law or the contract.
74. The admission or satisfaction of the claim of an injured person by the policyholder or the insured without the written permission of the insurer is not binding on the insurer.

Calculation of the insurance indemnity

75. The insurance indemnity is the part of the **amount of loss** compensated by the insurer.
76. The insurance indemnity equals the difference between the amount of loss calculated on the basis of clauses 78 – 86 and the deductible.
77. The sum insured is not reduced upon the payment of the insurance indemnity.

CALCULATION OF THE AMOUNT OF LOSS

78. The amount of loss consists of:
 - 78.1. the amount of money necessary for satisfying the justified and proven claims of personal injury and damage to property resulting from one and the same insured event;
 - 78.2. the court expenses and costs for legal assistance, which have been made according to the stipulations of the insurance contract for the protection of the rights of the insured.
79. The damage or an expense is calculated into the amount of loss only in case if it is proven by documents.
80. If the insurer has no performance obligation regarding a certain claim (for example the claim for the compensation of non-proprietary damage or unproven damage), it will not be calculated into the amount of loss.

APPLICATION OF THE SUM INSURED

81. If the amount of loss is bigger than the sum insured, then the amount of loss is considered equal to the sum insured.

REDUCTION OR NON-PAYMENT OF THE INSURANCE INDEMNITY

82. If the policyholder intentionally or due to gross negligence violated an obligation (including the safety requirements), which had to be observed prior to the event causing the damage, the insurer may reduce the insurance indemnity or refuse from the payment of it, if the violation influenced the occurrence of damage or the amount of loss.
83. If the policyholder intentionally violated an obligation, which had to be observed after the event causing the damage, the insurer may reduce the insurance indemnity or refuse from the payment of it.
84. If the policyholder due to gross negligence violated an obligation, which had to be observed after the event causing the damage, the insurer may reduce the insurance indemnity or refuse from the payment of it, if the violation influenced the amount of the compensation obligation of the insurer or the determination of it.
85. Among other things the intentional violation is:
 - 85.1. not replying to the written inquiry of the insurer by the deadline specified in the inquiry;
 - 85.2. not submitting the evidence or statements necessary for the settlement of the claim filed against the insured by the term determined by the insurer;
 - 85.3. not using the legal remedy required by the insurer (for example the submission of pretension, objections, complaint, action, application for the cancellation of contract, application of withdrawal, etc.) by the term determined by the insurer;
 - 85.4. non-performance of the requirements of a court (for example the submission of evidence, positions, etc., appearing into court).
86. If the insurer will find out about the violation of the insurance contract after the payment of the insurance indemnity, the insurer has the right to completely or partially reclaim the paid insurance indemnity, according to the fact whether the insurer would have refused from the payment of insurance indemnity or decreased the performance obligation upon the acknowledgment of the violation of the insurance contract.

WITHHOLDING OF INSURANCE PREMIUM

87. Upon the payment of insurance indemnity the insurer has the right to withhold the unpaid insurance premiums, notwithstanding the fact whether the due date of the insurance premium has arrived. The insurer has the abovementioned right also in case if the insurance indemnity is paid to another person than the policyholder.

Payment of the insurance indemnity

88. An insurer's obligation to perform a contract falls due after the occurrence of an insured event and the completion of the activities necessary for determining the extent of the insurer's performance.
89. The insurer must pay the indemnity without delay but not later than within two weeks from the time, when the required documents on the following have been submitted to the insurer:
 - 89.1. that the claim of the injured party was satisfied upon the written consent of the insurer by the insured;
 - 89.2. that the claim of the injured party has been ascertained by court judgement;
 - 89.3. that the insured has upon the written approval of the insurer admitted the claim or concluded a compromise contract upon the written approval of the insurer.

90. If the payment of the insurance indemnity takes place in periodic payments (for example allowance), then the insured pays the first payments up to the extent of deductible and then the insurer continues the payment of periodic payments.
91. If the insurer has no information about the name and bank account number of the person entitled to receive the indemnity, the insurer will not have the obligation of payment of the indemnity until this information has been submitted to him in writing by the policyholder.
92. If the insurer delays with the performance of his obligations, the insurer is obliged to pay a fine for delay of 0.1 % of the payable amount for every delayed day upon the request of the person entitled to receive the indemnity, but not more than 10 % of the due amount.
93. If the insured legal entity is terminated without a legal successor, the performance obligation of the insurer also terminates.



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