



Product Liability Insurance

VA 02

General insurance terms and conditions January 1 2019

332365e 6.19

1 Purpose of insurance

On the basis of these terms and conditions and the General Terms of Contract (YL), Pohjola Insurance Ltd or A-Insurance Ltd (hereinafter the Insurance Company) undertakes to

- cover the losses referred to in clause 3.1 below and other expenses specified separately in these terms and conditions;
- investigate the grounds for and amount of indemnity;
- negotiate with the claimant; and
- appear in court or pay legal expenses if a claim for damages is subjected to legal proceedings.

The insurance covers the policyholder's business (insured operations) reported by the policyholder to the Insurance Company upon conclusion of the insurance contract and recorded in the insurance policy.

2 Territorial scope

The insurance is valid throughout Europe, unless otherwise agreed and recorded in the insurance policy.

3 Coverable losses and related exclusions

3.1 Coverable losses

The insurance covers bodily injury and material damage caused by a product delivered to a third party in the insured operations and within the territorial scope of the insurance, provided that

- such injury or damage is detected during the insurance period, and
- the policyholder is held legally liable for it.

A product is considered to have been delivered once it became subject to trade by means of a sale or other equivalent contract. However, a product is not considered to have been made available or delivered subject to trade if it has only been handed over for trial or testing purposes.

Another prerequisite is that the claim is presented within the territorial scope of the insurance and is based on the tort law in force in said territory.

3.2 Exclusions

3.2.1 Loss incurred by the policyholder

The insurance does not cover any loss incurred by the policyholder or insured party.

3.2.2 Damage to products sold or delivered

The insurance does not cover any damage caused to

- products sold or delivered; or

- property other than the product itself in cases where the damage can be eliminated by repairing or replacing the delivered product.

The insurance does not cover expenses caused by a complaint, return, repair, replacement or recall from the market of a product.

3.2.3 Loss caused by contractual liability

The insurance does not cover any loss insofar as the liability is based on a contract, guarantee or other obligation, unless the liability would exist even without such an obligation being in force.

The insurance does not cover any loss caused by the failure of a chemical substance or pharmaceutical product to have the promised effect or performance.

The insurance does not cover any loss or part thereof insofar as some other party has agreed to indemnify for it on behalf of the insured party.

3.2.4 Financial loss

The insurance does not cover any financial loss that is not connected with bodily injury or material damage.

3.2.5 Injury caused by medication or to patient, occupational accident, work-related exposure or occupational disease

The insurance does not cover

- loss or damage as referred to in the Patient Injury Act
- personal injury caused by medication
- personal injury inasmuch as it is covered by the insured party's policy referred to in the Workers' Compensation Act, or
- loss or injury caused by occupational disease or other work-related exposure.

3.2.6 Chemical and other substances or products

The insurance does not cover any loss or damage caused either directly or indirectly by:

- asbestos
- lead or lead paint
- polychlorinated biphenyl (PCB)
- chlorinated hydrocarbons
- urea-formaldehyde
- diethylstilbestrol (DES)
- electromagnetic fields (EMF)
- welding fumes
- silica or silica-related dust
- genetically modified organisms (GMO)
- nanotechnology elements in products
- fungi, mould or bacteria on or within a building or other structure

3.2.7 Loss caused by tobacco

The insurance does not cover any loss caused by tobacco, tobacco products or tobacco smoke.

3.2.8 Loss caused by nuclear accident

The insurance does not cover any loss caused by a nuclear accident as referred to in the Nuclear Liability Act or corresponding foreign legislation.

3.2.9 Loss caused wilfully or through gross negligence

The insurance does not cover any loss caused wilfully or through gross negligence (see clause 7 of the General Terms of Contract, YL).

A loss can be deemed to have been caused wilfully or through gross negligence, for instance, if the act, operating method or omission causing the loss included a major risk of such a loss in view of the circumstances.

However, the insurance covers loss caused wilfully or through gross negligence if the policyholder in the capacity as employer is held liable for loss caused by an employee in the course of work and is able to show that the policyholder or its supervisory staff was not, and did not have to be, aware of the employee's action.

3.2.10 Action violating product safety regulations

The insurance does not cover any loss caused by an action in violation of laws, decrees or mandatory official product safety regulations or instructions, if the policyholder was, or should have been, aware of such action.

3.2.11 Loss caused by fines

The insurance does not cover fines or other similar sanctions.

3.2.12 Loss caused by known risk of loss

The insurance does not cover any loss caused by a faulty product, insufficient product safety or other grounds for liability of which the policyholder was or should have been aware at the inception of the insurance cover.

3.2.13 Testing and trial runs

The insurance does not cover any loss caused by a product handed over for test or trial use or a product which has been handed over without the sector's typical final tests, inspections or analyses, or if the product does not have the approval required by the authorities.

3.2.14 Other liability insurance

The insurance does not cover any loss coverable under some other liability insurance held by the policyholder.

4 Safety regulations

The policyholder must comply with the safety regulations recorded in the insurance policy or otherwise issued in writing (see clause 6.1 of the General Terms of Contract, YL).

5 Claims settlement

5.1 Insurance Company's obligations

The Insurance Company must investigate whether the policyholder is liable to pay damages for a reported loss covered under the insurance, for the part exceeding the deductible, and must negotiate with the claimant.

If the policyholder makes good the loss, agrees thereon or accepts the claim, this will not be binding on the Insurance Company unless the amount of and grounds for the damages are manifestly correct.

If the Insurance Company has reached an agreement on compensation with the party who has sustained a loss, and the policyholder does not agree to this, the Insurance Company will

not be held liable for any subsequent expenses or for more than it would have indemnified on the basis of the aforementioned agreement. Nor will the Insurance Company be under any obligation to conduct further investigations into the matter.

5.2 Policyholder's obligations

The policyholder shall

- participate in the investigation into the loss at the policyholder's own expense;
- provide the Insurance Company with all information, documents and other material in the policyholder's possession relevant to the claims settlement;
- obtain or prepare any necessary reports and analyses available to the policyholder at reasonable expenses; and
- allow the Insurance Company the opportunity to contribute to reaching an amicable settlement.

6 Legal proceedings

If a claim for damages, based on grounds which constitute a loss coverable under the insurance, is submitted to the court, the policyholder must promptly notify the Insurance Company thereof as soon as such legal proceedings have been brought to the policyholder's attention.

If a claim for damages concerns a loss that, as to its grounds and amount, is coverable under the insurance, the Insurance Company will pay the resulting legal expenses provided that

- the loss report has been submitted before the statement of defence is given, and
- the attorney is approved by the Insurance Company.

If the legal proceedings also concern other issues, the insurance will cover only the portion of the expenses incurred due to the claim covered by the insurance.

The Insurance Company always has the right to assume the policyholder's defence at the legal proceedings.

7 Indemnification regulations

7.1 Damages

The insurance covers the damages for which the policyholder is liable. The amount of damages is calculated according to damages regulations and legal practice.

The provisions of the Value Added Tax Act will be taken into account when calculating the loss amount. Value added tax will not be compensated in case the insured party or beneficiary has the right of refund with respect to value added tax.

If several parties are jointly and severally liable for the same loss, the insurance will cover only the part of the loss that corresponds to the policyholder's share of the liability.

If no other grounds exist, the indemnity will be paid on a per capita basis.

7.2 Costs incurred due to preventing risk of an impending loss

The insured party is under an obligation to prevent or mitigate the loss from an impending or actual insurance event (see clause 6.2 of the General Terms of Contract, YL). This obligation concerns only measures that eliminate the immediate threat of a liability loss being caused to a third party and not any further measures after the event unless these measures are separately agreed on with the Insurance Company. Costs arising from such necessary measures are coverable under the insurance.

7.3 Investigation and legal expenses

The insurance also covers reasonable and necessary expenses incurred in investigating the loss, but not the investigation expenses for which the policyholder is liable under the insurance terms and conditions or on which have not been specifically agreed with the Insurance Company.

Legal expenses are covered as specified in clause 6 above.

7.4 Maximum indemnity

The aggregate maximum of indemnities paid on the basis of a single loss, including expenses incurred due to loss prevention, investigations, negotiations, interest payments and legal proceedings, is the sum insured stated in the insurance policy. Loss prevention costs are coverable in accordance with clause 6.2 of the General Terms of Contract, YL.

The maximum indemnity paid for losses discovered during a single insurance period equals double the sum insured specified in the insurance policy.

7.5 Serial loss

Losses caused by the same event or circumstance will be considered a single loss regardless of whether they are discovered during one or more insurance periods or whether the products are delivered at different times. If such losses are discovered during different insurance periods, they will be attributed to the insurance period in which the first loss was discovered.

7.6 Deductible

For each and every loss, the policyholder's deductible specified in the insurance policy will be subtracted from the total amount of indemnity including any expenses incurred due to loss prevention, investigations, negotiations, interest payments and legal proceedings, all calculated in accordance with the insurance terms and conditions.

7.7 Special deductible

The insurance policy or the special terms and conditions may specify different deductibles.

8 Calculating the insurance premium

If, due to the nature of the policyholder's business, the insurance premium can only be estimated in advance, the final premium will be determined after the expiry of the insurance period, when the difference between the final premium and the advance premium must be paid immediately by or to the policyholder.

If the policyholder does not, within one month, provide the Insurance Company with the information it has requested for the purpose of calculating the final insurance premium, the Company will be entitled to setting the final premium at an amount it considers reasonable.

Measures to be taken after occurrence of liability loss

As soon as a loss has become known or a claim has been filed, the loss must be notified to the Insurance Company. No special form of notification is required but it is vital to make the notification at the earliest opportunity. Loss report forms are also available from our offices. As the process proceeds, the Insurance Company must be provided with further information whenever relevant factors emerge. Information, minutes, reports and any other available documentation must be provided in the greatest possible detail on the cause of the loss and the loss itself.

In cases of product liability loss, the product that caused the loss must be carefully retained for investigation purposes.

The name(s) and address(es) of the person(s)/party/parties suffering loss are required to enable contacts with them.

In addition to the above guidelines, please see clauses 6.2, 10.2 and 10.3 of the General Terms of Contract, YL.

Pooling our resources.

