Gemeente
Amsterdam
VGA Verzekeringen

Product conditions

Liability insurance for Municipalities

(VGA General WA LAG14)

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Product Conditions Liability Insurance for Municipalities

Section 1 General

Article 1 Definitions

1.1 Insured

a. Policyholder;
b. the municipal administrative bodies and administrators (mayor, aldermen and councillors) acting as such;
c. the municipal committees and their members acting as such;
d. the subordinates - including trainees, temporary workers, freelancers and volunteers - of the insured with regard to activities they perform for the insured in his insured capacity;
e. the civil registrars acting as such;
f. the municipal services, companies, schools, institutions and organising committees that have no legal personality;
g. the natural and legal persons explicitly designated as co-insureds in the policy schedule;
h. staff associations and their board members acting as such;
i. education:
•• teachers and other municipal school staff;
•• (members of) parent committees, school councils, participation councils and the like;
•• those who perform work in the context of the so-called parental participation and stay scheme; everything in so far as the liability arises from the work concerned;
j. the traffic wardens as well as parents and guardians of underage traffic wardens if and in so far as they are liable for the activities of the traffic wardens;
k. services:
•• all natural persons who perform work for the benefit of the insureds as stated under f;
•• persons appointed by the insured to serve in polling stations;
•• interviewers appointed by the insured;
•• members of the (voluntary) fire brigade;
•• persons who work for the municipality within the framework of the Contingency Plans Act; everything in so far as the liability arises from the work concerned;
l. administrator employed by the policyholder who performs his activities within the framework of the Act on Debt Cleansing of Natural Persons,;
m. physicians
•• (para) medics as well as their assistants in connection with carrying out work to the order of and/or for the benefit of the insured, as well as in connection with assistance in the event of accidents and the like (first aid risk).
n. attorneys employed by the policyholder with regard to the activities they perform for an insured within the limits of the insured capacity.

1.2 Claim
A claim is exclusively a claim, whether or not justified, made in writing against the insured, whereby the party making the claim explicitly claims compensation for loss or damage.

Claims, whether or not made against several insureds, arising from or related to the same cause are considered one claim and are deemed to have been reported with the company at the time that the first claim is reported.

1.3 Circumstance
A circumstance is a (legal) fact that can reasonably be assumed to lead to a claim as referred to in article 1.2 of these Product Conditions.

1.4 Liability
Liability is understood to mean Liability on account of an unlawful act and/or on account of an attributable shortcoming in the fulfilment of an obligation.

1.5 Act or negligence
An act or omission from which a claim arises.

An act or omission is equated with a loss occurrence that is exclusively for the account of the insured by virtue of a capacity belonging to the insured by virtue of the law or generally accepted standards.

1.6 Error
An error is exclusively understood to mean:

1.6.1 an unlawful decision, as further defined in article 1.7.1, 1.7.2 and 1.7.3 of these Product Conditions;

1.6.2 a tort due to an actual act or negligence of an insured.

1.7 Decision
1.7.1 A decision as referred to in the General Administrative Law Act (hereinafter referred to as Awb) against which objection and/or appeal within the meaning of the Awb can or could be made.

1.7.2 A decision also includes a preparatory decision or a decision to refuse to take a preparatory decision as referred to in section 3.7 of the Spatial Planning Act (Wro).

1.7.3 A decision also includes a decision refusing the adoption of a (revised) zoning plan.

1.8 Loss or damage

1.8.1 Damage to persons
Injury or impairment of health of third parties, whether or not resulting in death, and the directly related consequences.

Damage to persons does not include the costs incurred by (potential) injured parties of measures to prevent damage as referred to in section 6:96 Burgerlijk Wetboek (Civil Code) (hereinafter referred to as the Civil Code) and comparable statutory provisions, including the consequential loss or damage.

1.8.2 Property damage
Damage, destruction, loss or contamination of goods of third parties and the directly related consequences.

Damage to goods does not mean costs incurred by (potential) injured parties of measures to prevent damage as referred to in section 6:96 Civil Code and comparable legal provisions, including the consequential loss or damage.

1.8.3 Financial loss
Financial loss, other than damage to persons and damage to property.

1.9 Third Parties
Everyone with the exception of the insured held liable.

1.10 Insurance year
A period of 12 months from the premium due date and each consecutive period of equal length.

If the period from the commencing date of this insurance to the premium due date or from the premium due date to the expiry date is less than 12 months, such a period is also regarded as an insurance year.

For a period of validity of less than 12 months, the insurance year is equal to the period of validity.

1.11 Contract period
The period for which this insurance has been effected.

1.12 Validity
The period from the commencing date of this insurance to the end of this insurance.

1.13 Environmental impairment
The emission, discharge, seepage, release or escape of any liquid, solid or gaseous substance, in so far as it has an irritating or a contaminating or spoiling or a polluting effect in or on the soil, the air, surface water or any water(course) whether or not underground.

1.14 Salvage Costs
Costs incurred in the interest of the company associated with measures taken by or on behalf of an insured during the validity of this insurance and which are reasonably required to avert the imminent danger of a loss or damage, for which - if applicable - an insured would be liable and this insurance provides cover or to limit such loss or damage.

1.15 Nuclear reaction
Any nuclear reaction that releases energy, such as nuclear fusion, nuclear fission, artificial and natural radioactivity.

1.16 Nuclear installation
A nuclear installation within the meaning of the Nuclear Accidents Liability Act (Bulletin of Acts and Decrees 1979-225), as well as a nuclear installation on board a ship.

1.17 War risk

a. **Armed conflict:** any case in which states or other organised parties fight each other, or one another, by means of military force. This also includes armed action by military units under the responsibility of international organisations such as the United Nations, the North Atlantic Treaty Organisation or the Western European Union;
b. **Civil war:** a more or less organised violent struggle between residents of the same state, involving a significant proportion of the residents of that state;
c. **Insurrection:** an organised violent resistance within a state, aimed at public authorities;
d. **Civil commotions:** more or less organised violent actions, occurring in several places within a state;
e. **Riots:** a more or less organised local violent movement, aimed at public authorities;;
f. **Mutiny:** a more or less organised violent movement by members of any armed force, aimed at the authorities whom they have been placed under.

These are the six forms of war risk referred to in section 64 paragraph 2 of the Insurance Companies Act 1993.

1.18 Mediation
Mediation is mediation to resolve a dispute mutually out of court.

Article 2 Scope of this insurance

2.1 General
The liability of the insured is insured in accordance with the provisions in the Sections of these Product Conditions, which only apply if the relevant Section is included in the insurance according to the policy schedule.

These Product Conditions form one whole with the accompanying General Conditions.

2.2 Amount insured

2.2.1 The company compensates for all the insureds together per claim and per insurance year:

a. the loss or damage including statutory interest;
b. the costs of assessment and defence costs incurred by the insured with the prior consent of the company or at the request of the company, as well as the related costs, such as those of legal assistance and costs of proceedings, provided that the defence has been forwarded under the direction of the company;
c. the costs of mediation and other methods of dispute settlement incurred with the consent of or at the request of the company;
d. the costs of legal assistance provided at the request of the company in criminal proceedings brought against the insured;
e. the salvage costs as described in article 1.14 of these Product Conditions; jointly up to a maximum of the insured amounts stated in the Policy Schedule.

The deductible does not apply to the costs referred to in b, c and d.

2.2.2 If the aforementioned costs are related to claims which exceed the amount insured and/or to claims that are partly related to uninsured or excluded risks or losses, the company is only obliged to pay these costs in the same proportion as that in which the compensation owed by the company is to the total amount of the compensation to be paid by the insured.

2.2.3 With regard to the maximum amount insured per insurance year, as stated in the policy schedule, the date of the first written notification to the company of the claim that leads to this, is decisive for the insurance year to which the claim in question is attributed.

2.2.4 If the liability of the insured may be insured under more than one of the Sections declared applicable in the policy schedule, the insured amounts of the various Sections will not accumulate, but the highest of the eligible amounts insured will apply.

2.2.5 The cover applies to all insureds together up to no more than the highest amounts per claim stated in the policy schedule for the relevant section of loss.

2.3 Pre-risk
Claims arising from or in connection with loss or damage caused before the commencing date of this insurance are not insured, unless stated otherwise in the policy schedule.

2.4 Run-off
If the insurance is terminated, the policyholder will retain, for three months after the termination date, the right to report under this insurance claims that have been made against the insured during the currency of the insurance or circumstances that occurred during the currency of the insurance.

Such reports will then be deemed to have taken place during the currency of the insurance.

2.5 Reporting Circumstances

2.5.1 If the policyholder reports a circumstance as referred to in this article, it must also be indicated from which it is deduced that a claim (whether or not justified) could be made.

2.5.2 The report of a circumstance is at least accompanied by information about the occurrence(s) that led to the loss or damage, the potential claimant(s) and available information about the amount of the loss or damage.

2.5.3 If the policyholder reports a circumstance during the currency of the insurance, subject to this article, which leads to a claim after termination of the insurance, the report of the circumstance will be regarded as report of the claim.

2.5.4 Not insured is a claim that is the result of, is related to or arises from a circumstance reported in accordance with this article, if such claim has been made against the insured or has been reported to the company after a period of 3 years has lapsed after termination of the insurance.

Article 3 Territorial limits

The territorial limits are the entire world with the exception of the USA and/or Canada. The act or negligence and the resulting loss or damage must have taken place within the territorial limits. Not insured are claims based on the law of the USA and/or Canada.

Article 4 Exclusions and inclusions

4.1 Stipulations increasing liability
Not insured is the liability of the insured for loss or damage arising from a penalty, compensation, guarantee stipulation or a stipulation to indemnify or other stipulation of similar intent, unless liability would also have existed without the stipulation.

4.2 Nuclear reaction

4.2.1 Not insured is the liability of the insured for any loss or damage caused by, occurring during or arising from a nuclear reaction, regardless of how this reaction occurred.

4.2.2 However, the liability of the insured is insured for any loss or damage caused by radioactive nuclides, which are located and used outside a nuclear installation or are intended to be used for industrial, commercial, agricultural, medical, scientific, educational or non-military security purposes, subject to a license issued by the appropriate authority (in so far as required) being in force for the manufacture, use, storage and disposal of radioactive materials.

4.2.3 In so far as a third party is liable for the loss or damage sustained under any law or treaty, the provisions of Article 4.2.2 of these Product Conditions do not apply.

4.3 Own goods
Not insured is the liability of the insured for loss of or damage to property of the policyholder and of other natural and legal persons named as insured in the policy schedule.

4.4 War risk
Not insured is the liability of the insured for loss or damage caused by war risk.

4.5 Motor vehicles / aircraft / vessels
4.5.1 Not insured is the liability of the insured for loss or damage in connection with keeping, using or having used or driving motor vehicles, vessels and aircraft.

4.5.2 The insured's liability is insured, however, for:

a. **Trailers:** loss or damage caused with or by a trailer that has come to a standstill outside the traffic after being detached or come off from a motor vehicle;
b. **Loading/unloading:** loss or damage caused with or by goods which are loaded onto or unloaded from a motor vehicle;
c. **Cargo:** loss or damage caused with or by goods whilst they are on or fall from or after they have fallen from a motor vehicle, with the exception of liability for dangerous substances, as referred to in Section I of Title 14 of Book 8 of the Civil Code;
d. **Use of motor vehicles by subordinates (Non-owners liability):** loss of or damage to third parties caused by subordinates of an insured as referred to in Article 1.1, under a and b, if the loss or damage was caused by an error in the use of the motor vehicle by the subordinate during the performance of his duties. This provision only applies to liability as an employer and if the insured is not the owner or holder of the motor vehicle.
e. **Operating equipment (no ownership or sustainable use):** loss or damage caused with or by motorised operating equipment if and in so far as the cause of the loss or damage is not due to the manner in which the operating equipment itself is operated or to certain (faulty) properties of the operating equipment. Not insured is the liability of the insured who is the owner or permanent user (for example on account of hire purchase or leasing) of the operating equipment;
f. **Motor vehicles not subject to registration:** loss or damage caused with or by motor vehicles not subject to registration, not including mopeds, scooters or similar vehicles. If there is an obligation to insure, at the time and location of the causing of the loss or damage, the liability for motor vehicles not subject to registration in accordance with the Wet Aansprakelijkheidsverzekering Motorrijtuigen (Act on Compulsory Liability Insurance for Motor Vehicles - WAM) or an analogous law, then only the excess above the amount that is or should have been insured is insured;
g. **Mounted loading and unloading equipment:** loss or damage caused with or by loading and unloading equipment mounted on motor vehicles during loading and unloading activities;
h. **Passenger risk:** loss or damage caused by the insured as a passenger of a motor vehicle, vessel or aircraft, with the exception of the provisions of Article 4.7 of these Product Conditions;
i. **Vessels.**
   •• damage to persons caused with or by vessels;

   •• property damage with or by non-motorised vessels or vessels propelled by their own propulsion of no more than 4 HP (Kw 2.94) subject to article 4.7 of these Product Conditions.

4.6 Goods delivered / service provided

4.6.1 Not insured is the liability of the insured for loss or damage to and depreciation of goods supplied, completed, delivered or treated as well as for loss or damage or costs arising due on account of:

a. replacement, improvement or repair of goods supplied, completed, delivered or treated by or under the responsibility of the insured;
b. the full or partial re-performance of work performed by or under the responsibility of the insured;
c. the inability to use or the improper use of goods supplied, completed, delivered or treated by or under the responsibility of the insured;
d. supplied or completed land, whether or not ready for construction; irrespective of who sustained the loss or damage or incurred the costs, subject to the provisions of article 4.7.2 sub d of these Product Conditions.

4.6.2 If a loss or damage is inflicted to goods supplied, completed or delivered by or under the responsibility of the insured, to other goods supplied, completed or delivered, then the provisions of Article 4.6.1 sub a of these Product Conditions only apply to those goods in which the cause of the damage has been located.

The provisions of article 4.6.1 under a, on the other hand, are fully applicable if both categories of goods belong to one and the same transaction.

4.7 Care, custody or control

4.7.1 Not insured is the liability of the insured for loss or damage to property that an insured or someone on his behalf has or has had in his care, custody or control for transport, rent, lease, loan, safekeeping or for whatever other reason.

4.7.2 However, the liability of the insured is insured for:

a. **Goods to be processed:** damage to goods entrusted to an insured for processing. Not insured is damage to those (parts of) goods that actually were or have been processed during the cause of the damage;
b. **Fire recourse:** loss of or damage to property that an insured, other than by reason of hire, lease, loan or safe custody, had under his care if and in so far as a loss or damage has been compensated by a fire insurer in this respect;
c. **Goods of subordinates:** damage to property (with the exception of motor vehicles) of subordinates for whom the insured is liable as an employer;
d. **Adding products:** damage to property which have been entrusted to the insured for processing and to which, after supply, completion or delivery by the insured, damage becomes apparent as a result of the defectiveness of any property which the insured has added to the property in question;
e. **Loading/unloading:** damage caused to vessels and vehicles during the time that they are present for loading or unloading at the premises of the insured or where the insured carries out work;
f. **Exhibitions/fairs:** damage to space rented or made available in connection with the participation in exhibitions or fairs, with the exception of damage inherent to the use.

4.8 Genetic damage
Not insured is the liability of the insured for genetic damage.

4.9 Enforcement through remedial sanctions

4.9.1 Administrative enforcement
The liability of the insured for loss or damage in any way arising from, based on or related to the implementation of a decision imposing an order under administrative enforcement is only insured if:

a. the decision is enforced after the period for objection or appeal against this decision has expired, and it has been established that the interested parties have not made use of the objection or appeal options, or;
b. the decision is enforced after the objection or appeal against the decision has been declared unfounded by irrevocable decision, or;
c. administrative enforcement must be applied immediately because the situation is so urgent that a decision cannot be awaited, and the decision has been announced as soon as possible after the administrative enforcement has been applied, or;
d. a request for suspension of the enforcement of the decision has been rejected by the preliminary relief judge, or;
e. the company has confirmed in writing prior to the enforcement of the decision that liability for the enforcement of the decision concerned is insured, or;
f. after publication of the decision but before the implementation of the decision a binding advice has been issued, from which it follows that an application for suspension of the enforcement of the decision (if submitted) would be rejected by the preliminary relief judge. The binding advice is issued in writing by an advisor appointed by the policyholder and the company in mutual consultation. The costs of the advice are borne by the company.

4.9.2 Penalty
The liability of the insured for a loss or damage which in any way arises from, is based on or is related to a decision in which an order subject to an incremental penalty is imposed, is insured unless: the order relates to having to cease business and/or professional activities.

In so far as the order subject to an incremental penalty relates to this, liability for the decision concerned is only insured if:

a. a request for suspension of the decision has been rejected by the preliminary relief judge, or;
b. the company has confirmed in writing that liability for the decision in question is insured prior to publication of the decision, or;
c. after publication of the decision, but before the expiry of the compliance period referred to in the decision, an advice binding on the parties has been issued, from which it follows that a request for suspension of the decision (if submitted) would be rejected by the preliminary relief judge. The binding advice is issued in writing by an Adviser appointed by the policyholder and the company in mutual consultation. The costs of the Advice are borne by the company.

4.10 Deliberate intent
Not insured is the liability of the insured for any loss or damage which is the intended or certain consequence of his actions or negligence.

The effect of this exclusion is limited to mayor, aldermen, councillors and managers of services and sectors (or under any name whatsoever).

In the case of co-insured legal entities, the exclusion applies to management (members) and other managers of this legal entity.

In all other cases, the exclusion only applies to the insured through whose personal act or negligence the loss or damage was caused.

4.11 Violation of the law

4.11.1 Decision-making
Not insured is the liability of the insured for any loss or damage which in any way arises from, is based on or related to a decision made by the insured in violation of a regulation or general principle of proper administration laid down by or in virtue of the law, if the insured deliberately chose for decision-making in conflict with this regulation or principle and such

conflict is not beyond reasonable doubt according to objective standards.

The conflict is presumed not to be subject to reasonable doubt according to objective standards and the insured is presumed to have consciously chosen for a decision in violation of a regulation or principle if a decision has been taken in violation of an advice issued to the insured (official or otherwise) from which it can be concluded that the decision will be in violation of a regulation or principle of proper administration laid down by or in virtue of the law.

4.11.2 Act or negligence
Not insured is the liability of the insured for any loss or damage that in any way arises from, is based on or is related to acts or negligence of the insured knowingly in violation of a regulation or general principle of proper administration laid down by or in virtue of the law, if, according to objective standards, there is no reasonable doubt for the insured that the act or negligence is in violation of the regulation or principle.

The conflict is presumed to be beyond reasonable doubt according to objective standards and the insured is presumed to have deliberately chosen for an act or negligence in violation of the regulation or principle if from an advice issued to the insured (official or otherwise) the conclusion appears that such act or negligence will be contrary to a regulation or principle of proper administration laid down by or in virtue of the law.

4.12 Tolerating dangerous situations
Not insured is the liability of the insured for any loss or damage resulting from the conscious tolerance of situations contrary to any law or license that pose a special danger to persons or property.

The insured is suspected of consciously tolerating a dangerous situation contrary to the law or license if that special danger is apparent from a report or advice issued to the insured in whatever form (official or otherwise).

4.13 Legal status regulations
Not insured is the liability of the insured for any loss or damage of the employee in so far as an applicable legal status scheme provides for compensation for the loss or damage suffered.

Legal status regulation includes in any case, but not exclusively, the CAR-UWO.

4.14 Lawful acts / balancing of interests
Not insured is the liability of the insured for loss or damage:

a. that arises from, is based on or is related to a lawful act by the insured;
b. to the compensation of which the insured is obliged according to any written or unwritten legal rule on the sole ground that the loss or damage should reasonably not or not entirely remain at the expense of the third party suffering the loss or damage;
c. to the compensation of which the insured is obliged according to any written or unwritten legal rule on the sole ground that the adverse consequences of a decision for third parties are disproportionate in relation to the purposes to be served with that decision;
d. arising from, based on or in connection with any act of the insured that is considered unlawful on the sole ground that no compensation is offered or paid or that no measures have been or will be taken to prevent or limit a loss or damage;
e. that in any way arises from, is based on or is related to an unlawful conduct that cannot be prohibited on the basis of compelling social interests.
f. not insured is any obligation to pay compensation that is based on a regulation under public law, in particular, but not limited to, section 15:20 Environmental Management Act, section 6.1 Spatial Planning Act and section 7.14 Water Act.

4.15 Third party goods in rented spaces
Not insured is the liability of the insured as a lessor for loss of or damage to goods of third parties that are located in the spaces rented out by the insured, regardless of the applicable tenancy law regime.

4.16 Asbestos
Unless explicitly stated otherwise in the policy schedule, the liability of the insured for direct and/or indirect loss or damage arising from, based on and/or related to the use of, exposure to or coming into contact in any other way with asbestos, asbestos fibres, asbestos dust and/or materials containing asbestos, is not insured.

Article 5 Premium

5.1 In addition to the provisions of article 4 of the General Conditions, the (premium) rate for the coming calendar year is annually adjusted to the wage development during the past year on the basis of the index Collective labour agreement wages per hour, including special remuneration, total figure’ of the Central Bureau of Statistics.

5.2 If the premium is based on variable factors, a provisional premium is charged. The company will adjust the provisional premium to the definite premium on the previous insurance year.

5.3 In order to assess the definite premium, the policyholder is obliged to return the form sent for this purpose each year, completed and signed within 6 months after the end of the insurance year, or to provide the definite information in some other way.

5.4 If these data are not received within the specified period by the company, the premium for the past insurance year is assessed by the company.

The company increases the factors on which the premium is based by a percentage it determines. The premium resulting from this is then considered definite.

Depending on whether the definite premium is higher or lower than the provisional one, the policyholder is obliged to pay an additional premium or the company is obliged to refund the premium.

5.5 Only in case of premature cancellation of this insurance, subject to the provisions of articles 6 and 7 of the General Conditions, is the policyholder entitled to a refund of the definite premium for the period for which this insurance is not in effect.

Article 6 Claims

In addition to the provisions of article 5 of the General Conditions, the following provisions apply:

6.1 Settlement of Claims
The company is entitled to indemnify injured parties directly on behalf of the insured, to make arrangements with them, or to put forward a defence. In this context, the insured is obliged to provide the company with the necessary written authorisations if required.

6.2 Settlements
Not insured is the liability of the insured for loss or damage in so far as the indemnity owed exceeds a settlement amount offered by the party suffering loss or damage and the company has wanted to accept this offer knowable for the insured and the insured has objected to this.

At the request of the insured, a binding advice for the parties may be requested on the question of whether the insured is of the opinion on legally correct grounds that the offer of settlement of the party suffering damage should not be accepted.

The costs of the expert will be borne by the party that has been (largely) unsuccessful, which will be decided by the binding advisor.

6.3 Damage to persons
The insured is obliged to report any notification of liability to the company in respect of damage to persons, regardless of the extent of the loss or damage and the amount of the deductible.

6.4 Independent claim decision
6.4.1 The insured is obliged to report any request to take an independent claim decision to the company as soon as reasonably possible, if and in so far as the request arises from, is based on or is related to a liability covered by this insurance.

6.4.2 The company will advise on such a request to the insured, which also applies if an objection or appeal has been brought by third parties.

6.4.3 If the insured cannot agree with an advice given by the company, the insured is obliged to consult with the company.

If these consultations do not produce any results and the insured takes a decision that deviates from the advice given by the company, this results in the loss of the right to compensation of loss or damage and/or costs and/or the right to service and assistance in case that the company is harmed in a reasonable interest by not complying with this obligation.

A decision to acknowledge liability has no effect if liability is justified or if mere facts are admitted.

6.4.4 If the consultation as referred to in article 6.4.3 of these Product Conditions has not produced any result, at the joint request of the company and the insured, a binding advice for the parties may be requested on the question of whether the company was of the opinion on legally correct grounds that the insured should not have made or needed not have made an independent claim decision, whereby an indemnity was awarded.

The costs of the expert will be borne by the party that has been (largely) unsuccessful, which will be decided by the binding advisor.

6.5 Request (written) compensation Awb

6.5.1 The insured is obliged to submit any request for indemnity to the administrative authority as referred to in section 8:90 paragraph 2 Awb or request for compensation to the administrative judge during the appeal against the decision causing loss as referred to in section 8:91. paragraph 1 Awb, to report to the company as soon as reasonably possible, if and in so far as that request arises from, is based on or is related to a liability covered by this insurance.

6.5.2 The company will, with regard to such a request or petition to the administrative judge, advise the insured. This also applies if an appeal has been lodged against the decision of the administrative judge.

6.5.3 If the insured cannot agree with an advice given by the company, the insured is obliged to consult with the company.

If these consultations do not produce any results and the insured takes a decision that deviates from the advice given by the company, this results in the loss of the right to compensation of loss or damage and/or costs and/or the right to service and assistance in case that the company is harmed in a reasonable interest by not complying with this obligation.

A decision to acknowledge liability has no effect if liability is justified or if mere facts are admitted.

6.5.4 If the consultation as referred to in article 6.5.3 of these Product Conditions has not produced any result, at the joint request of the company and the insured, a binding advice for the parties may be requested on the question of whether the company was of the opinion on legally correct grounds that the insured should not have made or needed not have made a decision, whereby an indemnity was awarded.

The costs of the expert will be borne by the party that has been (largely) unsuccessful, which will be decided by the binding advisor.

Article 7 Change of the risk

7.1 Increase or extension of risk
If in an insurance year an increase or extension of the insured risk within the limits of the capacity described in the policy schedule takes place (with the exception of the provisions article 6 of the General Conditions) this insurance is automatically in force for the ensuing liability of the insured, provided that the policyholder, within 2 months after the end of the insurance year, reports all information about the change to the company and pays any additional premium owed for this.

If the policyholder remains in default with the statement, any claims arising from the increase or extension, are not insured.

The cover for the increase or extension of the risk insured will then only come into effect after report to and acceptance by the company.

Article 8 Beginning and end of this insurance
In addition to the provisions of article 7.1 of the General Conditions both the beginning and end of this insurance are at 0.00 hrs, unless agreed otherwise in the policy schedule.

Article 9 Terrorism risk
The terrorism risk is only insured according to the limited cover of the General Conditions.

Section 2 Bodily injury and property damage

Article 10 Extent of the cover
Insured is the liability of the insured in the insured capacity for loss or damage to persons and goods, provided that:

a. the claim in this respect was first made against the insured during the period of validity of this insurance and was also notified to the company in writing during this period of validity;

   and

b. before the commencing date of this insurance the claim was not known or could reasonably not have been known to the policyholder or the insured held liable.

Article 11 Additional exclusions and inclusions

11.1 Works
Not insured is the liability of the insured in the capacity of principal, contractor, architect, constructor of construction, demolition or other civil engineering work for damage to property of third parties, caused by the preparation or execution of such work, subject to article 11.1.1 of these Product Conditions.

11.1.1 However, **t**he liability of the insured is insured in the capacity of principal of construction, demolition or other civil engineering work for damage to goods of third parties if and in so far as:

•• the error in the work is caused by incorrect information provided by the insured in his capacity as principal; or

•• a Construction All Risk insurance or similar insurance has been effected for that work and this insurance just does not provide cover on the basis of the agreed insurance period(s).

11.1.2 The liability of all those involved in the execution of construction, demolition or other civil engineering work, is insured on the understanding that:

a. the final value of the work does not exceed an amount of € 25,000 excluding VAT;

   and

b. in the event of pile-driving activities or the driving or pulling of sheet piling, well-draining or soil and groundwater remediation, the insured reports these activities to the company at least two weeks before the start of the execution of those activities and the company accepted the risk connected with these activities (whether or not on further conditions).

In the context of this article, damage to existing properties of the principal is also insured up to a maximum of € 25,000 excluding VAT per work.

Not insured is the liability of the insured for damage to the work itself.

11.1.3 The liability of the insured is insured in the capacity of principal/contractor for work with a final value above € 25,000 excluding VAT, provided that the work is carried out by employees of the policyholder.

11.2 Building Process Decree
Insured is the liability of the insured for bodily injury of the parties involved in the construction if the insured has not properly complied with one or more obligations under Chapter II of the Building Process Decree of the Working Conditions Act.

This liability is not insured if the insured has not complied with the aforementioned obligations at all.

11.3 Management of vehicles and vessels
a. Insured is the liability of the insured for loss or damage in connection with the driving or towing by or to the order of the insured of vehicles and vessels which are seized or which are under the management or control of the insured on the basis of a statutory regulation, and which belong to third parties.
b. Contrary to the provisions of Article 4.7 of these Product Conditions, the insured’s liability is insured for damage to the objects in question themselves, inflicted during driving, carrying or towing or during a stay in a dock, garage, workshop, storage place intended for this purpose, or in an associated parking site, whether guarded or not.
c. Contrary to the provisions of Article 4.1 of these Product Conditions, the liability of the insured is insured for the loss or damage referred to in this article arising from provisions to indemnify.

The extensions, as referred to in article 11.4, sub a, b and c of these Product Conditions, do not apply:

•• in so far as the loss or damage is covered by an insurance - whether or not of an earlier date - within the meaning of the Wet Aansprakelijkheidsverzekering Motorrijtuigen (Act on Compulsory Liability Insurance for Motor Vehicles - WAM) ;

•• with regard to a deductible that applies to such insurance.

11.4 Management other goods
a. Contrary to the provisions of Article 4.7 of these Product Conditions, the liability of the insured is insured for a loss or damage to third party property seized or under the management or control of the municipality on the basis of a statutory regulation - other than vessels and/or vehicles - inflicted during the transport to or stay at a designated storage place;
b. Contrary to the provisions of article 4.1 of these Product

conditions the liability of the insured is insured for the loss or damage meant in this article arising from a provision to indemnify.

11.5 Housing business
Insured is the liability of the insured as a lessor for loss of or damage to property of the tenant that has been fitted by the tenant himself, such as panelling, wallpaper and the like, and which have become part of the buildings rented out by the municipality through accession.

11.6 Sheltered employment
The liability of the insured and the employees of the insured is insured for damage caused to goods offered for processing, all this setting aside the provisions of article 4.7 of these Product Conditions, but without prejudice to the provisions of article 4.6 of these Product Conditions.

11.7 Indemnity provision NS
Contrary to the provisions of article 4.1 of these Product Conditions, the liability of the insured is insured for any loss or damage resulting from indemnity provisions in contracts with the Dutch Railways for the possession, maintenance, etc. of certain works, however, with the exception of damage to these. works.

11.8 Garbage containers
Insured is the liability of the insured for damage caused with or by garbage containers rented out or made available to third parties.

11.9 Mutual Liability
All insureds referred to under article 1.1 of these Product Conditions, including municipal services, companies and sectors and the like, are regarded as third parties towards each other and mutually.

Not insured is loss or damage caused by a subordinate or body of one of the insureds to property of that insured concerned.

11.10 Remediation
Not insured is the liability of the insured for damage caused by or in connection with work to remediate soil and/or groundwater.

11.11 Police
Not insured is the liability of the mayor in the capacity of authority over the police when it acts to maintain public order and to perform relieve tasks.

11.12 Employer's Liability
The liability of the insured towards subordinates is not insured under this Section.

11.13 Financial loss
The liability of the insured for financial loss is not insured under this Section.

11.14 Environmental impairment
Under this Section, the liability of the insured is not insured for a loss or damage which is directly or indirectly related to environmental impairment and/or the loss resulting from it.

Section 3 Loss or damage of subordinates

Article 12 Extent of the cover

Insured is the liability of the insured in the capacity insured towards subordinates for damage to persons and goods related to the carrying out of activities for the insured, provided that:

a. the claim in this respect was first made against the insured during the period of validity of this insurance and was also reported to the company in writing during this period of validity;

   and

b. the claim was not known or could reasonably not have been known to the policyholder or the insured held liable before the commencing date of this insurance.

Article 13 Additional exclusion

13.1 Financial loss

The liability of the insured for financial loss is not insured under this Section.

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Section 4 Financial loss

Article 14 Extent of the cover

Insured is the liability of the insured for financial loss of others than the insured (hereinafter referred to as “loss”), which is the result of an error made after the commencing date of this insurance, provided that:

a. the claim in this respect was first made against the insured during the period of validity of this insurance and was also reported to the company in writing during this period of validity;

   and

b. the claim was not known or could reasonably not have been known to the policyholder or the insured held liable before the commencing date of this insurance.

Within the framework of this section, insureds are therefore not regarded as third parties mutually and in relation to each other.

Article 15 Compensation of Litigation costs Loss decision

Insured is the liability of the insured for litigation costs to which he is sentenced by the administrative judge in compensation proceedings.

The compensation takes place after deduction of the deductible mentioned in the policy schedule and in so far as these costs, together with the indemnity due, do not exceed the insured amount each occurrence.

Article 16 Additional exclusions and inclusions

16.1 Promises / Expectations Raised

16.1.1 Not insured is the liability of the insureds mentioned in article 1.1 a up to and including c for any loss or damage which in any way arises from, is based on or is related to non-compliance with promises and/or not honouring with expectations made.

16.1.2 However, the liability meant in article 16.1.1 of these Product Conditions is insured if the decision not to comply with a promise and/or not to honour the expectation made is based on the circumstance that through compliance or honouring a legal provision or regulations would be violated.

In addition, the insured must demonstrate plausibly that such a provision or regulation has been overlooked when making the promise or raising the expectation.

16.2 Infrastructure Act
Not insured is the liability of the insured for any loss or damage arising from, based on or related to decisions arising from or taken on the occasion of the construction or modification of roads, railways or waterways within the framework of the Infrastructure Act, unless the insured demonstrates that the annulment of the decision is solely the result of the insured’s failure to comply with the relevant formal requirements in the Spatial Planning Act or the General Administrative Law Act.

16.3 Special Projects
Not insured is the liability of the insured for any loss or damage arising from, based on or related to decisions arising from or taken on the occasion of the implementation of special projects of supra-municipal importance, whereby other government bodies may requisition the cooperation of the insured on the basis of special legislation to that effect, unless the insured demonstrates that the annulment of the decision is solely the result of the insured’s failure to comply with the relevant formal requirements in the Spatial Planning Act or the General Administrative Law Act.

16.4 Contracts
Not insured is the liability of the insured for any loss or damage that in any way arises from, is based on or is related to the negotiation, conclusion and cancellation of, non-compliance, non-proper or overdue compliance with private or public law contracts.

16.5 Tender
Unless explicitly stated otherwise in the policy schedule, the liability of the insured is not insured for any loss or damage in any way arising from, based on or related to tendering by an insured.

Tendering means in any case, but not exclusively, the tendering of assignments (works, supplies or services) and the tendering of concessions.

16.6 Failure to observe a time limit
Not insured is the liability of the insured for any loss or damage that in any way arises from, is based on or is related to the failure to observe a time limit specified by law (in formal or material sense), unless the exceeding of the limit is the result of an error.

16.7 Statutory interest
Not insured is the liability of the insured for compensation of a loss due to delay (statutory interest) on amounts of money that the insured has wrongly collected or received or has not paid out on time.

16.8 Remediation

16.8.1 Not insured is the liability of the insured for any loss or damage that in any way arises from, is based on or is related to the enforcement of measures for the remediation of contaminated soil and/or groundwater: - which is exercised before the period of objection and appeal has expired against decisions to this effect and/or - which is exercised after such an objection or appeal has been lodged (in time) and before an irrevocable decision has been taken on that objection or appeal, all this if and in so far as the loss or damage could have been prevented by enforcement of said measures pending the expiry of that period and/or to suspend an irrevocable decision on the objection or appeal.

16.8.2 The liability of the insured is insured if and in so far as compelling or urgent interests require immediate action of the measures meant to be taken, provided that the company has accepted the risk after all on the basis of a motivated written request, whether or not under further conditions.

16.9 Insult

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to insult, harming the honour or good name or being affected in person in any other way.

16.10 Unfair competition

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to unfair competition, which in any case, but not exclusively, includes an act in violation of competition law (Competition Act), act in violation of procurement law and infringement of intellectual or industrial property rights.

16.11 Market and Government Act

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to an act in violation of the Market and Government Act.

16.12 Civil seizure

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to civil seizure.

16.13 Enforcement of judgment

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to the enforcement of a civil judgment.

16.14 Bankruptcy applications

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to applications for bankruptcy.

16.15 Neighbourhood law / Neighbouring premises

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to a claim based on Title 4 of Book 5 of the Burgerlijk Wetboek (Civil Code).

This regulates the powers and obligations of owners of neighbouring premises.

16.16 Costs of maintenance/management (Caretaking)

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to costs incurred by third parties for the preservation (repair) or management of an asset belonging to the insured, including real estate.

16.17 Fraud

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to fraud.

16.18 Fees, taxes, levies and apportionments

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to fees, taxes, levies or apportionments paid to the policyholder.

16.19 Infringement of intellectual or industrial Property Rights

Not insured is the liability of the insured for any loss or damage which arises in any way from, is based on or is related to an infringement of intellectual or industrial property rights.

16.20 Environmental impairment

Under this Section, the liability of the insured for any loss or damage which is directly or indirectly related to environmental impairment and/or the loss resulting from it is not insured.

16.21 Employer's Liability

The liability of the insured towards subordinates is not insured under this Section.

16.22 Bodily injury and property damage

The liability of the insured in the insured capacity for bodily injury and property damage is not insured under this Section.

Section 5 Environmental liability (sudden impact)

Article 17 Extent of cover

Insured is the liability of the insured in the capacity insured for any loss or damage of third parties in connection with an environmental impairment which is sudden and uncertain and not the direct consequence of a slowly working process, provided that:

a. the claim in this respect has been made against the insured for the first time during the period of validity of this insurance and was also reported to the company in writing during this period of validity;

   and

b. the claim was not known or could reasonably not have been known to the policyholder or the insured held liable before the commencing date of this insurance.

Article 18 Additional exclusions and inclusions

18.1 Salvage costs own location

Not insured are the costs (incurred by whosoever) in order to restrict or undo the environmental impairment at and the consequences thereof for a location of the insured, except in so far as the insured proves that such costs are also salvage costs within the meaning of article 1.14 of these Product conditions.

18.2 Violation of regulations

Not insured is the liability of the insured for any loss or damage as a result of an act or omission which is knowingly in violation of any government regulation with regard to the environment if this is done by order or with the approval of the insured.

If the insured in question is a legal person, the insured means, for the application of this exclusion, (a member of) the board, directorate or management, as well as any officer employed by the insured who is charged by (a member of) the board or management with a special responsibility for compliance of the previously mentioned regulations.

18.3 Underground tanks

Not insured is the liability of the insured for environmental impairment arising from or related to the storage of liquids in underground tanks.

18.4 Damage to persons

The insured's liability for damage to persons which is the result of environmental impairment which is sudden and uncertain and not the result of a slowly working process, is insured.

18.5 Financial loss

The liability of the insured for financial loss is not insured under this Section.

18.6 Employer's Liability

The liability of the insured towards subordinates is not insured under this Section.

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This text has been translated from the original Dutch wording. In case of any unclarity, difference of interpretation or mutual contradiction between the English translation and the original Dutch text, the Dutch text shall prevail at all times.