

Terms and conditions of Carrier's Liability

Valid from 01.11.2024, unofficial translation



These insurance terms and conditions specify the scope and terms and conditions of the insurance cover specified in the Carriers liability insurance contract concluded between the insurer and the policyholder. The persons considered equal to the policyholder are the beneficiary, the legal possessor of the vehicle, and a person to whom the legal possessor of the vehicle has voluntarily transferred the right to drive, as well as the family members of the above persons and of the policyholder.

In matters not regulated by the insurance contract the parties shall be governed by the Law of Obligations Act and other legislation.

1. Insured object

1.1. The insured object is the civil liability arising from the transport contract for the provision of paid freight transport with the vehicle specified on the policy, to the extent indicated on the policy.

2. Insurance cover

2.1. **Insured event** is a sudden and unforeseen event occurring during the provision of services with the insured item, due to the incidents agreed upon in the policy below. This event creates an obligation to indemnify, provided that indemnity is not excluded under clause 3.

2.2. **The destruction and/or damage of goods** during transport for which the policyholder is liable, in accordance with the "Convention on the Contract for the International Carriage of Goods by Road" (hereinafter CMR) for international road transport, and for domestic road transport within Estonia in accordance with the Law of Obligations Act or, for other domestic transports (such as cabotage mentioned in clause 2.6.5), in accordance with local law, but not exceeding 8.33 SDR per kilogram of damaged, destroyed, or missing goods (SDR or Special Drawing Rights is a unit of account used by the International Monetary Fund).

2.3. In the case of **financial loss**, insurance coverage is provided for liability due to delayed delivery of goods under Article 23.5 of the CMR Convention.

2.4. **Liability to third parties** for damage caused to them by the goods in the following cases: 2.4.1. Destruction or damage of property (excluding damage to containers, trailers, or other transport vehicles used for the carriage of goods); 2.4.2. Death, injury, illness of third parties (including medical expenses) or funeral expenses in the event of a third party's death.

2.5. **Costs arising from the transport** contract include expenses related to the investigation of the insurance event under clauses 2.1 to 2.3, (including defense of the policyholder's interests in courts and arbitration bodies) and efforts to prevent or minimize damage (including expenses for preserving goods after an accident, sorting, repackaging, and realization of damaged goods).

2.6. If noted on the policy, indemnity is also provided for:

2.6.1. Damage arising from the use (violation) of the TIR carnet, in accordance with the TIR Convention, i.e., liability to customs authorities (Customs Convention on the International Transport of Goods under Cover of TIR Carnets, 1975);

2.6.2. Damage caused by the damage, destruction, or loss of a container;

2.6.3. Damage caused by the damage, destruction, or loss of a trailer;

2.6.4. Damage resulting from gross negligence (e.g., if the person was under the influence of alcohol, drugs, or psychotropic substances at the time of causing the damage). Upon indemnification for damage caused by gross negligence, the policyholder's right to claim against the liable party transfers to the insurer.

2.6.5. Damage arising from cabotage transport.

3. Exclusions

3.1. Insurance coverage does not apply to the transport of the following goods:

3.1.1. Raw precious metals and products made from them;

3.1.2. Precious stones and valuable jewelry;

3.1.3. Banknotes and coins;

3.1.4. Bonds, payment instruments, or other securities;

3.1.5. Artwork;

3.1.6. Plants (including cut flowers) and live animals, birds;

3.1.7. Weapons;

3.1.8. Donor organs;

3.1.9. Passenger transport;

3.1.10. Household and office furniture;

3.1.11. Self-propelled cargo;

3.1.12. Transport conducted under international postal conventions;

3.1.13. Contraband;

3.1.14. Towed cargo.

3.2. 3.2. Unless specifically noted on the policy, indemnity is not provided for:

3.2.1. Damage to the policyholder's employees or other individuals under the policyholder's control or for whom they are responsible;

3.2.2. Damage due to insufficient packaging;

3.2.3. Loss due to theft of the vehicle and/or trailer along with the goods;

3.2.4. Loss of income (freight charges) and fines;

3.2.5. Damage resulting from terrorism, warfare, civil unrest, strikes, confiscation, and detention by military or civil authorities, or any other force majeure event;

3.2.6. Damage related to the use of nuclear energy or radioactive materials;

3.2.7. Damage caused by pests or rodents.

3.3. 3.3. Damage caused by intentional acts or gross negligence, including:

3.3.1. Driving with loads exceeding permitted height or weight and driving under low bridges/viaducts with a high load;

3.3.2. Damage caused by handing over goods to the wrong person;

3.3.3. Damage caused by using a vehicle unsuitable or unfit for safe transport, if the policyholder or equivalent persons knew or should have known about it before accepting the cargo;

3.3.4. Shortage of goods with intact external packaging or unbroken seals from the sender;

3.3.5. Damage due to breach of temperature requirements (except in cases of unexpected failure of a properly maintained refrigeration unit);

3.3.6. Damage resulting from significant violations of standard loading, storage, and transport requirements or specific requirements (e.g.,

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- 3.3.7. transporting goods in an unsecured cargo space, allowing theft without breaking security devices);
- 3.3.7. Damage occurring while the policyholder (or equivalent persons) was under the influence of alcohol or psychotropic substances, or if such substances were consumed immediately after the damage occurred or if intoxication detection was refused;
- 3.3.8. Damage resulting from leaving valuable and easily stolen goods (e.g., tobacco, alcohol, electronics transported in a tarpaulin trailer) without adequate supervision.
- 3.4. 3.4. Damage resulting from a traffic accident if the driver of the vehicle specified in the policy did not have the appropriate license for the vehicle category.

4. Release of the insurer from the obligation to perform the insurance contract

- 4.1. The insurer is partially or fully released from the obligation to fulfill the insurance contract if:
 - 4.1.1. the policyholder has breached at least one obligation set forth in the insurance contract (including obligations specified in clause 11), and this breach affects the occurrence or extent of the damage or the determination of the damage scope;
 - 4.1.2. the insurance event occurred due to the intentional actions of the policyholder;
 - 4.1.3. the policyholder has knowingly provided false information about the circumstances or extent of the damage; 4.1.4. the recipient of the indemnity is subject to international financial sanctions.

5. Covered territory

- 5.1. The insurer is obligated to indemnify only for events occurring within the insurance territory specified on the policy.

6. Transported Goods

- 6.1. The insurance coverage applies only to the category of goods specified on the policy.

7. Sum insured and indemnity limit

- 7.1. The sum insured is the maximum indemnity specified on the policy.
- 7.2. The general indemnity limit is the amount agreed upon in the policy, which serves as the limit for payable insurance indemnities.
- 7.3. In addition to the general indemnity limit, it is possible to agree on an indemnity limit related to financial claims, liability to third parties, and reasonable and necessary expenses.
- 7.4. The amount of indemnity must not exceed 8.33 SDR per kilogram of missing, damaged, or destroyed gross weight

8. Deductible

- 8.1. The deductible is the portion agreed upon in the insurance contract that the insurer does not indemnify. The deductible may be either a percentage of the damage amount or a fixed monetary sum. Losses below the deductible are not indemnified.

- 8.2. Damages resulting from different events are considered separate insurance events, and a separate deductible is applied to each.
- 8.3. If more than two insurance events occur within one insurance period, the deductible is applied at double the amount.

9. Indemnification procedure

- 9.1. 9.1. The indemnity is a monetary amount paid out as a result of an insurance event.
- 9.2. 9.2. The insurer has the right to withhold unpaid insurance premiums from the indemnity until the end of the insurance period, regardless of the premium payment due date or to whom the indemnity is paid.
- 9.3. 9.3. If civil or criminal proceedings have been initiated in connection with the damage event and the obligation to indemnify and its extent depend on the outcome, the insurer has the right to postpone the indemnity decision until the proceedings are concluded.
- 9.4. 9.4. The indemnity does not include VAT, except if the policyholder or the affected party does not have the right to deduct input VAT.

10. Refunding of insurance indemnity

- 10.1. 10.1. If circumstances excluding indemnity become known after the indemnity has been paid, or if the damage has been compensated by a third party, the policyholder must return the indemnity to the insurer at the earliest opportunity.
- 10.2. 10.2. If stolen or robbed property is recovered after the indemnity has been paid, the recovered item must be transferred to the ownership of the insurer, or the indemnity must be returned.

11. Obligations of the policyholder

- 11.1. 11.1. The policyholder must adhere to safety requirements arising from laws, instructions, and the insurance contract.
- 11.2. 11.2. The policyholder must promptly notify the insurer of any increase in insurance risk (e.g., changes in the information in the insurance contract or the application for the contract).
- 11.3. 11.3. The policyholder must inform any person to whom they transfer possession or use of the vehicle of the obligations arising from the insurance contract.
- 11.4. 11.4. The policyholder must comply with laws regulating the working and rest times of drivers (professional drivers) and the European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR agreement). Non-compliance releases the insurer from the obligation to indemnify.
- 11.5. 11.5. In the event of an insurance claim, the policyholder is obligated to:
 - 11.5.1. 11.5.1. take all possible measures to prevent or reduce damages, for which the insurer may be liable according to the policy;
 - 11.5.2. 11.5.2. notify the insurer of the insurance event at the earliest opportunity in a reproducible written format;
 - 11.5.3. 11.5.3. immediately report theft (including of the vehicle and trailer containing goods), robbery, vandalism, fire, or any other unlawful incident to the police in a reproducible written format;

- 11.5.4. provide the insurer with all information in their possession necessary to determine contractual obligations, including all documents and correspondence regarding the causes and extent of the damage;
- 11.5.5. authorize the insurer to obtain necessary information and documents for handling the insurance event;
- 11.5.6. prove the occurrence of the insurance event;
- 11.5.7. notify the insurer at the earliest opportunity in a reproducible written format if the damage is compensated by a third party or if a claim is waived;
- 11.5.8. promptly inform the insurer of the recovery of stolen or robbed goods and/or the return of goods to the possession of the owner or carrier;
- 11.5.9. follow the instructions provided by the insurer.

12. Insurance risk and the increase of the risk

- 12.1. Insurance risk is the hazard against which insurance is provided.
- 12.2. An increase in the likelihood of insurance risk is deemed to be any change in circumstances that raises the probability of an insurance event occurring or the extent of potential damage.
- 12.3. Significant factors that increase the likelihood of insurance risk include circumstances about which the insurer requests information from the policyholder before concluding the insurance contract. Failure to comply with any special condition, additional condition, safety requirement, or other agreement in the insurance contract related to insurance risk is also considered a significant factor.
- 12.4. The policyholder must promptly notify the insurer of any increase in the likelihood of insurance risk, except when the cause of the increase is a generally known circumstance that does not exclusively affect the policyholder's insurance risk.
- 12.5. After the contract has been concluded, the policyholder may not increase the likelihood of insurance risk or allow it to increase by persons equivalent to the policyholder without the insurer's consent.
- 12.6. If the policyholder fails to notify the insurer of an increase in the likelihood of insurance risk, the insurer is released from its obligations under the insurance contract if an insurance event occurs more than one month after the time the insurer should have received the notification.
- 12.7. If the policyholder or a person equivalent to the policyholder breaches the prohibition on increasing the likelihood of insurance risk and an insurance event occurs after the increase, the insurer has the right to reduce or refuse indemnity, depending on the circumstances of the breach.
- 12.8. The insurer has the right to inspect the insured item during the insurance period and, in the event of an increased likelihood of insurance risk, require the policyholder to implement additional security measures and/or increase the premium or terminate the insurance contract.

13. Rights and obligations of the insurer

- 13.1. The insurer has the right to:
 - 13.1.1. obtain necessary information and documents from the policyholder regarding the Insurance event;

- 13.1.2. independently appoint experts, lawyers, and other persons on behalf of the policyholder to investigate the circumstances of the insurance event, determine, and reduce the damage;
- 13.1.3. represent the policyholder in arbitration or court proceedings or before the claimant;
- 13.1.4. issue instructions to reduce the extent of the damage and investigate the circumstances of the event together with the policyholder;
- 13.1.5. refuse or reduce the indemnity if the policyholder avoids cooperation or does not follow the insurer's instructions;
- 13.1.6. impose additional requirements to reduce the insurance risk. These additional requirements become part of the insurance contract if the policyholder does not submit a withdrawal from the contract within ten days of receiving the requirements;
- 13.1.7. demand the difference between the premium based on actual risk and the premium indicated on the policy in the event of increased insurance risk;
- 13.1.8. adjust the standard terms and/or premium if the insurance contract is concluded for a period longer than one year, but not for the first annual period of the contract.
- 13.2. The insurer is obligated to:
 - 13.2.1. familiarize the policyholder with the relevant documents before concluding the insurance contract and keep confidential any information obtained in connection with the contract;
 - 13.2.2. commence handling the insurance event immediately upon receiving the policyholder's damage report;
 - 13.2.3. register the damage report and inform the policyholder about the principles for resolving the insurance event and damage;
 - 13.2.4. inform the policyholder as soon as possible about the documents required to determine the cause and extent of damage resulting from the insurance event;
 - 13.2.5. make a decision on indemnity or refusal to indemnify no later than 14 working days after receiving all required documents and determining the cause and extent of the damage. This timeframe may be extended if a police investigation, court, or pre-trial proceedings have been initiated, as these may impact the determination of the amount or extent of the damage to be indemnified.

14. Processing of complaints and resolution of disputes

- 14.1. Disputes arising from the insurance contract will be attempted to resolve through negotiation, and if no agreement is reached, the parties have the right to go to court.
- 14.2. If the policyholder is dissatisfied with the insurer's actions, they may submit a complaint to the insurer by sending an email to info@elama.ee or by regular mail to Liivalaia 45, Tallinn. A response to the complaint will be provided within 30 days.
- 14.3. The policyholder may also refer disputes to the Insurance Conciliation Body of the Estonian Insurance Association (www.eksl.ee, Mustamäe tee 46, Tallinn).
- 14.4. If no agreement is reached through conciliation, the dispute will be resolved in Harju County Court.

15. Form of notices

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- 15.1. All notifications necessary for the fulfillment of the insurance contract between the parties must be provided in a reproducible written format.
- 15.2. The insurer has the right to record phone calls related to the fulfillment of the insurance contract.

16. Data processing and protection

- 16.1. The insurer processes personal data in accordance with the provisions of the law.
- 16.2. The principles of data processing by the insurer are found in the document 'Personal data processing conditions of AS Elama Kindlustus' and can be found on the insurer's website at www.elama.ee.
- 16.3. The insurer has the right to process the data of the policyholder and the insured person for risk assessment, preparation, conclusion, and execution of the insurance contract.
- 16.4. The insurer has the right to forward client's data to third parties whom they use in fulfilling their obligations (data processors).
- 16.5. The policyholder has the right to obtain information from the insurer on the personal data and their use at any time and demand the correction of incorrect data, and demand the ceasing of the processing of personal data from the insurer, unless otherwise provided by the law.
- 16.6. The insurer retains the personal data for as long as is necessary for fulfilling the objectives of client's data processing or performing the objectives arising from the legislation, also taking into account the term of expiry of claims arising from the contract..

17. Contradictions

- 17.1. In case of contradictions in the insurance contract documents, the following documents shall be taken as guidance when interpreting them, based on their importance, whereas each preceding document is superior to the next document: policy – these terms and conditions.

18. Expiry of claims

- 18.1. The term for expiry of claims arising from the insurance contract shall be three years. The term for expiry shall start as of the end of the calendar year when the claim becomes collectable.

19. Termination of the contract, cancellation of the contract, withdrawal from the contract

- 19.1. The insurance contract shall expire:
 - 19.1.1. upon the end of the insurance period;
 - 19.1.2. upon the cancellation of the insurance contract;
 - 19.1.3. upon the withdrawal from the insurance contract;
 - 19.1.4. by agreement between the policyholder and the insurer;
 - 19.1.5. based on other grounds provided by law.
- 19.2. It is possible to withdraw from a contract concluded through means of communication within 14 days.
- 19.3. When concluding an insurance contract for more than one year, the policyholder has the right to withdraw from the insurance contract within 14 days of concluding the insurance contract.
- 19.4. An application shall be submitted for withdrawal. Upon withdrawal from the contract, we shall refund the paid insurance premiums.

- 19.5. In case of provision of immediate insurance cover, the policyholder does not have the right to withdraw from the contract.
- 19.6. The parties have the right to terminate an indefinite insurance contract ordinarily at the end of the current insurance period by giving at least one month's notice.
- 19.7. If the insurance contract has been cancelled or withdrawn, the parties to the insurance contract shall no longer have any obligations arising from the contract from the end of the insurance contract. The rights and obligations of the parties (including the obligation to pay the insurance premium) are valid until the end of the insurance contract.
- 19.8. If the insured object is destroyed as a result of an insured event or the insurance indemnity has been paid out to the full extent of the sum insured during the insurance period, the insurer has the right to the insurance premium for the current insurance period.