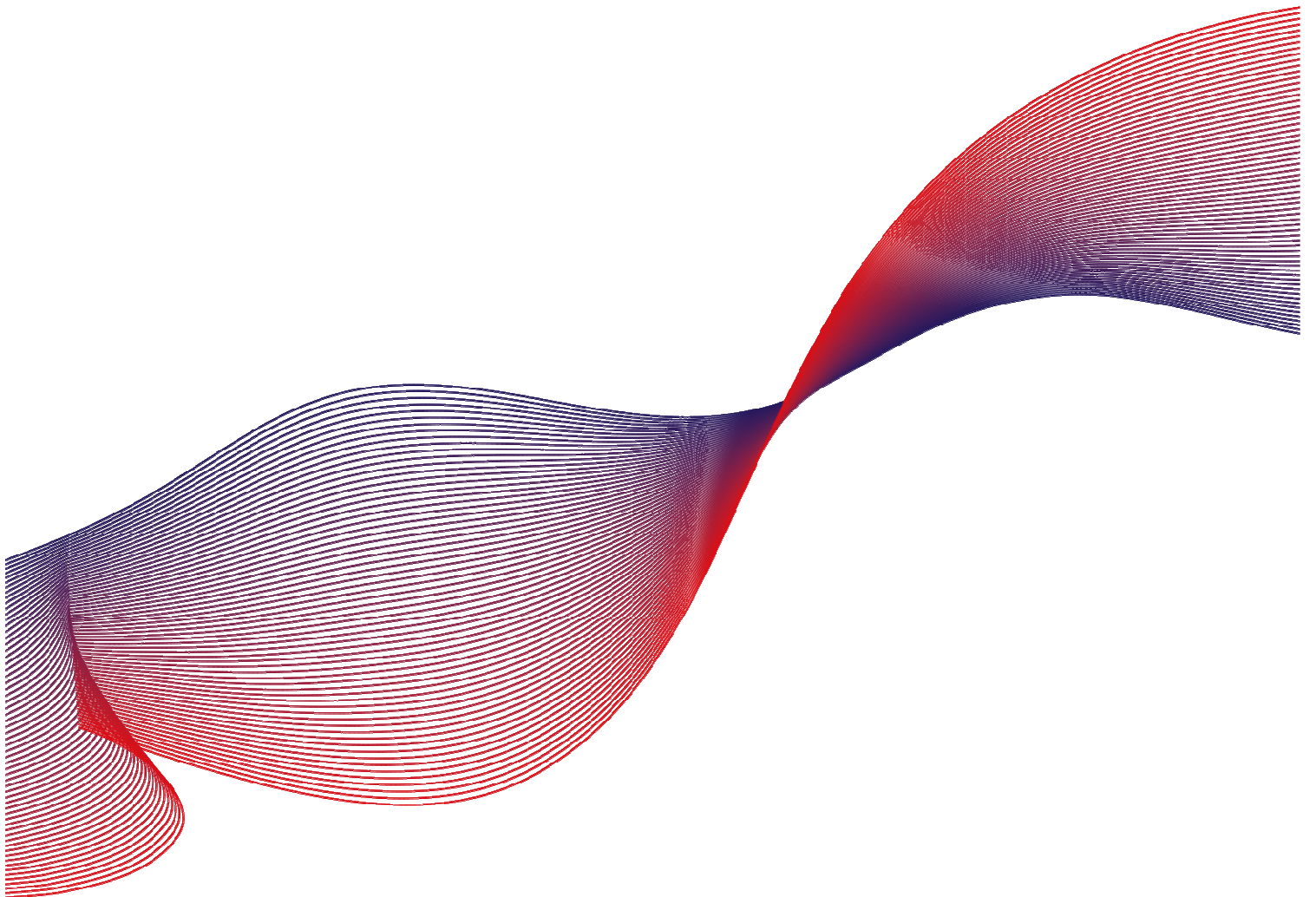


# Public and Professional Liability Insurance

Model AVB 2020 Loss Occurrence (English version)



## Public and Professional Liability Insurance

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*In the event of any discrepancy between the original Dutch version of this text and its English translation the Dutch text will prevail.*

**These terms and conditions form an integral part of the applicable General Terms and Conditions.**

### Article 1 Additional Definitions

#### 1.1 Insured Party(ies)

- 1.1.1 The policyholder in his capacity as described in the policy.
- 1.1.2 Other natural or legal persons included as insured in the policy in the capacity described in the policy.
- 1.1.3 The partners, supervisory directors and managers of the insured as referred to in Articles 1.1.1 and 1.1.2, acting as such.
- 1.1.4 Staff associations, pension funds and other funds, institutions and foundations established in the framework of the employment relations between the insured referred to in Articles 1.1.1 and 1.1.2 and their subordinates as well as the members of their boards, acting as such.
- 1.1.5 The subordinates, trainees, volunteers, family members and members of the household of the insured party as referred to in Articles 1.1.1 to 1.1.4 inclusive, insofar as they perform work in the context of the insured capacity.

#### 1.2 Third Party or Parties

Everyone with the exception of the insured(s) held liable.

#### 1.3 Loss

##### 1.3.1 Bodily injury

Injury or damage to the health of persons, whether or not resulting in death, including the monetary consequences thereof.

##### 1.3.2 Property damage

1.3.2.1 Damage, destruction or loss of property of third parties, including the monetary consequences thereof.

1.3.2.2 Property damage also includes the contamination or soiling of goods or the presence of foreign substances on or in them.

#### 1.4 Environmental Impairment

The emission, discharge, seepage, release or escape of any liquid, solid or gaseous substance, which has an irritant or contaminating, decomposing or polluting effect in or on the soil, air, surface water or any underground or sub-surface water course.

#### 1.5 Event

Any incident or series of related incidences resulting in loss or damage.

#### 1.6 Product Liability

The liability for damage arising as a result of goods supplied or delivered by or under the responsibility of the insured.

### Article 2 Scope of the Insurance

#### 2.1 Liability

2.1.1 The policy covers the liability of the insured in the capacity described in the policy schedule for damage suffered by third parties during the term of this insurance, with due observance of the conditions and sections declared applicable in the policy.

2.1.2 Insured parties other than the policyholder can only derive rights from this insurance policy by means of a written statement made by the policyholder to MS Amlin.

#### 2.2 Insured Amount

2.2.1 For all insured parties combined, MS Amlin will reimburse per event or per insurance year above the deductible up to the insured amounts stated in the policy.

**2.2.2** In the event of more than one claim arising from one incident or from a series of incidents as referred to in Article 1.8, the compensation will not exceed the sum insured per event as stated in the policy schedule as applicable:

- at the time when the first of several claims arising out of a single incident is sustained or
- at the time when the first claim from that series of incidents arose.

**2.2.3** If it is not possible to establish unequivocally the time at which a personal injury occurred, then the damage will be deemed to have occurred at the time when an injured party first consults a physician in connection with symptoms arising from the damage, even if a causal link appears at a later time.

**2.2.4** In the case of multiple claims arising out of a single incident or series of incidents as referred to in Article 1.8, those claims will be deemed to have been arisen in the insurance year in which the first loss or damage arising from the incident or series of incidents occurred.

**2.2.5** If in any year the maximum insured amount per insurance year changes in the interim period, the maximum compensation will be calculated in proportion to the periods for which the various maximum insured amounts per year apply in that insurance year.

### 2.3 Accumulation

**2.3.1** If, in the event of damage, the insured party's liability is insured under more than one of the categories declared applicable, the insured amounts from these categories will not accumulate. The highest applicable insured amount per claim or per year of insurance shall never apply more than once per claim or per year of insurance respectively.

**2.3.2** If in case of damage several deductibles apply, the deductibles will not accumulate. For each event, the highest applicable deductible will never apply more than once.

### 2.4 Additional Payments

If necessary, MS Amlin will reimburse the following costs in addition to the insured amount per event or per insurance year:

**2.4.1** Costs of taking measures to prevent or minimize damage or loss

**2.4.2** The costs of defence, including all costs incurred by or with the consent of MS Amlin for defence and legal assistance in respect of an insured loss, even if the claims are unfounded.

**2.4.3** The statutory interest on the part of the principal sum covered by the insurance.

**2.4.4** The costs incurred with the consent of MS Amlin in determining liability and damages.

**2.4.5** Provision of security

**2.4.5.1** If the competent authority or court should grant a security in case of damage for which the insured has been held liable and which is covered under this insurance, MS Amlin will provide the security and pay the related costs.

**2.4.5.2** The amount of the security as referred to in Article 2.4.5.1 shall not exceed 10% of the insured amount per event with a maximum of € 50,000 per event.

**2.4.5.3** The deductible does not apply to these additional payments. The total sum of these additional payments is limited to a maximum amount equal to the insured amount for the relevant event.

### 2.5 Territory covered

**2.5.1** This insurance policy is valid worldwide. However, there is no coverage:

- for claims based on the law of the United States of America or Canada, or
- claims based on court rulings by a court of law in the United States of America or Canada;

if they arise from goods delivered and/or invoiced or work performed and/or invoiced by the insured party to clients in the United States of America or Canada.

For other claims against the insured party based on the laws of the United States of America and/or Canada, or based on court rulings by a court of law in the United States of America or Canada, the following applies:

- notwithstanding the provisions of Article 2.4 Additional Payments, any statutory interest payable on the insurer's portion of the compensation, including the costs of proceedings conducted with MS Amlin's consent or as requested by same as well as legal assistance provided on its instructions will not be reimbursed over an above the insured amount per event or per insurance year.
- the insured party's liability for *punitive and/or exemplary damages*, or similar compensation of a punitive or exemplary nature, is excluded.

**2.5.2** This insurance does not apply to a branch abroad or a subordinate thereof, unless expressly agreed otherwise.

**2.5.3** This insurance does not serve to fulfil any insurance obligation that applies to certain risks abroad.

### 2.6 Extended Risk

If a policyholder's cover terminates due to the termination of the insured business or of the insured profession - other than as a result of bankruptcy - liability in respect of loss or damage occurring after the end of the insurance will continue to apply for a period of five years, provided that the loss-causing event has taken place within the term of the insurance.

### Article 3 Exclusions

#### 3.1 Care, Custody or Control

The policy does not cover claims for compensation in respect of property damage to goods caused during the time that the insured or another on its behalf transports, processes, handles, occupies, rents, borrows, uses, stores or holds these goods for whatever reason. This exclusion also applies to damage resulting from the property damage. This exclusion does not apply in respect of:

##### 3.1.1 Work performed at third party locations

The liability for property damage to goods of third parties caused during the performance of work on the premises of those third parties, insofar as it concerns goods that are not the subject of the agreement to be performed and/or on which no work was performed at the time of the occurrence of the damage.

##### 3.1.2 Damage to property of subordinates

The liability for property damage to property of subordinates for which the insured is liable as an employer.

**3.1.3** Damage compensated by a fire insurer. The liability for property damage to goods that the insured had in its possession other than on hire, lease, loan or in storage, if and insofar as:

- damages have been paid by a fire insurer in respect thereof, or
- this damage is caused by fire, explosion, water, steam, precipitation and/or extinguishing agents and, if it had been insured, would have been reimbursed and recovered by a fire insurer.

### 3.1.4 Damage to means of transport

Liability for property damage caused to means of transport during the time that the means of transport are located at or in the immediate vicinity of the insured's premises for loading or unloading or at the location where the insured party performs work.

### 3.1.5 Exhibitions

The liability for damage to buildings and/or sites that have been made available to an insured party - whether or not against payment - for participation in exhibitions, fairs and events.

## 3.2 Motor Vehicles

The policy does not cover compensation for claims in respect of damage caused with or by a motor vehicle within the meaning of the Motor Insurance Liability Act (WAM) including additions and amendments. However, this exclusion does not apply to:

### 3.2.1 Trailers

Damage caused with or by trailers, which have come to a standstill safely outside of traffic after being uncoupled or detached from a motor vehicle.

### 3.2.2 Loading/unloading

Damage caused with or by loads during loading or unloading of a motor vehicle.

### 3.2.3 Loads

Damage caused with or by loads that are on, fall from or have fallen from a motor vehicle.

### 3.2.4 Passenger

Damage caused by an insured as a passenger of a motor vehicle. In the event of property damage to the motor vehicle itself, the exclusion as described in Article 3.1 will not be invoked.

### 3.2.5 Motor vehicle used by subordinates

The insured's liability as an employer for damage caused with or by a motor vehicle of which the insured is not the owner, possessor or holder and which was used by a subordinate.

3.2.6 However, the cover described in Articles 3.2.1 to 3.2.5 inclusive, shall never apply with regard to the liability for damage for which the insured party held liable is obliged to take out insurance under the Dutch Motor Insurance Liability Act (WAM) or a similar foreign law.

3.2.7 The cover described in Article 3.2.5 shall never apply in respect of the liability for bodily injury of a subordinate who drives the motor vehicle himself, nor for damage to the motor vehicle in question itself.

## 3.3 Aircraft/Vessels

Claims for compensation for damage caused by or with an aircraft or vessel are not covered.

3.3.1 However, this exclusion does not apply to:

- bodily injury caused with or by a vessel;
- damage caused by an insured person as a passenger of an aircraft or vessel. In the event of property damage to the aircraft or vessel, the exclusion as described in Article 3.1 will not be invoked.
- damage to property caused by pontoons, barges, rowing boats and other vessels without engines for self-propulsion or with engines for self-propulsion not exceeding 3 kW. Damage to property caused by all vessels with a water displacement of 20m<sup>3</sup> or more, however, remains excluded.

## 3.4 Liability Increasing Stipulations

Claims arising from a penalty, compensation, guarantee, indemnity or other clause of a similar nature are not covered,

unless - and then to the extent that - the insured party would have been liable even in the absence of such a clause.

With regard to an indemnity clause, the liability of the insured is however covered if the damage arises from conditions based on which:

- materials, equipment, buildings, land and/or persons have been made available to the insured (whether or not against payment);
- goods have been delivered or made available to the insured party (whether or not against payment);
- the insured participate in exhibitions, fairs and the like;
- services have been provided to the insured, work has been performed for the insured, etc.;
- the insured have been granted licences and/or concessions for the performance of work, the provided services, etc. in certain ways and/or at certain locations.

## 3.5 Delivered Goods/Performed Services

The policy does not cover claims for compensation in respect of:

3.5.1 Property damage to goods supplied or delivered by or under the responsibility of the insured.

3.5.2 The costs of recall, improvement, replacement or repair of goods supplied or delivered by or under the responsibility of the insured, unless these costs can be considered as costs of measures taken to prevent or minimize damage or loss.

3.5.3 The costs of redoing work performed by or under the responsibility of the insured.

3.5.4 The exclusions as described in Articles 3.5.1 to 3.5.3 inclusive also apply to damage resulting from the inability to make (proper) use of the delivered or supplied goods or the work performed, regardless of who has suffered the damage or incurred the costs.

3.5.5 The exclusions referred to in Articles 3.5.1 to 3.5.3 inclusive do not apply to property damage caused to goods previously delivered or supplied by or under the responsibility of the insured, unless they are the subject of the same agreement as the goods or work delivered or supplied (under the responsibility of the insured) that caused damage, and are clearly not distinguishable from the other goods delivered or supplied or work performed within the framework of that agreement.

## 3.6 Intent

Claims for compensation of damage are not covered if this damage is the intended or certain consequence of its acts or omissions for the insured held liable.

The insured's liability for damage caused intentionally by its subordinates is covered, provided that the insured is not to blame for the said willful damage. Where this exclusion applies to legal entities, only the intent of the managing director within the meaning of Book 2 of the Dutch Civil Code will be regarded as intent on the part of the legal entity and, in the case of general partnerships or limited partnerships, only the intent on the part of a general partner.

## 3.7 Asbestos

The liability of the insured for damage suffered by third parties caused by, resulting from or in connection with asbestos or goods containing asbestos is not covered.

## Article 4 Loss

### 4.1 Obligations in the Event of Loss

**4.1.1** As soon as the policyholder receives a claim for the first time or becomes aware of an event which may cause the insured to be obligated to pay damages under the terms of this insurance, the policyholder must report this to MS Amlin as soon as this is reasonably possible.

**4.1.2** The policyholder is also obliged to send all documents received, such as liability claims, summonses and documents relating to criminal proceedings to MS Amlin within a reasonable period of time and left unanswered, and to refrain from any undertaking, statement or action from which an acknowledgement of an obligation to pay compensation could be inferred.

**4.1.3** The policyholder must follow all instructions given by or on behalf of MS Amlin and must also fully cooperate and provide the information that may be relevant for the assessment of its liability.

### 4.2 Consequences of Noncompliance with the Agreed Obligations

No rights can be derived from this insurance if the policyholder has failed to comply with one or more of the above obligations insofar as the interests of MS Amlin have been harmed as a result.

All rights to payment will lapse if the policyholder fails to comply with the obligations referred to in Article 4.1 with the intention of misleading MS Amlin, save where the deception does not justify forfeiting such right to payment.

### 4.3 Loss Adjustment

MS Amlin is responsible for the handling and settlement of a covered claim. It shall have the right to directly compensate injured third parties and to settle with them. Claims by injured parties for compensation of bodily injury shall be processed and settled with due observance of the provisions of Book 7, Section 954 of the Dutch Civil Code. If the compensation for damage consists of periodic payments and if the value thereof, taking into account other payments, is higher than the insured amount, then the duration or the amount of those payments will be reduced proportionally at the discretion of the insured.

## Article 5 Payment of claims and Premium Refunds

### 5.1 Payment of claims

If it is agreed to pay the claim through the broker, the broker will charge the compensation amount and premium refunds due to MS Amlin's current account. MS Amlin's obligations will have been discharged once payment has been duly made to the beneficiary and/or as soon as the indemnity has been received by or settled with the beneficiary in accordance with the law or as arranged between said beneficiary and the broker.

Where MS Amlin pays the insurance proceeds to the broker, and the broker fails to pass these proceeds on to the beneficiary, MS Amlin will be entitled to recover the insurance proceeds from the broker when contacted again by the beneficiary with a renewed demand for payment.

If the broker has forwarded the insurance proceeds received from MS Amlin to the second intermediary, but the latter fails to pass on this payment, the broker will be at liberty to recover the indemnity from the second intermediary when contacted by the beneficiary with a renewed demand for payment or when MS

Amlin demands repayment of the insurance proceeds from the broker, as provided for in this paragraph.

### 5.2 Premium Refunds

The broker will pay the indemnities and premium refunds to the beneficiary. However, the broker will be obliged only to pay the balance remaining upon deducting these damages and premium refunds from the claims against the insured under the insurance policy on which the payment is made, which may or may not be due but which were already established at the time the payment obligation arose.

### Article 6 Retroactive Settlement

If the premium is based on variable data (such as annual salary or annual turnover), the policyholder will be obliged to provide MS Amlin, within six months of the end of each insurance year, with the data necessary to determine the final premium.

If the policyholder fails to provide the requested data or does not do so on time, MS Amlin will be entitled to determine the final premium at a rate of 150% of the latest available figures.

Depending on whether the final premium is higher or lower than the advance premium, the difference will be charged or refunded to the policyholder as the case may be, with due observance of any applicable minimum premium.

The final premium is also the advance premium for the following insurance year.

## Special Terms and Conditions

### Category I General Liability

#### Article 7 Detailed Description of the cover

With due observance of the provisions of the General Terms and Conditions and the Product Conditions as well as with due observance of the sum insured and the deductible, the insured party's liability for damage suffered by third parties shall be insured, provided that the loss or damage occurred during the period of validity of the insurance.

#### Article 8 Additional Exclusions

##### 8.1 Employer's Liability

The liability as an employer towards subordinates is not insured.

##### 8.2 Environmental Impairment

The liability for damage caused by third parties in connection with environmental damage is not insured.

### Category II Employer's Liability

#### Article 9 Additional Definitions

In this section, bodily injury is distinguished according to bodily injury resulting from:

##### 9.1 Accident

An accident is defined as: a sudden external and unintentional violent effect on the body of a subordinate.

##### 9.2 Occupational Disease

An occupational disease is defined as: damage to the health of a subordinate, other than because of an accident.

#### Article 10 Detailed Description of the cover

With due observance of the provisions of the General Terms and Conditions and the Product Conditions as well as with due observance of the sum insured and the deductible, the insured party's liability as an employer for damage suffered by its subordinates shall be insured, provided that the loss or damage occurred during the period of validity of the insurance.

#### Article 11 Additional Exclusions and Provisions

##### 11.1 Violation of Regulations

The liability for damage as a result of an event that consciously contravenes any government regulation in respect of working conditions is not insured, if this is done on the instructions of or with the consent of the insured.

Where the relevant insured party is a legal entity, the insured party shall, for the purpose of this exclusion, be understood to mean a member of the board of directors or management, as well as any official employed by the relevant insured party, who has been charged by a member of the management with a special responsibility for the compliance with the aforementioned regulations.

##### 11.2 Good Employment Practices

**11.2.1** In addition to the provisions of Article 1.3, damage shall also be understood to mean the damage suffered by a subordinate of the insured party as referred to in Articles 1.1.1 to 1.1.3 inclusive, in connection with an external, sudden and direct violent effect (hereinafter to be referred to as: the accident), as a

result of which the subordinate suffers property damage and/or bodily injury and for which the aforementioned insured party ought to have contracted a proper insurance policy (or indemnity under such an insurance policy) in accordance with Book 7, Section 611 of the Dutch Civil Code.

**11.2.2** If at the time of the damage referred to in Article 11.2.1 a motor vehicle passenger insurance (SVI), employer's motor vehicle liability (WEGAM) or a similar insurance (hereinafter to be referred to as: another policy) is in force for the benefit of the subordinates referred to therein, the present insurance shall also provide cover - contrary to the provisions of Article 3.2 - if the damage was caused by or inflicted by motor vehicles, however, with due observance of the following additional provisions:

**11.2.3** If the other policy does not concern liability insurance, Article 8 of the General Terms and Conditions will be replaced by the following provision:

The compensation under that other policy shall be deducted from the compensation under the cover provided by this clause.

However, the following will remain excluded:

- damage incurred during participation in competitions, street races, speed tests or speed runs;
- damage caused while the driver of the motor vehicle was under such influence of alcoholic beverages and/or any intoxicating, stimulant or medicinal product that he or she would not be considered capable of driving the motor vehicle properly, or where such is or would be prohibited by law or government;
- damage caused while the actual driver is not in possession of a valid driving licence prescribed by law for the vehicle, or the driver has been disqualified from driving or is unconditionally disqualified from driving.

**11.2.4** The exclusions as described in Articles 11.2.3b and 11.2.3c do not apply to damage suffered by subordinates who demonstrate that the circumstances referred to therein occurred without their knowledge and against their will and that they are not at fault in any way whatsoever.

**11.2.5** If at the time of the damage referred to in Article 11.2.1 no other policy is in force for the benefit of the subordinates referred to therein, Articles 3.2.1 to 3.2.7 inclusive will be deemed to have been cancelled with regard to the cover referred to in Article 11.2.1.

**11.2.6** Any applicable deductible for property damage or bodily injury will also apply with regard to the damage referred to in Article 11.2.1, depending on the nature of the damage initially suffered by the subordinate as a result of the accident (property damage or bodily injury).

### Category III Environmental Liability (Sudden Environmental Damage)

#### Article 12 Detailed Description of the cover

With due observance of the provisions of the General Terms and Conditions and the Product Conditions as well as with due observance of the sum insured and the deductible, the insured party's liability for damage suffered by third parties in connection with environmental damage that is sudden and uncertain and is not the direct result of a slow acting process shall be insured, provided that the loss or damage occurred during the period of validity of the insurance.

### **Article 13 Additional Exclusions and Provisions**

#### **13.1 Employer's Liability**

The liability as an employer towards subordinates is not insured.

#### **13.2 Costs of measures to prevent or minimize damage or loss at Insured Party's Premises**

MS Amlin will never reimburse costs, regardless of by whom they were incurred, to limit or undo the environmental damage caused at the insured party's premises and the consequences thereof, unless the insured party can prove that these costs are also costs of measures taken to prevent or minimize damage or loss.

#### **13.3 Violation of Regulations**

The liability for damage as a result of an event that consciously contravenes any government regulation in respect of the environment is not insured, if this is done on the instructions of or with the consent of the insured. Where the relevant insured party is a legal entity, the insured party shall, for the purpose of this exclusion, be understood to mean a member of the board of directors or management, as well as any official employed by the relevant insured party, who has been charged by a member of the management with a special responsibility for the compliance with the aforementioned regulations.

#### **13.4 Genetic Damage**

Liability for genetic damage is not insured.

#### **13.5 Changes in the Law**

If during the period of validity of the insurance, the liability risk is or will be aggravated by legislation in a formal or material sense, MS Amlin shall be entitled to revise the insurance as from a date to be determined by MS Amlin, taking into account a period of at least two months. The policyholder shall be entitled to refuse the revision of the contract within thirty days of being notified thereof.