

Supplementary insurance terms and conditions for liability insurance against damage caused by directors and officers of small-sized enterprises

Article 1 Opening provisions

1. These OPP-SME for liability insurance against damage caused by directors and officers (hereinafter referred to as the "DPP-SME-DO") supplement the provisions of the VPP-SME, OPP-SME-Z, and form an integral part of the insurance policy.
2. The liability insurance against damage caused by directors and officers (hereinafter referred to as the "insurance") shall be governed by the applicable provisions of the Civil Code, the VPP-SME, OPP-SME-Z, these OPP-SME-DO and by the insurance policy.

Article 2 Subject and scope of insurance

By way of derogation from Art. 2 of the OPP-SME-Z, it is agreed that:

1. Based on a concluded insurance policy, the insured shall have the right to have the insurer pay to the aggrieved party to the agreed extent compensation for damage suffered by a third party (hereinafter as the "aggrieved party") that has asserted a damages claim vis-à-vis the insured for damage for which the insured is liable and it is a damage covered by this insurance against damage liability caused by members of company bodies (hereinafter as the "insurance").
2. Insured event pursuant to these insurance terms and conditions means rise of any claim vis-à-vis the insured covered by these DPP-SME-DO and by special contractual arrangements of the concluded insurance policy. The claim for insurance claim payment shall rise on condition that the claim has been first asserted and notified to the insurer or the circumstances which had led to the rise of the claim have been first notified to the insurer (hereinafter as the "reporting of circumstances") during the term of the insurance coverage or during the extended period for the opportunity to notify the claim and, at the same time, the claim pertains to the breach of obligations by the insured which occurred prior to the termination of the insurance coverage indicated in the insurance policy, however, at the earliest after the date of the start of the insurance or after the retrospective date if agreed in the insurance policy.
3. The insurer shall pay:
 - (a) to the aggrieved party the insurance claim payment as compensation for damage caused by the insured as a result of breach of obligations on condition that the claim is covered by this insurance except for cases where the company has already paid the damages to the aggrieved party/parties in lieu of the insured (**Insurance of members of company bodies**);
 - (b) to the company the insurance claim payment as compensation for damage caused by the insured as a result of breach of obligations provided that the claim is covered by this insurance to the extent corresponding to the damages paid lawfully to the aggrieved party/parties by the company, however, in the maximum amount of damages actually paid by the company; (**Company insurance against damages**);
 - (c) the costs of legal representation (max. up to the tariff remuneration of the attorney) of any insured in case of claims filed in terms of points (a) and (b) para. 3 of this Article of DPP-SME-DO in court or out-of-court proceedings pending against the insured until the final settlement of the claim, however, each time in maximum amount of the damage liability limit indicated in the insurance policy (**Legal representation costs insurance**).

Any legal representative, attorney, lawyer etc. representing the insured in legal matters must be approved by the insurer in advance. The costs of legal representation incurred with such legal representative, attorney, lawyer etc. shall be reimbursed by the insurer only if approved in advance in writing by the insurer.

In lieu of the reimbursement of costs the insurer shall be entitled to appoint to the insured for a necessary time a legal representative that shall represent the insured in the damages' proceedings at the expense of the insurer. The insurer reserves the right to investigate, scrutinize and in its own discretion amicably settle any claim.

4. The insurance shall cover any claim for damages asserted vis-à-vis the insured which arose worldwide except for the territories of the USA and Canada.
5. The extent of damages provided by the insurer shall be limited by the insurance claim payment limit and other sublimit agreed in the insurance policy and in these DPP-SME-DO.

Article 3 Insurance exclusions

1. The insurance shall not apply to the insured risks indicated below, however, which may be insured additionally following an agreement with the insurer; so, unless otherwise stated in the insurance policy, the insurance shall not cover any
 - (a) costs of public relations and preservation of reputation,
 - (b) reimbursement for loss due to presence on court hearing
 - (c) costs of extradition proceedings – costs incurred to extradite the insured to a foreign country;
 - (d) costs of legal representation in proceedings against personal freedom or property
 - (e) personal expenses in connection with property foreclosure,
 - (f) cash warranty costs in court proceedings;
 - (g) costs of legal representation in connection with damage to property or health;
 - (h) costs of psychological care;
 - (i) costs associated with interventions of a regulatory body,
 - (j) costs of urgent matters.
2. Further, pursuant to these DPP-SME-DO the insurance shall not cover any damage resulting from the claim asserted vis-à-vis the insured resulting from:
 - (a) any intentional breach of obligations, intentional criminal offence, fraud, intentional misuse of authority or any other act or breach of obligations carried out with the knowledge of the insured about the breach of obligation or legal obligation; while, this exclusion shall apply to the insured that has committed these acts only and shall not apply to other insured persons and may be applied only on the basis of acknowledgement of the insured, final court ruling or any other final and lawful decision;
 - (b) any circumstances or breach of obligations which have been or could have been known to the insured prior to the term of the insurance coverage as circumstances leading to the rise of the claim;
 - (c) any claims having existed prior to the term of the insurance coverage; or
 - (d) any claims or facts which have been reported prior to the start of the term of the insurance coverage;
 - (e) directly or indirectly from injuries, diseases, damage to health, death or any mental disorders however caused, from damage to or destruction of any movable property including loss of opportunity to use such property, while in connection

with damage liability for infringement of employees' rights, this exclusion shall not include any mental disorder;

- (f) directly or indirectly
 - i. from existing, alleged, or imminent emission, leakage, or dispersal of pollutants on or to the ground, atmosphere or any water source, waterbody regardless of whether such emission, leakage or dispersal has been intentional or accidental;
 - ii. from any requests or order to test, monitor, clean, remove, keep, manufacture, detoxicate or neutralize any pollutants;
- while this exclusion shall not apply to any costs of legal representation and any claim asserted by any shareholder of the company, if such incident(s) which resulted into the claim have occurred outside the jurisdiction of the United States of America or Canada, and any territories and domains thereof and any proceedings in connection with such claims are pending outside of Canada and the United States of America, and any territories and domains thereof;
- (g) from any taking out, breach of obligation to take out, failure to take out any kind of insurance regardless of whether statutory, compulsory contractual or any other, as well as from ineligibility, impossibility of the company or the insured to receive any insurance claim payment from any insurance of the company or of the insured due to the insolvency of the insurance company the insurance policy has been concluded with, to pay the insurance claim payment or any part thereof;
 - (h) any existing or intended transaction or offer for sale or acquisition or listing of any securities of any private company or joint stock company, including, however, not limited to, the initial issuance of securities, secondary issuance of securities or private listing of securities;
 - (i) from or in connection with provision of or failure to provide any advisory, consulting, intermediary, expert, telecommunication, investment, accounting, auditing, IT, or any other services for remuneration by the company or by the insured for the benefit of third parties;
 - (j) any liability for damage caused by defective product, defects of provided services or necessity to withdraw products off the market including all costs associated with such withdrawal of products off the market;
 - (k) any obligation of the insured or the company to pay taxes, levies, premium for public insurance or any similar statutory payments and the administration thereof;
 - (l) the obligation of the insured to pay:
 - i. fines and penalties imposed in connection with intentional fraudulent act or any criminal offence,
 - ii. fines and penalties which are not insurable by law,
 - iii. fines and penalties imposed as a result of breach of any law governing taxes, levies, public insurance or any other statutory payments and the administration thereof.
3. Any other specific exclusion may be agreed in the insurance policy.

Article 4

The start, amendment, and termination of the insurance

1. In the event of any transaction occurring during the term of the insurance coverage, the policyholder shall without undue delay notify the insurer thereon, however, no later than 30 days from the date of the transaction and the insurance shall cover only the breach of obligations which have occurred prior to the date of transaction.

Article 5 Definitions

1. **Securities** are the following instruments:
 - a) shares, temporary deeds, participation certificates, bonds, certificates of deposit, treasury bonds, savings books, vouchers, bills of exchange, cheques, traveller's cheques, bills of lading, warehouse receipts, storage and any debenture bonds, cooperative participation certificates, investment certificates or

any other securities pursuant to the generally binding regulations, or

- b) other written certificates relating to securities stated in point a) of this paragraph.
2. **Subsidiary** is any legal entity in which the policyholder as at the start of the term of the insurance coverage owns more than 50% of the shares with voting rights or an ownership interest exceeding 50%, either directly or indirectly through one or more subsidiaries and/or in which, during the term of the insurance coverage, through one or more transactions the policyholder becomes the owner of more than 50% of shares with voting rights or acquires an ownership interest exceeding 50% either directly or indirectly through one or more its subsidiaries.

The company is regarded as a subsidiary only for the period during which it complies with the criteria specified by the previous paragraph. Any subsidiary the shares of which are publicly tradeable or the securities of which are enlisted with the securities market or stock exchange or financial institution shall not be by default covered by this insurance and may be covered by the insurance only subject to the consent of the insurer after a risk assessment based on sufficient information requested by the insurer and payment of the additional premium.

Unless agreed otherwise, the insurance shall apply only to breach of obligations occurring during the period when the policyholder holds in the subsidiary more than 50% of shares with voting rights or an ownership interest exceeding 50% either directly or indirectly through one or more subsidiaries.

3. **Term of the insurance coverage** is a time interval of provision of the insurance coverage which starts upon the start of the insurance indicated in the insurance policy. In case of termination of the insurance provided for by the generally binding legal regulations prior to the expiry of the term of the insurance coverage agreed in the insurance policy, the term of the insurance coverage shall be identical with the period from the start of the insurance up to its termination.
4. **Financial institution** means any bank, financial institution, insurance company, leasing company, asset administrator or administrator of investment funds, investment companies, investment services broker, securities trader or commodities trader, companies providing alternative investment services (private equity, hedge funds, real properties, etc.) or any other companies the activities of which are similar to the activities of companies indicated in this paragraph.
5. **Damage liability limit** is the sum stated in the insurance policy. It is the aggregate limit of the insurance claim payment of the insurer for one and all insured events under the article 2 of these DPP-SME-DO resulting from all claims asserted vis-à-vis the insured during the term of the insurance coverage or during the extended period regarding the opportunity to notify the claim. Any sublimit of damage liability stated in the insurance policy shall also be the sublimit for one and all insured events during the term of the insurance coverage or shall be during the extended period regarding the opportunity to notify the claim within the aggregate damage liability limit and shall not increase it.
6. **Reimbursement for loss due to presence on court hearing** shall refer to any compensation of part of earnings of the insured lost due to presence on a court hearing or inquiry provided that the presence of the insured is requested by a public authority and the loss of earnings has not been compensated by the company or granted by a public authority.
7. **Costs of public relations and preservation of reputation** are any reasonably incurred costs, substantiated and necessary fees and expenses incurred by the insured and which have been incurred pursuant to the prior written consent of the insurer in order to prevent or eliminate any negative publicity and detriment to reputation of the insured in connection with the claims covered by this insurance.
8. **Costs of legal representation** shall include:
 - a) costs of legal representation of the insured in pre-trial proceedings and before the court in criminal proceedings conducted against the insured, if conducted in connection with damages' claim;

- b) the costs of civil court proceedings on damages before the competent authority if such proceedings have been necessary in order to ascertain the liability of the insured or the amount of the payment of the insurer, if such costs are to be paid (borne) by the insured;
- c) the costs of legal representation of the insured in damages' proceedings as well as the costs of out-of-court negotiation of claims of the aggrieved party incurred by the insured;
- d) the costs of external consultants and other costs incurred by the insured in order to mitigate the damage or in resolving a claim arisen and relating to the alleged breach of obligations;
- e) costs of investigation.

Any costs of legal representation must be approved in writing by the insurer in advance. The costs of legal representation shall not include any labour expenses, benefits, bonuses etc. incurred by the insured, policyholder or the company.

The costs of legal representation shall be reimbursed within the aggregate liability limit for damage stated in the insurance policy unless otherwise agreed in the insurance policy.

9. **Costs of investigation** shall refer to reasonably incurred costs of legal representation of the insured and any other reasonable incurred costs of the insured or for its benefit incurred in connection with the investigation with a prior written consent of the insurer, which must not be unreasonably withheld. The costs of investigation shall not include wages, salaries, or any other remuneration of the insured or the employees of the company.

Investigation shall refer to any official investigation, inquiry, examination, or inspection of matters of the company carried out by a person or institution legally competent to carry out such actions (public authorities) and

- (a) the insured is obliged to participate therein, or
- (b) includes any actions of the insured in the company.

10. **Costs of extradition proceedings – costs incurred to extradite the insured to a foreign country** shall refer to any reasonable incurred costs of legal representation and any other costs reasonably incurred by the insured or for its benefit with a prior written consent of the insurer, which must not be unreasonably withheld, in connection with its extradition or any other measure related thereto pursuant to the relevant governing law, including the European or international arrest warrant or any similar measure including legal remedies and any other review proceeding pursuant to the applicable legal regulations.

11. **Costs of legal representation in proceedings against personal freedom or property** shall refer to any costs of legal representation reasonably incurred by the insured or for its benefit and any other necessary expenses incurred by the insured with the prior written consent of the insurer, which must not be unreasonably withheld, for the purpose of legal representation in proceedings against property or personal freedom.

The proceeding against property and personal freedom shall refer to any proceeding that leads or may lead to:

- (a) restriction or deprivation of ownership rights to the property of the insured,
- (b) temporary or permanent hindrance of performance of the office of the insured,
- (c) restriction or deprivation of the personal freedom of the insured.

12. **Personal expenses in connection with property foreclosure** shall refer to the following personal or family expenses incurred by the insured with the tuition fees, housing, media, telephone, internet, private insurance paid solely by the insured where the insured on basis of a court ruling has been prohibited to dispose with any personal movable or immovable property. These costs shall be reimbursed only if the agreement has been entered into by and between the insured and the relevant service provider prior to the issuing of the court ruling and at the same time the insured has already used the funds not affected by the court ruling.

These costs shall be reimbursed directly to the service provider from the 30th day following the notification on the ruling; however,

at longest for a period of 24 months or up to the reaching the payment limit agreed in the insurance policy and whichever of these situations occurs first.

13. **Cash warranty costs** in a court proceedings shall refer to any reasonably incurred costs of the insured or incurred for its benefit relating to a cash warranty or any other financial instrument in an amount determined by the court which serves to secure an obligation with regard to the court proceedings related to the claim. The insurance shall not cover the cash warranty itself or any other financial instrument.

14. **Costs of legal representation in connection with damage to property or health** shall refer to any reasonably incurred costs of the legal defence of the insured in connection with the claim for damages in case of damage to health or negligence homicide or damage to a movable thing.

15. **Costs of psychological care** shall refer to any reasonable costs incurred by the insured after the prior written consent of the insurer which must not be unreasonably withheld spent on psychological care of a psychologist or psychotherapist or any other expert due to the claim or investigation. These costs shall be reimbursed only in the amount beyond any other insurance (either public or private) covering any similar costs.

16. **Costs associated with interventions of a regulatory body** shall refer to any costs reasonably incurred with legal representation and other necessary expenses of the insured or incurred for its benefit for the purpose of legal representation of the insured by legal representatives and in order to draft a report or a reply to a public authority in connection with intervention of a regulatory body.

Intervention of a regulatory body means:

- (a) delivery of a formal written notice of a public authority to the insured during the term of the insurance coverage provided that this notice legally enforces drafting or submission of documents by the insured to the public authority, answering questions of the public authority or presence on an interrogation, proceedings before this body,
- (b) inspection, visit or check of a public authority in the premises of the company carried out during the term of the insurance coverage and during which documents have been submitted, inspected, copied, or foreclosed or the insured has been interrogated;
- (c) public notice relating to the circumstances indicated in the previous point.

17. **Costs of urgent matters** shall refer to any costs of legal representation or costs incurred in connection with intervention of a regulatory body by the insured or for its benefit when, for objective reasons, the prior written consent of the insurer could not be sought. The insurer shall grant its consent retrospectively provided that the consent has been sought within 14 days after having incurred such costs.

18. **Claim** means:

- a) any written request vis-à-vis the insured of any natural person or legal entity in connection with any breach of obligations; or
- b) any criminal or civil court or arbitral proceeding against the insured initiated by a natural person or legal entity in connection with any breach of obligations; or
- c) any administrative proceeding or any similar proceedings or investigation vis-à-vis the insured in connection with any breach of obligations; or
- d) any administrative proceeding or official proceeding or investigation against the company in connection with any breach of obligations by the insured.

Any number of claims against the insured that arise out of or are connected in any way with a single breach of obligations or a series of the same, similar or still continuous breach of obligations arising out of single or of the same situation and are in terms of time and economics and legally connected shall be regarded as one single claim. As the date of assertion of all such claims shall be regarded the date of asserting of the first of these claims and all claims shall pertain to the insurance policy period during which the first of such claims has been asserted.

19. **Non-profit organization** is a legal entity founded pursuant to the Act no. 213/1997 Coll. on non-profit organizations, as amended, providing generally beneficial services under predetermined and for all user equal conditions and the profits of which must not be used for the benefit of its founders, members of its bodies or its employees, but must be entirely used for provision of generally beneficial services.
20. **Reporting of circumstances** means any written report of the insured or the company on occurrence of facts or circumstances of which it may be assumed that would result into a claim.
- The reporting must be carried out without undue delay, however, not later than 30 days from the date when the insured or the company has become aware of the facts or circumstances and shall include at least:
- the reasons of the assumed claim;
 - description of the breach of obligations;
 - information on the insured that have committed the breach of obligations.
- Any related repetitive reports of the same kind or reports resulting from the same cause shall be considered as one single report. The first date of the reporting shall be considered as the date of the reporting.
21. **The insured** is, by derogation from the Art. 12 of the VPP-SME, a natural person – past, present, or future:
- member of the board of directors of the company, member of the supervisory board of the company, company executives, members of the auditing body of the company, the holder of the procuratorship of the company or any similar position pursuant to the law of countries other than Slovak Republic,
 - employee of the company that pursuant to an employment agreement carries out a managing or controlling position if the claim asserted vis-à-vis the employee results from breach of obligations resulting from the kind of work agreed in the employment agreement or scope of works of such employee;
 - any of the persons indicated above in a) and b) that at the same time holds any of the above mentioned offices in the Affiliated company or non-profit organization where he/she represents the company in such office and has been nominated by the company, up to the limit stated in the insurance policy (sublimit);
 - husband/wife of the member of the body of the company as well as of the employee of the company in cases where the claim has been rightfully asserted vis-à-vis them due to the joint ownership or possession of property. The breach of obligations by the husband/wife of the insured shall not be covered by the insurance;
 - legal custodian, heir, or successor of the above-mentioned persons in case of death, incapacitation, insolvency, or bankruptcy;
 - any employee of the company that has been named in the claim asserted vis-à-vis any of the above-mentioned persons.
22. **Breach of obligations** means any failure to carry out obligations, distortion of facts, misleading, wrong description, inaccurate representation, misleading information, mistake, excess of powers, omission, infringement of employees' rights or any other act committed by the insured while holding its/their office within the company.
- Any related, continuous, or repetitive breach of obligations shall form one single breach of obligations regardless of whether it has been caused by one insured individually or jointly by several insured and regardless of whether the aggrieved party has been one or several persons.
23. **Infringement of employees' rights** means any claim in connection with the breach of statutory rights of the employee or work candidate pursuant to the Labour Code and other generally binding legal regulations.
24. **Retrospective date.** It may be agreed in the insurance policy that this insurance shall also cover any damage resulting from the claims arisen during the term of the insurance coverage but relating to the breach of obligations which occurred prior to the date of start of the term of the insurance coverage. This period shall be limited by a so-called retrospective date. The retrospective date shall be stipulated in the insurance policy and means the earliest date in the past at which the breach of obligations could have occurred so such breach of obligations could be considered as the cause of the claim covered by the insurance. The claims resulting from the breach of obligations which occurred prior to the retrospective date shall not be covered by this insurance.
25. **Extended period for the right to notify the claim** means additional period following the termination of the term of the insurance coverage during which the policyholder or the insured may find out and notify the insurer on any claim or any circumstance that may lead to a claim.
26. **Company** is any legal person indicated in the insurance policy. If agreed in the insurance policy, subsidiaries indicated in the insurance policy shall be considered as a company.
27. **Affiliated company** is any organization, association, legal entity in which the company at the start or prior to the start of the term of the insurance coverage owns no more than 50% of shares with voting rights or an ownership interest of no more than 50% either directly or indirectly through one or more subsidiaries. The affiliated company shall not refer to:
- any organization, association or any legal entity having its registered seat, shares in book-entry form or traded on stock exchanges in United States of America or Canada, or
 - any financial institution.
- The insurance shall be applicable to the members of bodies of these companies upon condition that these companies are explicitly specified in the insurance policy.
28. **Damage** means, by derogation from the VPP-SME, any monetary obligation the insured shall pay pursuant to any generally binding legal regulations according to a final court judgement or any other final ruling or any monetary performance paid on the basis of a claim for damages asserted in writing and to extent the insured shall be held liable pursuant to the generally binding legal regulations. Damage shall include any fines, penalties, or any other monetary sanctions imposed pursuant to the generally binding legal regulations directly on the insured as well as any claims vis-à-vis the insured resulting from fines, penalties or any other sanctions imposed pursuant to the generally binding legal regulations on the company or a third person as a result of breach of obligations of the insured.
29. **Transaction** means:
- any merger or merger by formation of a new company of the company with any other legal entity; or
 - sale of 50% or more of assets of the company to any other natural person or legal entity; or
 - any circumstance where any other legal entity or natural person acquires more than 50 % of the shares with voting rights of the company or the majority share on voting rights of the company, or
 - any legal entity or natural person or legal entities or natural persons acting in concert acquire control over the appointment of the majority of members of the board of directors or directors of the company, or
 - any entry of the company into the liquidation, compulsory administration, or announcement of bankruptcy over the property of the company or insolvency of the company.
30. **Employee** is any natural person being in employment relationship with the company or performing any activity for the company based on an agreement on works carried out outside the employment relationship pursuant to the Labour Code.
31. **Pollutants** means any solid, liquid, gaseous or thermal irritants or contaminants including smoke, vapour, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases or waste products, petroleum, oil, petroleum products, sanitarian waste, asbestos or products containing asbestos, fungi, mould, lead or products containing lead and waste products of lead, any other chemical substances or polluting materials in the ground, atmosphere or any flowing liquids or water in man-made reservoirs. Waste

products also include recycled, remanufactured or recultivated materials.

Article 6

Closing provisions

1. The DPP-SME-DO form an integral part of the insurance policy and the parties may deviate from the provisions thereof in the insurance policy.
2. As regards the issues of effectiveness, interpretation, and its exercise the insurance policy the annex of which is formed by these DPP-SME-DO shall be governed by the law of Slovak Republic. For any disputes arising out of this insurance policy the courts of Slovak Republic shall have exclusive jurisdiction. The same shall apply also to any damage occurring abroad.
3. The provisions of these DPP-SME-DO regarding the insured shall apply also to the policyholder (if the policyholder is a person other than the insured) and/or any other beneficiary.
4. These DPP-SME-DO shall enter into force on 01.10.2019.