

# SURETYSHIP INSURANCE TERMS FOR THE PERFORMANCE OF CONTRACTUAL OBLIGATIONS No 736



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## 1. Special definitions

- 1.1.** Suretyship insurance contract means the Insurer's written commitment to the Insured Person to indemnify for direct losses (unless differently provided for in the Suretyship insurance contract), within the amount indicated in the Suretyship insurance contract, when the Policyholder fail to fulfil all or part of its commitments for which the Insurer has provided a guarantee via the Suretyship insurance contract. Suretyship insurance contract consists of:
- Suretyship insurance application;
  - Suretyship insurance policy;
  - Insurance terms;
  - Special conditions, if those included in the Suretyship insurance contract;
  - Amendments and additions of Suretyship insurance contract.
- 1.2.** Surety is a person who guarantees the performance of the obligation set forth in the Suretyship insurance contract.
- 1.3.** Cash deposit means the amount of money indicated in the Suretyship insurance contract which is paid by the Policyholder to the account of the Insurer on the agreement of the parties to the Suretyship insurance contract and which warrants the performance of the guaranteed obligations of the Policyholder.
- 1.4.** Suretyship insurance application - the Policyholder`s application to conclude the Insurance Contract as a document of specified form and content completed by the Policyholder providing the information necessary for the assessment of insurable risk and for the conclusion of the Suretyship insurance contract.
- 1.5.** Contract means the agreement on purchase and sale, contract works, delivery of services or other written agreement between the Policyholder and the Insured Person, or written commitments of the Policyholder to the Insured according to the tendering procedures or obligations listed in the normative acts of public authorities.
- 1.6.** Procurement - a procedure organized by the Insured Person, in accordance with the procurement documents to select private suppliers or partners, and to give the right to conclude the contract.
- 1.7.** Procurement procedure documents - in writing or electronically produced documents by the Insured Person according to which the Insured Person shall select suppliers or private partners, and give the company the right to conclude the contract.
- 1.8.** Insolvency – the Policyholder being declared bankrupt by a court ruling.
- 1.9.** Right of recourse means the right of the Insurer, upon compensating for the Loss caused by the Policyholder, to demand the return of Insurance Indemnity payments from the Policyholder.
- 1.10.** Loss - direct losses to the Insured caused by the Insured Event as natural and necessary consequence.
- 1.12.** Persons related to the Policyholder are:
- Employees of the Policyholder;
  - Persons who, together with the Policyholder have established partnership or a partnership in order to satisfy the obligation secured by the Suretyship insurance contract;
  - Persons who help to meet Policyholder`s obligations secured by the Suretyship insurance contract (subcontractors etc.)
  - Associated companies in accordance with the Income

- Tax Act,
- One group member companies in accordance with the Commercial Code,
- Other laws duly authorized representatives.

- 1.13.** A third person - any person, excluding the Policyholder, Persons related to the Policyholder and the Insured Person. A person who has obligations arising from employment or other civil relations to the Insurer, the Insured or the Policyholder, is not considered as a third person.

## 2. Subject matter insured

- 2.1.** Subject matter insured means the property interests related to the failure to perform (in part or in full) the Policyholder's obligations for which the Insurer has provided a guarantee with the Suretyship insurance contract, namely:
- according to the bid Suretyship insurance contract – the Policyholder's obligation to fulfil its commitments under the terms and conditions of the of Procurement procedures documents carried out by the Insured;
  - according to the performance, advance payment and maintenance Suretyship insurance contracts – the Policyholder's obligation to fulfil its commitments under the terms and conditions according to the Contract with the Insured;
- 2.2.** Within the terms of these Insurance Conditions, the subject matter insured does not include:
- 2.2.1. property interests on failure to perform according to liabilities in part or in full according to any type of factoring, lease, credit or loan Contracts;
  - 2.2.2. property interests on default interest (fines, penalties), established in the contracts concluded between the Policyholder and the Insured Person or in the law, unless otherwise provided for in the Suretyship insurance contract;
  - 2.2.3. property interests related to the failure of the Policyholder to perform his obligations to pay for the goods or services;
  - 2.2.4. property interests related to the Policyholder's liabilities the performance of which was not guaranteed by the Insurer in the Suretyship insurance contract issued to the Insured Person;
  - 2.2.5. property interests in relation to any costs (losses) not covered by the Loss as defined in these Insurance Conditions.

## 3. Insured Events

- 3.1.** Insured Event according to the Bid Suretyship insurance contract is when the contractual civil liability of the Policyholder is established and proven for the failure to perform according to the commitments assumed by the Policyholder, according to the terms and conditions of the procurement organized by the Insured Person and/or the Contract awarded to the Insured Person:
- 3.1.1. if the Policyholder withdraws its bid during the validity period specified in the invitation to tender and/or the bid;
  - 3.1.2. if the Policyholder is offered to sign the Contract on becoming the successful bidder, and/or according to his bid and the Policyholder refuses in writing to sign the Contract or fails to sign it within the terms specified by the Insured;
  - 3.1.3. if the Policyholder is offered to sign the Contract on becoming the successful bidder, and/or according to his bid and the Policyholder fails to provide the Contract

- performance guarantee, if it was the requirement of the procurement procedure documents;
- 3.1.4. if the Policyholder, when the Insured Person has accepted his bid, during the bid validity period disagrees with the adjustment of the bid price, as specified in the procurement procedure documents.
- 3.2. Insured Event according to the **Performance Suretyship insurance contract** is when the Policyholder's contractual civil liability is established and proven regarding his failure to perform the assumed commitments under the terms and conditions of the Contract signed with the Insured:
- 3.2.1. work performed, services rendered or goods delivered by the Policyholder do not meet the requirements laid down in the Contract and the Policyholder refuses to remedy the defects;
- 3.2.3. the Policyholder at their own fault does not meet the deadlines of commitments specified in the Contract;
- 3.2.2. the Policyholder illegally refuses to continue the performance of contractual obligations.
- 3.3. Insured Event according to the **Advance payment Suretyship insurance contract** is when the Policyholder's contractual civil liability is established and proven on the unreturned prepayment by the Policyholder to the Insured (which has been received under the Contract concluded with the Insured), when it was not used according to the purpose intended in the Contract.
- 3.4. Insured Event according to the **Maintenance Suretyship insurance contract** is when the Policyholder's contractual civil liability is established and proven for the Policyholder's outstanding commitments to the Insured during the warranty period indicated in the Suretyship insurance contract for which the Policyholder is responsible according to the Contract signed, but Policyholder unreasonably refused or unable to remedy them. Maintenance Suretyship shall come into force only after the commissioning of the building and when the final work acceptance certificate is signed.
- 3.5. In addition to the terms and conditions indicated in paragraphs 3.1 to 3.4 (inclusively), a mandatory prerequisite for the recognition of the Insured Event is the submission of the Insured Person demand to pay the insurance indemnity to the Insurer during the validity period of the corresponding Suretyship insurance contract.

#### 4. Exclusions

- Insurance Indemnity shall not be paid:
- 4.1. the cases where no civil liability arises and/or is established to the Policyholder and not proven, for the Policyholder's failure to perform according to its commitments assumed in the terms and conditions of the procurement procedure announced by Insured Person and/or where the Policyholder's tender was a successful tender in accordance with the Public Procurement Act, or the terms and conditions of Contract concluded with the Insured for which the Insurer has provided a guarantee with the Suretyship insurance contract.
- 4.2. all cases for which the Insurer is not liable to Insured Person, as well as other Exclusions discussed by the Insurer and the Policyholder and provided in the Suretyship insurance contract.
- 4.3. claims for payment of contractual delay interest (fines, penalties) provided for in the Contract signed by the Policyholder with the Insured Person, interest on the Policyholder's failure to perform his commitments in part or in full, unless differently provided in the Suretyship insurance contract.
- 4.4. all Insured Events listed in section 3 of these Insurance conditions if they were caused by criminal Policyholder acts or intentionally acts effected by the Policyholder and/or persons related with the Policyholder
- 4.5. if the Insured Person has not made any of the payments or failure to perform its commitments mentioned in the Contract in the scope and deadline determined in the Contract.
- 4.6. if a special permit, license or other agreement documentation has not been received, which permits

- 4.7. carrying out works according to the signed Contract; during the Suretyship insurance contract in the Contract are made amendments, changes or additions without the written agreement of the Insurer in accordance with paragraph 6.5. of these Rules;
- 4.8. the losses caused as a result of wear and tear, depreciation or other similar processes;
- 4.9. any cases that do not meet the definition of the corresponding Insured Event and/or the condition(s) specified in paragraph 3.5 of these Insurance conditions.
- 4.10. when the Insured Person fails to perform in part or in full his obligations according to the Contract concluded with the Insured due to:
- war (published, unpublished), civil war or civil (mass) unrest, establishment of emergency situation or state of war, armed assault, revolution, sabotage, terrorism;
  - nuclear reaction, radiation exposure or radioactive contamination;
  - property confiscation, arrest or destruction according to the instructions of public authorities;
  - natural disasters and other events specified in the Insurance Policy;
- 4.11. Exclusions are also the events listed in paragraph 4.10 of these Insurance conditions that occur in the territory of a third country through which the goods are transported or funds are transferred, including embargo and other restrictions in the transportation of goods that impede the performance of Contracts.

#### 5. Sum Insured

- 5.1. The Sum Insured is determined by the mutual agreement of the Insurer and the Policyholder.
- 5.2. The Sum Insured is specified in the Suretyship insurance contract.
- 5.3. The Sum Insured may not exceed the amount that the Policyholder may owe to the Insured for failure to fulfil his obligations.

#### 6. Insurance Contract conclusion procedure

- 6.1. The Suretyship insurance contract is concluded when the parties agree and sign the Suretyship insurance contract and when the Policyholder pays the Insurance Premium. Conclusion of the Suretyship insurance contract is confirmed by the Suretyship insurance policy issued by the Insurer.
- 6.2. Along with the signed, completed application the Policyholder must submit the documents specified in the Suretyship insurance application and other documents required by the Insurer in writing to assess the Insurable Risks and to conclude the Suretyship insurance contract.
- 6.3. In concluding the Suretyship insurance contract, the Insurer issues three copies of Suretyship insurance contracts: one of which is given to Policyholder, second – to Insured Person, third – to the Insurer.
- 6.4. The Suretyship insurance contracts can be changed with a written agreement between the Insurer and the Policyholder, if the Policyholder submits to the Insurer in form and substance acceptable the following documents: a written agreement of the Insured Person and / or the document confirming the need for changes to the Suretyship insurance contract (Contract`s amendments or the like).
- 6.5. Later amendments or revisions of the Contract or any other documents related thereto will not affect enforceability or scope of Insurer's obligations under issued Suretyship insurance contract, and will not release the Insurer from complete performance of its obligations under Suretyship insurance contract, either. If new Policyholder's obligations occur or existing ones increase in a result of amendments or revisions of the Contract or other related documents made after the issuance of this Suretyship insurance contract, the Insurer must be notified on such amendments or revisions in 5 (five) business days. Upon receipt of the mentioned notification, the Insurer shall be entitled to disallow suretyship for fulfilment of newly occurred or increased obligations of the Policyholder in 5 (five)

business days. Such being the case, this Suretyship insurance contract shall be valid only for such obligations of the Policyholder or to such an extent as it was set in the Contract before the amendment or revision thereof.

- 6.6.** If in the Suretyship insurance contract the Policyholder is an association of persons (a general partnership, a limited partnership) pursuant to the Commercial Code or a non-profit association pursuant to the Non-profit Associations Act, then for in the Suretyship insurance contract and the obligations specified in the contract all the members of an association of persons (members) are jointly and severally liable. This rule also applies to paragraphs 12.8, 12.9 and 12.10 of these Insurance Conditions.
- 6.7.** By signing of this contract the parties have agreed that the Insured's or Policyholder's any claims that may arise from the signed Suretyship insurance contract may not serve as a subject of assignment of rights (cession) and may not be transferred to third parties.

## **7. Validity of the Suretyship insurance contract. Conditions for termination of insurance Contract.**

- 7.1.** The beginning and the end of the validity period of insurance Contract specified as a calendar date in the Suretyship insurance policy.
- 7.2.** The Suretyship insurance contract takes effect and the insurance coverage starts from the beginning of the Insurance period specified in the insurance policy, only if the full premium has been paid, as well as Cash deposit, if it is specified in the Suretyship insurance contract.
- 7.3.** If the Policyholder fails to pay the Insurance premium (if paid in instalments – the first part thereof), the payment of which is associated with the entry into force of the Suretyship insurance contract within the deadline specified in the Insurance contract, the Insurance contract shall not enter into force from the effective date specified in the Suretyship insurance contract.
- 7.4.** Should the Insurance Premium (if paid in instalments – the first part thereof) paid after the date specified in the Insurance Policy, provided that the Risk Insured has not taken effect until the actual date of Insurance Premium payment, the Insurer may accept the delayed payment of the Insurance Premium or first instalment thereof. In such cases, the Insurance Contract shall be deemed to have come into force on the inception date specified in the Insurance Policy. Should the Insurer refuse to accept delayed payment of the Insurance Premium or first instalment thereof, the Insurer shall, within ten business days from receiving the Insurance Premium or first instalment thereof, return to the Policyholder the Insurance Premium or the part thereof that was paid, or send the Policyholder a request to advise about the manner in which the Insurance Premium or first instalment thereof should be returned. Should the Insurance Premium (if paid in instalments – the first part thereof) paid after the date specified in the Insurance Policy and should the Insured Risk taken effect until the actual Insurance premium payment date, the Insurer shall be considered as having cancelled the Insurance Contract.
- 7.5.** The Suretyship insurance contract expires:
- 7.5.1.** after the expiry of the Suretyship insurance policy;
- 7.5.2.** when Insurer pays out all the Sum Insured as Insurance Indemnity;
- 7.5.3.** when the Policyholder fulfils all obligations for which the Insurer provided a guarantee with the Suretyship insurance contract, and all copies of Suretyship insurance contract have been returned or acceptance of the Insured Person has been received;
- 7.5.4.** upon the agreement of the parties to the Suretyship insurance contract and the Insured;
- 7.5.5.** in cases and according to procedure determined in the Law of Obligations Act.
- 7.6.** In addition to the cases referred to in paragraph 7.5, the Bid Suretyship insurance contract is considered as being expired after the end of the public tendering procedure on the grounds specified in the Public Procurement Act of the

Republic of Estonia.

- 7.7.** The Suretyship insurance contract may be terminated prior to maturity in accordance with paragraphs 7.8 and 7.9 of these Insurance Conditions only with the consent of the Insured Person who shall inform the Insurer in writing that he has not and shall not have claims to the Policyholder, in accordance to the Suretyship insurance contract. The Insurer has a right to request all copies of Suretyship insurance contract have been returned to the Insurer.
- 7.8.** If the possibility of the Insured Risk to occur has ceased, or the Insured Risk has ceased due to factors unrelated to the Insured Event, then the Insurance Contract is null and void from the day when the possibility of occurrence of the Insured Risk ceased to exist. On the Policyholder's request the Insurer shall reimburse to the Policyholder a part of the Insurance premium the amount of which is determined by deducting from the Insurance premium paid the following amounts:
- 7.8.1.** the insurance premium for the applicable insurance period;
- 7.8.2.** the administration expenses of the Insurer, which are 10% of the insurance premium, but not less than 100 €.
- 7.9.** The Policyholder shall be entitled to terminate the Insurance Contract by notifying the Insurer in no later than 15 days.
- 7.10.** Unless otherwise provided for in the Suretyship insurance contract, the insurance premium will not be repaid to the Policyholder if the Suretyship insurance contract ends it before the deadline on the grounds provided in paragraphs 7.5 and 7.6 of the Insurance conditions.

## **8. Terms of payment of the Insurance Premium and Cash deposit**

- 8.1.** Unless otherwise provided for in the Suretyship insurance contract, the Insurance Premium shall be paid in full for the entire Insurance Period, within the due date specified in the Insurance Contract.
- 8.2.** On the agreement between the Insurer and the Policyholder, the Suretyship insurance contract may specify the Cash deposit which shall be paid by the Policyholder into the account of the Insurer under the same terms as the Insurance Premium.
- 8.3.** The Insurer undertakes to return the Cash deposit to the Policyholder within 10 days of receipt of the Policyholder's request to return the Cash deposit, subject to the fulfilment of the following conditions:
- a) the Suretyship insurance contract is terminated prior to maturity and the Insured Person notifies the Insurer in writing that all obligations of the Policyholder for which the suretyship was given are satisfied, or
- b) the validity period of the Suretyship insurance contract has expired and the Insured Person notifies the Insurer in writing that all obligations of the Policyholder for which the suretyship was given are satisfied, or
- c) the validity period of the Suretyship insurance contract has expired more than one month before and the Policyholder submits a written statement that all the Contract commitments to the Insured Person are met and the Insurer regardless of any circumstances will be exempt from possible claim settlement regarding his failure to perform the assumed commitments under the terms and conditions of the Contract signed with the Insured Person; and
- During the Suretyship insurance contract period the Insured Person has not submitted a demand for payment of the Insurance Indemnity to the Insurer, and also it has not been paid prior to the date of receipt of the request to return the Cash deposit.
- 8.4.** If Insurer has paid the Insurance Indemnity or the Insured Person's demand to pay the Insurance Indemnity was received, the Insurer has the right to retain the Cash deposit or the part thereof which corresponds to the Insurance Indemnity paid, without returning it to the Policyholder.
- 8.5.** If the Cash deposit is not paid or is paid late, the conditions of non-payment or late payment of the premium indicated in paragraph 7.2-7.4 of the Insurance Conditions shall apply.

- 8.6.** The Cash deposit is paid to the Insurer's account only through the bank.
- 8.7.** On the agreement of the Insurer and the Policyholder the conditions of the Cash deposit, payment and repayment can be established in a separate written agreement as different from the Suretyship insurance conditions.

**9. Rights and obligations of the Policyholder, Insurer and Insured Person during the effective period of Suretyship insurance contract**

- 9.1.** During the validity of the Suretyship insurance contract the **Insurer** shall have the right:
- 9.1.1. to check the correctness of the data provided by the Policyholder;
- 9.1.2. to access to Contract / Procurement procedure documents, if the Insured Person's demand to compensate loss has been received;
- 9.1.3. to instruct the Policyholder regarding loss reduction or avoidance, if the Insured Person's demand to compensate loss has been received or before this demand has been received;
- 9.1.4. to investigate the circumstances of the Insured Event independently if the Insured Person's demand to compensate loss has been received;
- 9.1.5. to hire valuers, experts and other persons for the investigation of the circumstances of the Insured Event if the Insured Person's demand to compensate loss has been received;
- 9.1.6. If the action is brought before a court against the Policyholder, not later than 5 days from the receipt of notification of the Policyholder about the action against them, to request Policyholder to authorize the persons appointed by the Insurer to represent the interests of the Policyholder in the court.
- 9.2.** During the validity of the Suretyship insurance contract the **Insurer** shall have not the right:
- 9.2.1. to pay the Insurance Indemnity or refuse to pay it, without ascertaining the presence of the Insured Event;
- 9.2.2. to refuse to pay the Insurance Indemnity, without checking all the information available to him.
- 9.3.** During the validity of the Suretyship insurance contract the **Policyholder** shall:
- 9.3.1. properly perform the obligations secured by the Suretyship insurance contract and the terms and conditions of the Suretyship insurance contract;
- 9.3.2. provide the information requested by the Insurer on the performance of the obligation secured by the suretyship, and the Policyholder's financial condition;
- 9.3.3. in the event of changes in the circumstances that may have and/or have a substantial impact on the increase of insurable risks, immediately notify the Insurer in writing, even when it is not due to the Policyholder's fault. Increase of the insurable risks and other cases where there is a substantial change of circumstances of the insurance contract are, including:
- changes in the data, information about the Policyholder, the Policyholder's activities, as well as the change in legal status of the Policyholder, financial condition, liabilities secured by the suretyship insurance, specified in the Suretyship insurance application or during Suretyship insurance contract;
  - Difficulties/problems of the Policyholder or difficulties/problems in the financial or economic performance of the Policyholder or matters related to the inability of the Policyholder or obstacles to perform any of its obligations;
  - Increase of the Contract works value, prolongation of performance term, changes in project during Suretyship Insurance contract period;
  - other contingency events that may complicate the performance of the Policyholder's obligations;
- 9.3.4. in the case of the Insured Event or an event that can be classified as the Insured Event, to take all reasonable and available steps to mitigate loss;
- 9.3.5. in the case of the Insured Event or an event that can be

classified as the Insured Event immediately, no later than in 5 working days, notify the Insurer in writing and provide the documents and information related to the event required by the Insurer;

- 9.3.6. at the Insurer's request to mandate the persons appointed by the Insurer to represent the Policyholder's interests in court.

**9.4. The Insured Person** shall have the right:

- 9.4.1. to require the payment of the Insurance Indemnity in the manner specified in the Suretyship insurance contract;
- 9.4.2. to obtain information about the progress of the investigation of the Insured Event;
- 9.4.3. to not demand the performance of the obligation initially from the Policyholder's assets if the Policyholder fails to perform his obligations according to the Contract.

**9.5. The Insured Person** shall:

- 9.5.1. upon conclusion and validity period of the Suretyship insurance contract, provide the Insurer with the required information on the progress and conditions of the Contract implementation, the Contract performance deadlines etc.;
- 9.5.2. in the case of the Insured Event or an event that can be classified as the Insured Event, the Insured Person must take all reasonable measures available to him to mitigate the potential loss and elimination of causes which might increase and/or are increasing the loss of action and to carry out the instructions of the Insurer, if any are forthcoming;
- 9.5.3. provide the Insurer with all the available documents and information and/or documents and information that he is entitled to receive, according to the statutory procedure or other legal acts pertaining to the circumstances and consequences of the Insured Event or an event that can be classified as the Insured Event that are necessary in determining the facts of the Insured Event and the amount of the Insurance Indemnity.

**10. Terms and conditions of additional insurance, double insurance**

- 10.1.** The Policyholder has the right to an additional insurance on the same obligations, concluding an additional Suretyship insurance contract(s) with other insurance company and/or bank guarantee(s) concerning the performance of the same obligations. The Policyholder must notify the Insurer in writing of such suretyship insurance contract(s) or bank guarantee(s) within 10 calendar days of its signing date or before the conclusion of the Suretyship insurance contract or bank guarantee(s).
- 10.2.** In the case of the Insured Event, and upon determining that the Policyholder has entered into suretyship insurance contracts with more than one Insurer/bank with the same risk, the Insurance Indemnity shall be paid as follows:
- 10.2.1. if the amount of loss is greater than the total sum insured of effective suretyship insurance contracts concluded on the suretyship of the performance of the same liabilities of the Policyholder, then the Insurance Indemnity to be paid by the Insurer is equal to the Sum Insured;
- 10.2.2. if the amount of loss is less than the total sum insured of effective Suretyship insurance contracts concluded on the suretyship of the performance of the same liabilities of the Insured, the Insurance Indemnity to be paid by each Insurer shall be calculated in proportion to the risks assumed by each Insurer/bank (Sum Insured, suretyship amount).

**11. Insured Event notification procedure**

- 11.1.** The Insured Person has the right to require the payment of insurance indemnity. The Insurer shall be entitled to submit any defence against the Insured Person's demand, which the Policyholder could submit unless differently specified in the Suretyship insurance contract.
- 11.2.** For the Insurance Indemnity to be paid, the Insured Person must provide the Insurer with the following documents or copies thereof:
- 11.2.1. documents which specify the terms and conditions of the Contract and the Procurement procedure

documents/Suretyship insurance documents, the guaranteed obligations arising from which are not being performed in part or in full;

11.2.2. the amount of loss and its calculation procedure.

11.3. If the Insured Person has required the payment of Insurance Indemnity, the Insurer shall inform the Policyholder thereof in writing and require him to participate in the case.

## **12. Procedure of the determination, calculation and payment of Loss and Insurance Indemnity**

12.1. The amount of loss is determined and calculated according to the documents submitted by the Insured Person / the Policyholder and received from other individuals, institutions, companies or organizations about the circumstances and consequences of the Insured Event, according to the legal norms governing the compensation of losses, and the terms and conditions of the Suretyship insurance contract.

12.2. After receiving all information significant for the determination of the Insured Event including the facts, circumstances, consequences and the amount of Insurance Indemnity, the Insurer shall pay the Insurance Indemnity not later than in 30 days.

12.3. Insurance Indemnity is paid to the Insured Person under the terms and conditions specified in the Suretyship insurance contract and in these Rules, upon determining the circumstances and consequences of the Insured Event and the Insurance Indemnity amount.

12.4. Maximum Insurance Indemnity may not exceed the sum insured.

12.5. If it is found that the Insured Person and/or Third parties are also guilty for the losses to the Insured, then the insurance indemnity is reduced in proportion to the fault of the Insured Person and/or Third parties where the Policyholder is not liable for the performance of the Insured Person's obligations according to the Contract or the provisions of legislation.

12.6. If the Insurance Indemnity is not paid within 30 days from the date of receipt of all information significant in determining the circumstances and consequences of the Insured Event and the size of Insurance Indemnity, the Insurer must notify the Policyholder and Insured Person in writing and provide them with detailed and reasoned motivation as to the course of investigation into the Insured Event.

12.7. The Insurer shall have the right to postpone the decision on the payment or non-payment of Insurance Indemnity:

12.7.1. until the Insured Person provides the documents supporting the circumstances and consequences of the Insured Event and the amount of loss;

12.7.2. until the end of the pre-trial investigation, legal proceedings related to the Insured Event.

12.8. Having paid the Insurance Indemnity to the Insured Person for the outstanding obligation of the Policyholder, the Insurer takes over the right of recourse on the amounts paid to the Insured Person. The Insured Person must provide the Insurer with all documents necessary to justify the right of recourse.

12.9. After the Insurer has paid the Insurance Indemnity to the Insured Person on outstanding obligation of the Policyholder for which the suretyship was given, the Policyholder undertakes to repay the amount of money equal to the paid Insurance Indemnity to the Insurer, according to non-contentious procedures, within 5 working days after the date of receipt of the first written demand of the Insurer.

12.10. If the Policyholder is late making payments to the Insurer, it shall pay 0.03% delay interest on the outstanding amount for each day of the delay. Payment of delay interest shall not relieve the Policyholder from the obligation to repay the debt.

12.11. If the Insured Event occurs and the parties to the Suretyship insurance contract and the Insured Person disagree about the amount of Insurance Indemnity, then, at the Insured Person's request, the Insurer shall pay the amount equal to the undisputable insurance indemnity amount if the identification of the exact amount of loss lasts for more than 3 months.

12.12. In the cases when the Insurer has paid the Insurance Indemnity equal to part of the Sum Insured, the Insurer's obligation remains in force until the expiry of the Suretyship insurance contract for the remaining part of the Sum Insured.

## **13. Cases of reduction and non-payment of Insurance Indemnity**

13.1. Insurance Indemnity may be reduced:

13.1.1. if the Policyholder has partially compensated the Insured Person for losses. In this case, indemnity is reduced by the amount of money by which the Policyholder has reimbursed losses to the Insured Person;

13.1.2. if the Policyholder fails to perform in part or in full at least one of his obligations under paragraphs 9.3.2 – 9.3.5 of the Rules;

13.1.3. if the Policyholder or persons related to him did not take all reasonable measures to avoid or reduce losses;

13.1.4. if the Insured fails to perform in part or in full at least one of his obligations under paragraphs 9.5.1- 9.5.3 of the Rules;

13.1.5. If the Insured Person fails to perform in part or in full its commitments mentioned in the Contract in the scope and deadline determined in the Contract

13.2. Insurance Indemnity is not paid:

13.2.1. if the Insured Person has dropped its right of claim against the Policyholder;

13.2.2. if the Suretyship insurance contract was concluded after the event, which can be recognized as the Insured Event, or after Insured Event;

13.2.3. if the Policyholder or a person related with the Policyholder or the Insured Person have intentionally caused the loss or attempted to mislead the Insurer Person by submitting false data, falsifying documents, illegally increasing the amount of loss;

13.2.4. If the Insured Person has not complied in part or in full with the commitments mentioned in the Contract;

13.2.5. if the Policyholder has fully compensated the Insured Person for the losses;

13.2.6. in other cases specified in the Suretyship insurance contract or in legislation.

13.3. The Insurer must prove the facts, which exempt him from the payment of Insurance Indemnity or entitlement to reduce the Insurance Indemnity. By refusing to pay the Insurance Indemnity or reducing it, the Insurer must provide to the Insured Person and the Policyholder a detailed and reasoned explanation of the reasons for such decision.

## **SURETYSHIP INSURANCE SPECIAL TERMS FOR THE PERFORMANCE OF CONTRACTUAL OBLIGATIONS**

1. The first demand unconditional Suretyship insurance contract – Suretyship insurance contract where clearly stating that this is the first demand unconditional Suretyship insurance contract and which is subject to these Terms.
2. Upon receipt of the demand to pay the Insurance Indemnity according to the first demand unconditional insurance contract (if this kind of Suretyship insurance contract has been issued), the Insurer may refuse to pay only if the claim is based on deception. In its demand to pay the Insured Person shall specify the terms of Contract/Procurement procedure documents violated by the Policyholder or the terms of Contract/Procurement procedure documents which were defaulted in part or in full by the Policyholder.
3. The Insurer, having paid Insurance Indemnity according to the first demand unconditional insurance contract, has the right to request in writing that the Insured Person provide documents demonstrating that the Policyholder has failed to perform his Contractual obligations in part or in full. If it appears that the Insurance Indemnity has been paid undue according to the Insured Person's demand, the Insurer has the right to contact the Insured Person and to ask the indemnity be returned or apply to the court for legal recourse.
4. When the Insurer compensates for the losses caused by the Policyholder to the Insured Person according to the first demand unconditional insurance contract, Insured Person shall issue confirmation that the Insurer has complied with their obligation and acquired the right of recourse. The Insured Person must also pass all the documents supporting the claim to the Insurer.