

# PANTAENIUS SKIPPER THIRD PARTY LIABILITY INSURANCE (PSTPC)

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## **§1 Cover**

1. The Insurer grants coverage to the Insured and to the co-insured persons in the event that a third party asserts a legal liability claim for personal injury, property or pecuniary damages incurred in the use of any yacht that is under the command of the Insured as a skipper and which is not owned by him. This insurance particularly includes: legal liability arising out of the use of tenders, water sport and diving equipment used in connection with the used yacht, legal liability arising from the towing of water-skiers and parasailors and legal liability for the direct or indirect consequences of alterations in the physical, chemical or biological quality of waters including ground water (water pollution), whereby pecuniary damages resulting from water pollution are deemed to be property damages.
2. Co-insured persons are the crew members.

## **§2 Scope of Cover**

The insurance is effective within the cruising area specified in the Policy Schedule. The cruising area is either worldwide including the U.S.A., or worldwide with the exception of the U.S.A.

## **§3 Extent of Cover**

1. The Insurer's obligations shall include evaluating the cause of liability, defending against unjustified claims and settling claims where damages have been determined by a legally enforceable court decision, by a settlement agreement entered into or approved by the Insurer or by an admission given or approved by the Insurer.
2. The Insurer is authorised to settle and/ or defend claims as defined in §3.1 on behalf of the Insured or co-insured persons. If the insured person prevents the termination of a liability claim dispute which the Insurer wants to settle by means of acknowledgement, payment or compromise, the Insurer is not liable for the resulting additional expenditure concerning the main issue, interests and costs.
3. The maximum compensatory payment granted by the Insurer for each claim event are the sums insured noted in the policy. A series of claims arising out of one cause and time period is deemed to be one claim event. The Insurer's expenditure for costs, including costs and expenses for avoiding or reducing the claim, will not be deducted as compensatory payment from the sums insured. This does not apply to liability claims which are asserted under U.S. or Canadian law, irrespective of the place of jurisdiction. In this case, the Insurer's expenditure for costs will be deducted as compensatory payment from the agreed sum insured, even if these costs are incurred due to the Insurer's instruction. The total amount of compensatory payment for all claim events in any one policy year is limited to twice the sums insured noted in the policy.
4. In the event that the used vessel is arrested as a result of a claim insured under these conditions, the obligation to provide indemnification also extends to the provision of an officially or judicially determined security deposit up to an amount of EUR 100,000.
5. The cover includes liability claims by the charter operator or owner of the used yacht for loss of proven charter revenue of affected follow-on charters as a result of damage caused by the insured person, up to a maximum amount of EUR 20.000. This applies to charter contracts which have already been booked and for which a deposit has already been paid at the time of the loss, insofar a transfer to another Yacht is not possible and the repair time takes more than three days.

## **§4 Exclusions**

Excluded from the insurance are:

1. Liability claims for property damage to the skippered yacht, its gear, machinery, equipment, fittings and dinghies. However, this exclusion shall not apply if such damage is the result of the gross negligence of the Insured, which has been established by an authorised agency, a court or agreed by the Insurer. In such a case, the Policyholder's deductible shall be EUR 2,500.
2. Liability claims if, at the time the liability was incurred, the Insured was acting as skipper in any capacity from which he derived a commercial benefit, unless previously agreed with the Insurer.

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3. Liability claims if, at the time of the event giving rise to liability, the used yacht is
  - a) operated by a person who does not possess the necessary license required by the relevant authorities,
  - b) participating in or training for motor boat races which are solely concerned with achieving high speeds.
4. Liability claims arising from the use of diving equipment, if the person using such equipment is not in possession of a license.
5. Liability claims of the Insured against co-insured persons for property damage or financial loss.
6. Liability claims between co-insured persons. The same applies to liability claims asserted by co-insured persons against the Insured for property damage less than EUR 300.
7. Liability claims assumed under contract or special promise which surpass the extent of legal liability.
8. Liability claims for compensation of a penalty nature, particularly Punitive Damages.
9. Liability claims arising from water pollution as defined in §1 No. 1, if such water pollution is caused by the emission or discharge of harmful substances into waters or any other deliberate actions affecting waters, the dripping or draining of oil or other liquids from tank filler-caps, filling gears or the vessel's and tender's machinery during their operation, the intentional contravention of water protection laws, regulations or official directives, as well as war, civil commotion or disturbances, acts decreed by public authorities or earthquake.
10. Claims by all persons who have intentionally and unlawfully caused the third party's loss.

## **§5 Legal Status of the Persons Participating in the Contract**

1. Only the Insured is entitled to exercise the rights of the co-insured persons for property damage or financial loss.
2. The obligations of the Insured defined in these clauses also apply equally to the co-insured persons (§1 No. 2). The Insured as well as the co-insured persons are responsible for fulfilling the obligations.

## **§6 Obligations in the Case of an Insured Event**

1. An insured event is an occurrence which could result in a liability claim covered under this contract.
2. The Insured is obliged to notify the Insurer without delay of every insured event.
3. The Insured is obliged to take all such measures considered appropriate and reasonable to avoid or reduce the claim and to comply with any instructions given by the Insurer.
4. The Insured is obliged to provide the Insurer with detailed and true reports regarding the circumstances of the insured event. Upon demand, the Insured is further obliged to provide the Insurer with any information which the Insurer deems necessary to clarify the merits of the claim and the extent of his obligation to perform.
5. In the case of litigation regarding the liability claim, the Insured is obliged to entrust the Insurer with the conduct of the case.
6. If any contractual obligation is intentionally breached, the Policyholder shall lose his insurance cover. In the event of a breach of the obligation due to gross negligence, the Insurer shall be entitled to reduce its benefit in proportion to the severity of the Policyholder's negligence. If the Policyholder can establish that he did not breach the obligation by means of gross negligence, he shall retain his insurance cover. The Policyholder shall also retain insurance cover if he can establish that the breach of the obligation did not cause either the occurrence or the ascertainment of the insured event or the ascertainment or extent of the benefit owed by the Insurer. This does not apply if the Policyholder has breached the obligation fraudulently. Any breach caused without fault or caused by simple negligence does not affect the Insurer's duty to provide benefit.

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## **§7 Inception of Cover**

The insurance coverage begins at the day and hour stated in the policy. The rule that the Insurer is not liable for any claims under the contract prior to payment of the first premium as defined in §37.2 of the German Insurance Act (VVG) does not apply.

## **§8 Duration of the Contract, Cancellation**

This contract is effective for one year and is automatically renewed annually unless notice of cancellation has been given in text form by either party at least one month prior to the renewal date.

## **§9 Sanctions Clause**

The Insurer shall not provide any insurance cover or other benefits if this would result in the Insurer being subject to sanctions, prohibitions or restrictions in accordance with valid economic or trade sanctions.

## **§10 Notices, Declaratory Acts**

All statements and declaratory acts for the Insurer made by the Insured and co-insured persons within the framework of this contract are deemed legally executed when made to Pantaenius.

## **§11 General Conditions**

1. Payments by the Insurer and Insured will be made in the currency of the sum insured and premium noted in the policy.
2. The right to indemnity shall not be assigned or pledged without the Insurer's consent. An assignment to the damaged third party is permitted.
3. If the contract is placed with more than one Insurer, each Insurer is liable only for his share, i.e. there shall be no joint liability. Upon request, Pantaenius will provide the Insured with the names and shares of the participating Insurers in writing. The first Insurer mentioned (Lead Insurer) shall be authorised by the other participating Insurers to act on behalf of all Insurers in the performance of the contract. This authorisation shall also apply in the case of legal proceedings. The Lead Insurer may therefore conduct legal disputes, as claimant or defendant, in its own name in respect of all the shares of the other participating Insurers.
4. This contract is governed by German Law, in particular by the German Insurance Act (VVG).
5. This skipper's liability insurance will provide compensation only to the extent that the loss, damage or liability is not covered by any other insurance, and in particular any insurance attaching to the vessel that was under command of the Insured at the time of the incident (subsidiarity of skipper's liability cover).