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## **PUBLIC & PRODUCTS LIABILITY INSURANCE**

This Policy does not provide and is not intended to Provide insurance for products supplied directly or indirectly to the United States of America and/or Canada.

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RoyalStar Assurance Ltd.  
P. O. Box N-4391      P. O. Box F-42673  
Nassau, Bahamas      Freeport, Grand Bahama

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Issued by:    Abaco Insurance Agency Ltd.

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**Please read this Policy carefully and see that it meets your requirements.**

This Policy, the Schedule and any Memoranda thereon shall be considered one document and any word or expression to which a specific meaning has been attached in any of them shall bear such meaning throughout.

### **The Insured and the Company agree:-**

1.      The Proposal shall be incorporated in and be the basis of the Contract
2.      The Insured will pay the Premium
3.      The Company will subject to the terms of this Policy provide the Insurance
4.      The following shall be conditions precedent to any liability of the Company
  - (a)     observance of the terms of this Policy relating to anything to be done or complied with by the Insured
  - (b)     the truth of the Proposal

### **Jurisdiction Clause**

The Insured and the Company agree that the Insurance shall apply only to judgments that are delivered by or obtained from a Court of competent jurisdiction within the territory specified in the Schedule.

## **Insurance**

The Company will indemnify the Insured against liability at law for damages and claimant's costs and expenses in respect of:-

- (a) accidental Injury to persons
- (b) accidental Damage to tangible property

happening within the Geographical Limits during any Period of Insurance in connection with the Business of the Insured.

## **Limits of Indemnity**

The total amount payable by the Company for damages and claimant's costs and expenses in respect of:-

- (a) one claim or all claims of a series (whether arising in one Period of Insurance or not) consequent on or attributable to one source or original cause
- (b) any one Period of Insurance for all claims in respect of Products supplied where the accidental Injury and/or accidental Damage happens during such Period of Insurance
- (c) any one Period of Insurance for all claims in respect of releases (including discharge dispersal seepage migration and escape) of Pollutants which commenced during such Period of Insurance

shall not exceed the Limit of Indemnity irrespective of the number of parties entitled to indemnity under this Policy.

For the purposes of establishing the total amount payable by the Company in respect of one Period of Insurance it is understood that any releases of Pollutants consequent on or attributable to one source or original cause (irrespective as to whether the release is continuous or intermittent) shall be considered as one release

The Company will in addition pay all costs and expenses incurred with its written consent.

## **Definitions**

1. **Business** shall include:-

- (a) the ownership repair and maintenance of the Insured's own property
- (b) the provision and management of canteen social sports and welfare organizations for the benefit of the Insured's employees and first aid fire and ambulance services

2. **Damage** shall mean physical loss or damage and shall include all resultant loss of use of anything physically lost or damaged. All such loss of use shall be deemed to occur at the time of the loss or damage giving rise thereto

3. **Employee** shall mean any:-

- (a) person under a contract of service or apprenticeship with the Insured
- (b) person hired to or borrowed by the Insured

- (c) self-employed person
- (d) person employed by labour only sub-contractors

while working for the Insured in connection with the Business

4. **Geographical** Limits shall mean

- (a) the Territory defined in the Schedule
- (b) elsewhere in the world but only in respect of Injury or Damage which arises out of:-
  - (i) products supplied by the Insured from the Territory
  - (ii) the activities of a person whose normal place of residence is in the Territory but is away for a short time in connection with the Business of the Insured

5. **Injury** shall mean bodily injury, disease or illness including death resulting therefrom

6. **Pollutants** shall mean any solid liquid gaseous or thermal irritant or contaminant including but not limited to smoke vapour soot fumes acids alkalis bacteria chemicals sewage and waste. Waste includes materials to be recycled reconditioned or reclaimed.

7. **Products** shall mean all goods or products supplied by the Insured together with containers packaging and instructions supplied therewith.

8. **Proposal** shall mean any signed proposal form and declaration and any information supplied by or on behalf of the Insured in addition thereto or in substitution therefor.

### Exceptions

The Company shall not be liable in respect of:-

1. Injury or Damage caused by or arising in connection with the ownership possession or use by or on behalf of the Insured of mechanically propelled vehicles locomotives aircraft aerial devices hovercraft or water-borne craft
2. Injury to any Employee or any claim arising under any Workmen's Compensation law
3. Damage to:-
  - (a) any structure or land due or alleged to be due to vibration or to the withdrawal or weakening of support
  - (b) property owned leased rented or occupied by the Insured
  - (c) property held in trust by or in the custody or control of the Insured other than premises at which the Insured is undertaking work in connection with the Business
  - (d) that part of any property worked upon by the Insured or any person acting on behalf of the Insured which arises out of such work
4. Claims arising out of liability assumed by the Insured under agreement unless such liability would have attached in the absence of such agreement

5. Claims arising out of a breach of the duty owed in a professional capacity by the Insured
6. Claims arising out of advice design formula or specification provided for a fee
7. Injury or Damage directly or indirectly caused by or arising out of Pollutants unless caused by or arising out of an identifiable unexpected and accidental release (including discharge dispersal seepage migration and escape) of Pollutants which commences during any Period of Insurance and is:-
  - (a) detected within seven days of its commencement  
and
  - (b) reported to the Company within seven days of its being detected

For the purposes of this Policy the commencement of any intermittent release shall be deemed to be at the start of the first release of the series

8. Claims damages costs and expenses arising out of any obligation on the Insured or others to test for monitor clean up remove contain treat detoxify or neutralize or in any way respond to or assess the effects of Pollutants on structures premises sites or land currently or previously owned occupied used by or under the control of the Insured where the obligation arises out of such ownership occupancy use or control by the Insured.
9. Claims arising out of the supply of Products by or on behalf of the Insured to any person company or organization
  - (a) within the United States of America its territories or possessions and/or Canada
  - (b) outside the United States of America its territories or possessions and/or Canada if to the Insured's knowledge such Products have been or will be supplied to a person company or organization within those territories whether or not in their original form
10.
  - (a) the loss of use of or the cost of repairing reconditioning or replacing (including demolition breaking out dismantling delivery rebuilding supply and installation in connection therewith) any Product giving rise to a claim
  - (b) damage to any Product supplied by the Insured where such Damage is due to any defect therein or the unsuitability thereof
  - (c) the cost of recalling any defective or potentially defective Product supplied
11.
  - (1) Any sums which any Insured becomes legally obligated to pay as damages because of Bodily Injury, Property Damage, Personal Injury, Advertising Injury or Medical Payments directly or indirectly relating to the actual, potential, alleged or threatened presence of mold, mildew or fungi of any kind whatsoever, or any materials containing them at any time.
  - (2) Any loss, cost or expense:
    - (a) any Insured or any other person or organization may incur in testing for, monitoring, removing, treating or in any way responding to the actual, potential, alleged or threatened presence of mold, mildew or fungi of any kind whatsoever, or any materials containing them, whether as a result of a request, demand, statutory or regulatory requirement or otherwise; or
    - (b) any Insured or any other person or organization may incur in connection with any claim or "suit" on behalf of any governmental authority or any person or organization relating to the

actual, potential, alleged or threatened presence of mold, mildew or fungi of any kind whatsoever, or any materials containing them.

- (3) Underwriters will have no duty or obligation to defend any Insured with respect to any claim or "suit" seeking any such damages.
12. Any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:-
- (a) nuclear weapons material
  - (c) ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of the Exception combustion shall include any self-sustaining process of nuclear fission.
13. Any consequence of war invasion act of foreign enemy hostilities (whether war be declared or not) civil war rebellion revolution insurrection or military or usurped power
14. Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

An act of terrorism means an act, whether involving violence or the use of force or not, or the threat or the preparation thereof, of any person or any group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) which

- is designed to or does intimidate or influence a de jure or de facto government or the public or a section of the public, or disrupt any segment of the economy and,
- from its nature or context is done in connection with political, social, religious, ideological or similar causes or objectives.

Loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism is also excluded.

If the Insurers allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Assured.

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

15. Losses of any kind directly or indirectly caused by, arising from, or consisting of, in whole or in part by:-
- (a) the use or misuse of the Internet or similar facility;
  - (b) any electronic transmission of data or other information;
  - (c) any computer virus or similar problem;
  - (d) the use or misuse of any Internet address, website or similar facility;
  - (e) any data or other information posted on a Website or similar facility;
  - (f) any loss of data or damage to any computer system, including but not limited to hardware or software (unless such loss or damage is caused by an earthquake, a fire, a flood, or a storm);
  - (g) the functioning or malfunctioning of the Internet or similar facility, or of any Internet address, Website or similar facility (unless such malfunctioning is caused by an earthquake, a fire, a flood, or a storm);

- (h) any infringement, whether intentional or unintentional, of any intellectual property rights (including but not limited to trademark, copyright or patent).
16. Liability directly or indirectly arising out of, resulting from or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity.

## **General Conditions**

### **1. Duty of Care**

The Insured shall take reasonable precautions to prevent Injury and Damage and to comply with all obligations and regulations set out in any legislation applicable or imposed by any authority and to maintain all buildings, furnishings, ways and works, machinery and plant in sound condition. The Insured at his own expense shall cause any defect or danger to be made good or remedied as soon as possible after discovery and in the meantime shall cause such additional precautions to be taken as the circumstances may require.

### **2. Passenger Lifts Boilers and Pressure Vessels**

The Insured shall cause all passenger lifts boilers and pressure vessels for which the Insured has responsibility to be inspected at his own expense at least once per year by a suitably qualified engineer. Any recommendations regarding overhaul repair or maintenance made during or following such inspection shall be implemented as soon as practicable by the Insured.

### **3. Premium Adjustment**

If any part of the Premium or Renewal Premium is based on estimates furnished by the Insured the Insured shall keep an accurate record containing all relative particulars and shall allow the Company to inspect such record. The Insured shall within one month from the expiry of each period of Insurance furnish such information as the Company may require. The Premium or Renewal Premium shall thereupon be adjusted and the difference paid by or allowed to the Insured.

### **4. Cancellation Provision**

The Company may cancel this Policy by sending thirty days' notice to the Insured at the Insured's last known address. The Insured shall thereupon become entitled to a proportionate return of premium.

## **Claims Conditions**

### **1. Reporting of any Incident by Insured**

Upon the happening of any event which may give rise to a claim (regardless of any Excess) the Insured shall forthwith give written notice to the Company with full particulars.

### **2. Claims Correspondence**

Every letter, claim, writ, summons and process shall be forwarded to the Company on receipt. Written notice shall also be given to the Company immediately the Insured shall have knowledge of any prosecution or inquest in connection with any event for which there may be liability under this Policy.

### **3. Conduct of Claim**

No admission, offer, promise, or payment of indemnity shall be made or given by or on behalf of the Insured without the written consent of the Company. The Company shall be entitled to take over and conduct in the

name of the Insured the defence or settlement of any claim or to prosecute in the name of the Insured for its own benefit any claim and shall have full discretion in the conduct of any proceedings and in the settlement of any claim. The Insured shall give all such assistance as the Company may require.

**4. Company's Option**

In connection with any claim or series of claims made against the Insured consequent on or attributable to one source or original cause, the Company may at any time after the deduction of any Excess pay to the Insured the Limit of Indemnity (after deduction of any sums already paid as damages claimant's costs and expenses) or any less amount for which such claims can be settled and thereupon the Company shall relinquish the control of such claims and be under no further liability in connection therewith except for additional costs and expenses for which the Company may be responsible under this Policy in respect of matters prior to the date of such payment.

**5. Contribution to Costs**

If the Company has not exercised its rights under Claims Condition 4 the liability of the Company to pay all costs and expenses (other than claimant's costs and expenses) in circumstances where the amount or amounts of damages and claimant's costs and expenses exceed the Limit of Indemnity shall be limited to such proportion of the costs and expenses (other than claimant's costs and expenses) as such Limit of Indemnity bears to the total amount payable for damages and claimant's costs and expenses.

**6. Contribution**

If at the time of any claims there is, or but for the existence of this Policy there would be other insurance covering the same liability, the indemnity provided by this Policy will not apply except in respect of any amount beyond that which would have been payable under such other insurance had this Policy not been effected.