

# **PUBLIC LIABILITY INSURANCE POLICY**

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## **GENERAL PROVISIONS**

This Policy is evidence of the contract between the Insured and the Insurers.

The Insured by a Proposal and Declaration which shall be the basis of this contract and is deemed to be incorporated herein has applied to Bahamas First General Insurance Company Limited (hereinafter called the Insurers) for this insurance and has paid or agreed to pay the premium as consideration for the first period of insurance and for any subsequent period which may be agreed.

The Insurers will indemnify the Insured in accordance with the terms set out in this policy in respect of occurrences during the Period of Insurance.

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

**Signed for and on behalf of the Insurers  
Bahamas First General Insurance Company Limited**

**Date**

## INSURANCE COVER

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The Insurers will subject to the terms conditions and exceptions annexed hereto or endorsed hereon and to the Limit of Liability, indemnify the Insured against all sums which the Insured shall become legally liable to pay in respect of

- (a) accidental bodily injury to any person
- (b) accidental loss of or accidental damage to property

happening during the Period of Insurance and caused in the course of the Business within the Territorial Limits.

The Insurers will in addition pay all costs and expenses incurred with their written consent

## EXTENSION

The following shall be indemnified subject to the Limit of Liability in this Policy as if a separate policy had been issued to each

1. The legal personal representatives of the Insured in respect of liability incurred by the Insured
2. If the Insured so requests
  - a. any Director or Employee of the Insured
  - b. any principal for whom the insured is carrying out work in connection with the Business

in respect of liability for which the Insured would have been entitled to indemnity under this Policy if the claim had been made against the Insured.

Provided that such persons shall as though they were the Insured observe fulfill and be subject to the terms conditions and exceptions of this policy insofar as they can apply

## EXCEPTIONS

The Insurers shall not be liable in respect of

1. 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 riot or civil commotion

2. any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from
  - (a) ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel and for the purposes of this exception combustion shall include any self sustaining process of nuclear fission
  - (b) the discharge, explosion or use of any device, weapon or material employing or involving nuclear fission, nuclear fusion or radioactive force, directly or indirectly resulting in nuclear reaction or radiation or radioactive contamination, or the use, release or escape of chemical, biological, radiological or similar agents, whether in time of peace or war, and regardless of who commits the act, regardless of any other cause or event contributing concurrently or in any other sequence thereto.

3. 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.

for the purpose of this exception an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public or any section of the public in fear.

This exception also excludes 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.

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

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

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  - (a) personal injury or bodily injury or loss, or damage to, or loss of use of property directly or indirectly caused by seepage, pollution or contamination, provided always that this exception shall not apply to liability for personal injury or bodily injury or loss of or physical damage to or destruction of tangible property, or loss of use of such property damaged or destroyed, where such seepage, pollution or contamination is caused by a sudden, unintended and unexpected happening during the period of this insurance.
  - (b) the cost of removing, nullifying or cleaning-up seeping, polluting or contaminating substances unless the seepage, pollution or contamination is caused by a sudden, unintended and unexpected happening during the period of this insurance.
  - (c) fines, penalties, punitive or exemplary damages.

This exception shall not extend this policy to cover any liability which would not have been covered under this policy had this exception not been included hereunder.

5. any liability, loss, cost or expense directly or indirectly arising out of, resulting from, caused or contributed to by exposure to magnetic, electric or electromagnetic fields or radiation however, caused or generated.

this exception applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the loss, damage, cost or expense.

6. any claims for compensation arising from:
  - (a) the mining, extraction, production, processing, distribution and/or storage of pure asbestos and of products which consist entirely or mainly of asbestos.
  - (b) the use of products which consists entirely or mainly of asbestos.
  - (c) the disposal of asbestos and waste containing asbestos.
7. any loss, cost or expenses arising from alleged liability in respect of death, addiction or the contraction, aggravation or exacerbation of any disease, sickness, injury, mental anguish or shock or disorder of the body and/or mind caused or alleged to have been caused by or in any way contributed to by TOBACCO PRODUCTS and/or advertising or other promotion of such products.

For the purpose of this exception: TOBACCO PRODUCTS shall mean any tobacco and/or tobacco products and/or nicotine and/or nicotine products and/or cigarette papers and/or filters and/or tobacco substitutes manufactured, processed, treated or distributed by the Insured.

8. any liability which attaches by virtue of an agreement but which would not have attached in the absence of such agreement
9. bodily injury to any person under a contract of service or apprenticeship with the Insured arising out of and in the course of the employment of such person by the Insured
10. loss of or damage to
  - (a) property belonging to or in the custody or control of the Insured or property which is in the custody or control of any person in the service of the Insured by virtue of such service but the expression "custody or control" shall not apply to buildings not owned or tenanted by the Insured but temporarily occupied by the Insured for the purpose of alteration decoration or repair
  - (b) that part of any property upon which the Insured or any person in the service of the Insured is or has been operating
  - (c) any property land or buildings caused by vibration or removal or weakening of support of such land property or buildings

- (d) ships craft or aircraft
11. injury loss or damage caused by
- (a) the possession use or movement of ships craft aircraft or railway rolling stock
  - (b) the possession or use of mechanically propelled road vehicles but provided the Insured is not entitled to indemnity under any other Policy this Exception shall not apply to injury loss or damage as herein defined arising from
    - (i) the act of loading or unloading a mechanically propelled road vehicle or the bringing to or the taking away of a load from such vehicle
    - (ii) the defective loading by the Insured or any person in the service of the Insured of any mechanically propelled road vehicle not belonging to nor hired by the Insured
  - (c) lifts cranes escalators or power hoisting machines unless specified in the Schedule under the heading "Plant"
  - (d) defective sanitary arrangements water pollution chemical effluent fumes or other noxious gas liquid or substance
  - (e) goods (which term shall be deemed to include containers) sold or supplied other than goods in the custody or control of the Insured
  - (f) sub-contractors to the Insured or persons engaged in or upon the service of such sub-contractors
  - (g) claims arising out of Products supplied except for food and drink supplied by the Insured in canteens and sports and social clubs provided by the Insured for the use of employees
12. claims arising out of
- (a) a breach of the duty owed in a professional capacity by the Insured
  - (b) advice design specification or formula provided for a fee

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### GENERAL CONDITIONS

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#### 1. OBSERVANCE

The due observance and fulfillment of the terms provisions conditions and endorsements of this policy insofar as they relate to anything to be done or complied with by the Insured and the truth of the statements and answers in the Proposal shall be conditions precedent to any liability of the Insurers to make any payment under this Policy

#### 2. NOTICE

Every notice or communication to be given or made under this Policy shall be delivered in writing at the Head Office or any Branch Office or Agency of the Insurers

#### 3. LIABILITY OF INSURERS

The Insurers shall not be liable if after the Insurance has been effected the risk be increased from any cause whatsoever unless the Insurers have signified their assent thereto in writing

#### 4. DUTY OF CARE

The Insured shall exercise reasonable care that only competent employees are employed and shall take all reasonable precautions to prevent accidents and shall comply with all statutory or other regulations and shall take all reasonable steps to maintain all premises furnishings fittings appliances and plant in sound condition. In the event of the discovery of any defect or danger the Insured shall forthwith cause such defect or danger to be made good or remedied and in the meantime shall cause such additional precautions to be taken as the circumstances may require

#### 5. PREMIUM ADJUSTMENT

If the premium has been calculated on Estimates supplied by the Insured an accurate record shall be kept by the Insured of all matters for which Estimates have been furnished and the Insured shall at all times allow the Insurers to inspect such record. Within one month of the expiry of each Period of Insurance the Insured shall supply the Insurers with a correct account of the particulars necessary for assessing the premium and if the actual particulars shall differ from the Estimates upon which premium has been paid the difference in premium shall be met by a further proportionate payment to the Insurers or by a refund by the Insurers as the case may be

#### 6. PASSENGER LIFTS BOILERS & 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.

## **7. JURISDICTION CLAUSE**

The indemnity provided herein shall not apply to:-

- (i) compensation for damages in respect of judgements delivered or obtained in the first instance otherwise than by a Court of competent jurisdiction within the territory specified in the schedule.
- (ii) costs and expenses of litigation recovered by any claimant from the Insured which are not incurred in and recoverable in the territory specified in the schedule.

## **8. CANCELLATION**

This Policy may be cancelled

- (a) At any time at the request of the Insured and the Insurers shall upon the surrender of the Policy refund to the Insured the excess of paid premium over and above the customary short rate premium for the time the Policy has been in force.
- (b) By the Insurers giving to the Insured at least 30 days' notice in writing by personal service or by registered post which notice shall be accompanied by a refund to the Insured of the excess of paid premium over and above the pro rata premium for the time the Policy has been in force.

## **9. ARBITRATION**

All differences arising out of this Policy shall be referred to the decision of an arbitrator to be appointed in writing by the parties in difference or if they cannot agree upon a single Arbitrator to the decision of two Arbitrators one to be appointed in writing by each of the parties within one calendar month after having been required in writing so to do by either of the parties or in case the Arbitrators do not agree of an Umpire appointed in writing by the Arbitrators before entering upon the reference. The Umpire shall sit with the Arbitrators and preside at their meeting and the making of an Award shall be a condition precedent to any right of action against the Insurers. If the Insurers shall disclaim liability for any claim hereunder and such claim shall not within twelve calendar months from the date of such disclaimer have been referred to arbitration under the provisions herein then the claim shall for all purposes be deemed to have been abandoned and shall not be recoverable under this Policy.

## CLAIMS CONDITIONS

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### 1. REPORTING OF ANY INCIDENT

The Insured shall give notice to the Insurers of any injury loss or damage as soon as possible after it comes to the knowledge of the Insured or of the Insured's representative for the time being. The Insured shall forward to the Insurers forthwith after receipt thereof every written notice or information as to any verbal notice to claim and shall also give notice to the Insurers immediately he receives knowledge of any proceedings. The Insured shall use the best endeavours to preserve any damaged or defective or other appliances plant or things which might prove necessary or useful by way of evidence in connection with any claim and so far as may be reasonably practicable no alteration or repair shall be made without the consent of the Insurers to any premises fencing machinery furnishing fittings appliances or plant which may have been the cause of injury loss or damage until the Insurers shall have had an opportunity of inspection. The Insured shall give all necessary information and assistance and forward all documents to enable the Insurers to investigate settle or resist any claim as the Insurers may think fit

### 2. CONDUCT OF CLAIM

The Insured shall not incur any expense whether by litigation or otherwise or make payment settlement arrangement or admission of liability in respect of any claim for which the Insurers may be liable under this Policy without the written authority of the Insurers. The Insurers shall be entitled to use the name of the Insured for all purposes in connection with this Policy including bringing defending enforcing or settling of legal proceedings for the benefit of the Insurers in connection with any one claim or number of claims arising out of any one cause for indemnity against liability as defined in this Policy.

### 3. INSURER(S) OPTION

In connection with any claims or series of claims made against the Insured consequent upon or attributable to one source or original cause the Insurers may at any time pay to the Insured the Limit of Liability (after deduction of any sums or sums already paid as compensation or deduction of any excess) or any less amount for which such claim or claims can be settled and upon such payment being made the Insurers shall relinquish the conduct and control of and be under no further liability in respect of such claim or claims except the payment of costs and expenses of litigation recoverable or incurred in respect of matters prior to the date of such payment

### 4. CONTRIBUTION

If at the time any claim arises under this Policy there is any other existing insurance covering the same liability the Insurers shall not be liable to pay or contribute more than their rateable proportion of such claim