

THE  
CARRIER'S LIABILITY  
INSURANCE POLICY



# Kenindia Assurance Company Limited

(Incorporated in Kenya)

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## CARRIER'S LIABILITY INSURANCE POLICY

TO \_\_\_\_\_

P.O BOX \_\_\_\_\_

Policy Number : \_\_\_\_\_

Period of Insurance: From: \_\_\_\_\_ To: \_\_\_\_\_

(Both dates inclusive) and any subsequent period for which the Insured shall pay and the Company shall accept a renewal premium.

### IMPORTANT NOTES

1. Please read this Policy document carefully. If you find that the Policy does not meet your requirements, please contact or write to us and return the document to the Company within 30 days with your suggestions for necessary consideration.
2. Any material change affecting the risk insured by this Policy must be advised to the Company immediately.
3. In case of any occurrence likely to give rise to a claim under this policy, immediate notice should be given to the Company. Prompt reporting of a loss is important for preserving evidence that may be critical in determining admissibility of the claim and amount payable. You shall comply with all the conditions of this Policy. In the event of a claim, you shall provide all facts, information and supporting documentary evidence to enable the Company to process your claim.
4. Should you be dissatisfied with the settlement of a claim, you may refer the matter to the Insurance Regulatory Authority who will assist in resolving your complaint with the Company.
5. This Policy is not transferable.
6. Please note that this is a legal liability and not Goods-In-Transit Policy.

CARRIER'S LIABILITY INSURANCE POLICY  
THE INSURANCE AGREEMENT

WHEREAS the Insured by a proposal and declaration written application or statement which shall be the basis of this contract has applied to \_\_\_\_\_ Insurance company (herein after called the Company) and paid premium as consideration for the insurance herein contained;

NOW THIS POLICY WITNESSES that if at any time during the stated Period of Insurance or any other period for which the Company may accept payment for the renewal of this Policy, then the Company will subject to the terms of this Policy indemnify the Insured in respect of:-

Legal liability for accidental loss of or damage to goods in the custody or control of the insured whilst in transit by road, rail or any other specified means, occurring during the Period of Insurance and within the Territorial Limits specified in the Schedule.

The Company will in addition pay all reasonable costs and expenses necessarily and reasonably incurred by the insured with the Company's written consent arising in connection with any claim under this Policy.

LIMIT OF LIABILITY

The liability of the Company for all compensation payable including costs shall not exceed the limit(s) stated in the Schedule.

DEFINITIONS

Business

The business, trade or occupation of the Insured as stated in the Schedule.

Terms

Include Conditions, Warranties and Exceptions of this Policy.

Material Facts

Every information which can influence the Company's decision in accepting the risk and determining the terms.

Conveyance

For purposes of this Policy, conveyance shall mean transportation by road, rail or any other means as specified in the Schedule.

## Goods

Merchandise, baggage, and chattels of any description other than specifically excluded.

## Transit

For purposes of this policy transit shall commence when the goods are being loaded, carried by, offloaded from the mode of conveyance or whilst temporarily stored for a period not exceeding 3 days in the course of the journey until delivery at the final destination.

The cover commences from the time of loading at the point of origin and expires at discharge point or within 7 days after the arrival of the vehicle at the final destination or expiry of the policy whichever may occur first.

## Carrier

A person or entity providing transportation for hire or reward.

## Event

Any one occurrence or series of occurrences arising from one source or original cause.

## Excess/Deductible

The first amount of each claim or series of claims arising out of one event which the Insured shall bear as stated in the Schedule.

## EXCEPTIONS

The Company shall not be liable to make any payment under this Policy in respect of liability arising from:

1. Contract unless such liability would have attached to the Insured in the absence of such a contract.
2. Loss or damage to goods belonging to the insured or to an employee, agent or sub-contractor of the Insured.
3. Carriage of illicit, illegal, contraband or smuggled goods.
4. Illegal sale, conversion or wrongful disposal of goods in the custody or control of the Insured.

5. Willful misconduct of the Insured, theft or dishonesty on the part of the Insured's employees, disappearance of or unexplained inventory shortage.
6. Loss or damage occurring outside the Territorial Limits stated in the Schedule.
7. Defective or inadequate packaging or insulation.
8. Delay, confiscation, detention by custom and other authorities, loss of market, indirect loss or consequential loss arising there from.
9. Damage, destruction and deterioration to goods caused by change in temperature resulting from total or partial breakdown of any refrigeration or cooling equipment unless such breakdown has been caused by an event not excluded from this policy.
10. A motor vehicle being driven by you, or anyone with your permission while the driver is under the influence of alcohol or any other intoxicating substance or drug.
11. Liability caused solely by the electrical or mechanical malfunctioning of the goods;
12. Any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
13. Any loss or damage occasioned by or through or in consequence directly or indirectly, of any of the following occurrences namely;
  - a) War, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) and civil war;
  - b) Abandonment and/or permanent or temporary dispossession resulting from detention, confiscation, nationalization, requisition or willful destruction of goods by

order of government de jure or de facto, or by any lawfully constituted authority;

- c) Mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion. Revolution, military or usurped power, martial law or state of siege or any of the events or causes which determine the proclamation or maintenance of martial law or siege;
- d) Any liability, loss, damage or expense of whatsoever nature directly or indirectly caused by, resulting from, happening through, or in connection with any act of terrorism, regardless of any other cause contributing concurrently or in any other sequence to loss, damage or expense;

In any action, suit or other proceeding in which the Company alleges that by reason of these provisions, any loss or damage is not covered by this Agreement, the burden of proving that such loss or damage is covered shall be upon the Insured.

- 14. The amount of excess/deductible stated in the Schedule.

## CONDITIONS

### 1. Interpretation

This Policy and the Schedule and endorsement shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or of the Schedule shall bear such meaning wherever it may appear.

### 2. Material Disclosure

If there shall be any misstatement, misrepresentation or omission of a material fact from the information supplied by the Insured whether by the said proposal and declaration or otherwise, this Policy shall be null and void and any moneys payable under the same shall be forfeited.

### 3. Due Reasonable Care

The Insured shall ensure that:

- (i) Security devices fitted in the vehicle(s) are in a proper working condition;
- (ii) The vehicle/s are maintained in an efficient and roadworthy condition;
- (iii) The vehicle shall not carry any load in excess of that which it is authorized and/or constructed to carry;
- (iv) The vehicles are adequate and suitable for the intended purpose. Goods and/or merchandise are protected from loss or damage. Where the vehicle is not an enclosed body type, goods carried are covered with tarpaulin;
- (v) Due care is exercised in the selection of employees;
- (vi) Storage facilities, machinery, vehicles and their accessories are in sound and proper order and fit for the intended purposes;
- (vii) That all statutory requirements, bye-laws and regulations imposed by any public authority are adhered to;

(viii) In the event of a loss, the owner of the goods is notified as soon as reasonably practicable and all reasonable measures are taken for purposes of averting or minimizing the loss, damage or destruction;

(ix) All rights against other bailees or third parties are properly preserved and exercised.

4. Subcontractors

Where the Insured engages a subcontractor, such subcontractor shall as though he were the Insured observe, fulfill and be subject to the terms conditions exceptions and limitations of the policy insofar as they apply.

5. Maintenance of Records

The insured shall maintain a record of the nature and condition of the goods at the time of receipt and delivery.

6. Right of inspection

At the request of the Company, the Insured shall permit the authorized representatives of the Company to inspect records pertaining to all contracts of carriage issued.

7. Claims Procedures

On happening of any event which may give rise to a claim under this policy the insured shall;

(a) Immediately and in any case not later than 7 days notify the Company of any such event, claim, impending prosecution or proceedings as soon as the Insured or his representative shall have knowledge of the same.

(b) Where the loss involves theft, attempted theft, malicious damage or disappearance, the Insured shall give immediate notice to the police.

(c) In respect of any claim for which the Company may be liable under this policy the Insured shall not make any admission of liability or promise of payment without the Company's written consent and shall



forward to the Company immediately upon receipt every letter, claim, writ and summons.

#### 8. Claims Co-operation Clause

a) The Insured shall;

(i) Facilitate the authorized representatives or agents of the Company to access the goods and /or the scene of the incident as may be reasonably practicable.

(ii) Furnish full information, documents and evidence to the Company to substantiate the claim.

#### 9. Rights of the Company after a loss

The Company may take over and conduct in the name of the Insured the defence or settlement of the claim and present in the name of the Insured for its own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim.

No admission, statement or promise of payment or indemnity shall be made by the insured without the written consent of the Company.

Upon making such payment, the Company shall be under no further liability under the policy in connection with such claim(s) except for legal costs and expenses;

a) Recoverable from the Insured in respect of the period prior to the date of such payment (whether or not pursuant to an order made subsequently) or

b) Incurred by the Insured with the company's written consent, prior to the date of such payment.

#### 10. Contribution

If at the time a claim arises under this policy there shall be any other insurance covering the same risk the Company shall not be liable to pay more than its proportionate share of such loss.

#### 11. Subrogation

Upon accepting to settle any claim under this policy the Company may assume the Insured's right of recovery and may at its own expense use legal means in the name of the Insured for the purpose of such recovery.

#### 12. Fraudulent Claims

If the Insured or his representative makes a claim knowing the same to be fraudulent, the claim shall not be payable. The Company may in addition refer the matter to the relevant law enforcement authorities.

#### 13. Communication

Every written communication to the Insured shall be sent to the Insured's last known address or delivered personally.

Notices and information to the Company must be in writing and sent to the registered office of the Company or its branch office.

#### 14. Alteration

The Insured shall notify the Company in writing if the circumstances in which the insurance was entered into be materially altered and/or the risk of loss increased.

Unless such alteration is declared to the Company and its written consent to continue the insurance be obtained, the Company shall not be liable for any losses arising due to any such alteration.

No alteration in the terms of this policy shall be valid unless the same are signed by an authorized representative of the Company.

#### 15. Transfer of rights

Nothing contained in this Policy shall unless expressly stated give rights against the Company to any person other than the Insured, his executors or administrators, and the Company will not be bound by any passing of the interest otherwise than by death or operation of Law unless and until the Company shall by endorsement declare the insurance to be continued.

#### 16. Cancellation

This Policy may be cancelled at any time at the request of the Insured in which case the Company will retain a premium calculated on pro rata basis for the

time this Policy has been in force and provided no claim has arisen during the current Period of Insurance.

This Policy may also be cancelled at the option of the Company on fourteen (14) days notice being given in writing to the Insured, in which case the Company shall be liable to return a proportionate part of the premium for the unexpired term of the Policy from the date of such cancellation.

#### 17. Due observance

Compliance, observance and fulfillment of the terms of this Policy by the Insured shall be a condition precedent to any liability attaching under this Policy.

#### 18. Premium Adjustment

Whenever the premium charged on this policy is based on estimates of turnover, the Insured shall supply the Company within one month of expiry of each Period of Insurance with an accurate statement of turnover (expressed in Kenya shillings) during the preceding Period of Insurance and if the amount shall vary from the amount upon which premium has been paid the premium shall be adjusted accordingly and the difference paid by or allowed to the Insured as the case may be, subject to the Company retaining a minimum of not less than 75% of the deposit premium for any one Period of Insurance.

Should the Insured fail to supply such a declaration within one month of the expiry of the Period of Insurance, the Company shall be entitled to charge additional premium in respect of the expired period of insurance and in any case not less than 25% of the deposit/provisional premium.

#### 19. Dispute Resolution

a) For any disputes arising out of this Policy the Insured shall endeavour to resolve the matter by negotiation with the Company.

b) Any disputes or issues not resolved by negotiation 30 days after the dispute arising may be resolved through a sole mediator jointly appointed by the parties in writing.

c) Disputes that remain unresolved 60 days after the dispute arose (unless the parties extend that period in writing) shall be resolved by a sole arbitrator appointed either by the parties in writing or, in the absence of an agreement on the choice of arbitrator, by the Chairperson of the Chartered Institute of Arbitrators (Kenya Branch) upon the request of any of the parties.

#### 20. Jurisdiction Clause

The indemnity provided by this Policy shall apply only in respect of judgments which are in the first instance delivered by or obtained from a court of competent jurisdiction within the Republic of Kenya.

**CARRIER'S LIABILITY POLICY SCHEDULE**

Agency: \_\_\_\_\_ Account Number \_\_\_\_\_

Policy Number: \_\_\_\_\_

Insured's Name: \_\_\_\_\_

Postal Address: \_\_\_\_\_ Postal Code \_\_\_\_\_ Town \_\_\_\_\_

Trade /Business / Occupation \_\_\_\_\_

Period of Insurance (a) From: \_\_\_\_\_ To: \_\_\_\_\_ (both dates inclusive)

And any subsequent period for which the Insured shall pay and the Company shall accept renewal premium.

Renewal Date \_\_\_\_\_

Premium KES. \_\_\_\_\_ T/Levy \_\_\_\_\_ PCHF \_\_\_\_\_ S/Duty \_\_\_\_\_

Total Premium: KES. \_\_\_\_\_

Territorial Limits (Area of operations) \_\_\_\_\_

Description of goods carried: \_\_\_\_\_

Mode of conveyance \_\_\_\_\_

Limit of Liability in respect of:

a. Any one claim KES. \_\_\_\_\_

b. All claims arising out of one event KES. \_\_\_\_\_

c. All claims during the Period of Insurance KES. \_\_\_\_\_

Estimated Annual Carry KE \_\_\_\_\_

Clauses and Endorsements applicable: \_\_\_\_\_

Excess applicable: \_\_\_\_\_

Date of signature of proposal and declaration \_\_\_\_\_

Date policy examined : \_\_\_\_\_

Signed for and on behalf of \_\_\_\_\_

CARRIERS LEGAL LIABILITY INSURANCE  
PROPOSAL FORM

Please note that this is a Legal Liability and not a Goods-In-Transit policy.

A. PARTICULARS OF PROPOSER

1. Name of Proposer:

\_\_\_\_\_

2. Address and contacts:

P. O. Box \_\_\_\_\_ Postal Code \_\_\_\_\_ Town \_\_\_\_\_

Telephone Number/s \_\_\_\_\_ Mobile No. \_\_\_\_\_

Fax Number \_\_\_\_\_ Email Address \_\_\_\_\_

1. Pin Certificate Number (attach a copy) \_\_\_\_\_

2. Physical Address of Central Office:

Building \_\_\_\_\_ Street/Road \_\_\_\_\_ Town \_\_\_\_\_

3. Please indicate whether you operate as a (tick as appropriate):

Sole Trader \_\_\_\_\_

Partnership \_\_\_\_\_

Limited company \_\_\_\_\_

6. Describe your business or occupation : \_\_\_\_\_

7. When was the business registered ? \_\_\_\_\_

8. Has ownership of the business changed since it was registered? Yes/ No?

If so please explain briefly \_\_\_\_\_

9. Name the main types of goods likely to be carried, handled and/or warehoused by you. \_\_\_\_\_

10. What is your area of Operations (Geographical area covered)?

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**B. PARTICULARS OF VEHICLES**

1. Indicate whether the vehicles are (tick as appropriate):

Owned \_\_\_\_\_

Hired \_\_\_\_\_

Owned and hired \_\_\_\_\_

2. Do you subcontract any carriage? Yes/No?

3. If Yes, do you have written contracts with the subcontractors? Yes/ No

If so, kindly provide a copy of the contract (attach a copy)

If No, how do you hold subcontractors responsible for any goods entrusted to them?

Explain briefly \_\_\_\_\_

5. Do you maintain a detailed register of all the vehicles that are used for carriage of goods? \_\_\_\_\_ Yes/No

If not, explain how you keep such records.

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6. Do you ensure that the vehicle(s) are regularly serviced and maintained in a roadworthy condition at all times? Yes/No?

\_\_\_\_\_

7. How do you ascertain the level of maintenance of hired vehicles and staff reliability? Please explain. \_\_\_\_\_

8. How do you ensure safety of the goods when the vehicle(s) are temporarily garaged during transit

Please explain \_\_\_\_\_

SECURITY OF VEHICLES

Are the vehicles fitted with:

- Tracking Devices? YES/NO
- Radio Communication? YES/NO
- Engine Immobilizers? YES/NO
- Overloading Devices? YES/NO

Any Other Devices (please specify) \_\_\_\_\_

9. EMPLOYEE DETAILS

- 1. State the total number of own employees engaged. \_\_\_\_\_
- 2. State the total number of hired drivers/operators. \_\_\_\_\_
- 3. Do you have a system of vetting employees for trustworthiness before employment? Yes/No

Please explain \_\_\_\_\_

- 4. Do you verify validity of all drivers' licenses and identities before engaging them in employment? Yes/No

Please explain \_\_\_\_\_

D. LIMITS OF LIABILITY REQUIRED

- 1. State the Limits of liability required:
  - a. In respect of any one claim KES. \_\_\_\_\_
  - b. In respect of all claims arising out of one event KES. \_\_\_\_\_
  - c. In respect of all claims during the Period of Insurance KES. \_\_\_\_\_
- 2. What is your Estimated Annual Carry KES. \_\_\_\_\_

3. Provide your actual annual carry for each of the last three years:

- a. Year \_\_\_\_\_ KES \_\_\_\_\_
- b. Year \_\_\_\_\_ KES \_\_\_\_\_
- c. Year \_\_\_\_\_ KES \_\_\_\_\_



4. INSURANCE/LOSS HISTORY

1. Are you now or have you been insured for this type of Insurance? Yes/No

\_\_\_\_\_ If yes, please give name of Insurer and Policy Number.

2. Have you ever suffered a loss in relation to the insurance now proposed? Yes/No

If yes, please give details of loss(es) in the last three years Year of loss(es) \_\_\_\_\_

Cause of loss \_\_\_\_\_

Brief detail of each loss \_\_\_\_\_

3. What precautions do you now engage to avoid recurrence of similar loss?

4. Has any Insurance Company ever;

a) Cancelled your Policy? \_\_\_\_\_ YES/NO

b) Declined to insure you? \_\_\_\_\_ YES/NO

c) Declined to renew your Policy? \_\_\_\_\_ YES/NO

d) Imposed any special terms? \_\_\_\_\_ YES/NO

e) Declined any claim? \_\_\_\_\_ YES/NO

If the answer for any of the above reasons is 'YES'. Please give details.

\_\_\_\_\_

**Declaration**

I/We hereby declare that the above answers are true to the best of my/our knowledge and belief and that I/We have not withheld any material information whatsoever regarding the proposal. I/We agree that this declaration and the answers given above shall be the basis of the contract between Me/Us and \_\_\_\_\_ Insurance Company Limited.

Name of Proposer \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

Date \_\_\_\_\_

The liability of the Company does not attach until the proposal has been accepted and the premium paid.