

XL INSURANCE (CHINA) COMPANY LIMITED
PUBLIC AND PRODUCTS LIABILITY INSURANCE POLICY (CLAIMS MADE FORM)

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Important Notice To Policy Holder And Insured

SAMPLE

1. PREAMBLE

This **Policy** consists of:

- (a) this **Policy** wording; and
- (b) each endorsement issued by the **Company** and attached or intended to be attached to the **Policy** wording or intended by the **Company** to form part of this **Policy**; and
- (c) the **Current Schedule**.

The **Policy** wording and the **Current Schedule** and each endorsement are to be read together. Any word or expression given a specific meaning in the Clause headed Definitions will mean the same wherever else it appears unless specially stated otherwise. Marginal notes and headings are used only for the purpose of identification and should not be construed as forming part of the wording for the purpose of interpreting this **Policy**.

2. THE AGREEMENT

In consideration of the payment of the Premium set out in the **Current Schedule**, the **Company** provides indemnity to the **Insured** in accordance with this **Policy**, subject to the limitations, terms and conditions of this **Policy** for the period set out in the **Current Schedule**.

This **Policy** is limited to the term specified in the **Period of Insurance** in the **Current Schedule** and is subject to other clauses regarding **Period of Insurance** in this **Policy**.

3. THE COVER

The **Company** agrees to indemnify the **Insured** up to the **Limit of Liability** and subject to all terms, conditions and exclusions of this **Policy** for:

- (a) all amounts which the **Insured** becomes legally liable to pay as compensation (excluding punitive, exemplary, aggravated and liquidated damages) as a result of a **Claim or Claims** first made against the **Insured** and notified in writing to the **Company** during the **Period of Insurance** by reason of **Personal Injury, Property Damage** and/or **Advertising Injury** which first occurs after the Retroactive Date as shown in the Schedule and caused by an **Occurrence** in connection with the **Insured's Business**. No cover is provided under this contract for serial losses if the first such loss occurred before such date.
- (b) all legal costs taxed/assessed against the **Insured** arising out of **Personal Injury, Property Damage** or **Advertising Injury** for which indemnity is available under this **Policy**; and

- (c) all interest accruing after entry of judgment against the **Insured** arising out of **Personal Injury, Property Damage** or **Advertising Injury** for which indemnity is available under this **Policy** until the **Company** has paid, tendered or deposited in court such part of such judgment as does not exceed the **Limit of Liability**.

The total indemnity available under this clause in respect of the combined amounts in (a), (b) and (c) is restricted to the **Limit of Liability**.

4. SUPPLEMENTARY PAYMENTS

Claims worldwide, except USA and Canada

Except in relation to **Claims** made and/or actions instituted against the **Insured** within the United States of America or Canada, or **Claims** and actions to which the laws of the United States of America or Canada apply, the **Company** agrees to pay, subject to the limit of liability for supplementary payments in the **Current Schedule**, in addition to the cover provided by clause 3 of this **Policy**, the following:

- (a) all expenses, including investigation and legal costs incurred by the **Company** and/or by the **Insured** with the written consent of the **Company**, in the settlement or defence of any claim or suit for compensation in respect of which the **Insured** is entitled to indemnity under this **Policy** or if sustained would be so entitled; and
- (b) all expenses incurred by the **Insured** for first aid to others for **Personal Injury** to which this **Policy** applies (other than medical expenses prohibited by law).

If a payment exceeding the **Limit of Liability** has to be made to dispose of a claim, the liability of the **Company** to pay any supplementary payments shall be limited to the proportion of the supplementary payments as the **Limit of Liability** bears to the amount paid to dispose of the claim, or the limit of liability of supplementary payments in the **Current Schedule**, whichever is the lesser.

USA and Canada

In relation to **Claims** made and/or actions instituted against the **Insured** within the United States of America or Canada, or **Claims** and actions to which the laws of the United States of America or Canada apply, the **Company** shall indemnify the **Insured** in respect of expenses, including investigation and legal costs as set out in (a) and (b) above, subject to the **Limit of Liability**. In respect of such **Claims** and/or actions, the total indemnity available under this **Policy** is limited to the **Limit of Liability**.

5. **CROSS LIABILITY**

Notwithstanding that the **Insured** may comprise more than one entity the total indemnity available under this **Policy** is limited to the **Limit of Liability** plus where applicable the **Limit of Liability** for supplementary payments both as specified in the **Current Schedule**.

6. **INTERNATIONAL PROGRAMME CLAUSE**

This **Policy** forms an integral part of the International Public and Products Liability Programme for {name of Master Insured}. [(Programme Reference Number)] and shares its destiny. A cancellation of the Master Policy [Master Policy Reference Number] also applies to this **Policy**.

Claims payments out of this **Policy** shall be deducted from the total limit of indemnity in the Master Policy. Should the limit of indemnity in the Master Policy be exhausted no further claim payments are due out of this **Policy**.

SAMPLE

7. EXCLUSIONS

This **Policy** does not cover any liability arising out of or connected directly or indirectly with:

7.1 Advertising Liability

Advertising Injury resulting from:

- (a) failure of performance of contract or breach of contract;
- (b) infringement of trade-mark or trade name;
- (c) incorrect description of any article or commodity;
- (d) mistake in advertised price;

first committed or alleged to have been committed in any advertisement, publicity article, broadcast or telecast and arising out of the **Insured's** advertising activity.

7.2 Aircraft, Hovercraft, Watercraft and Registered Vehicles

the ownership, possession, maintenance, operation, use or legal control by or on behalf of the **Insured** of any:

- (a) **Aircraft**, (also **Claims** arising out of the **Insured's Products** that are used with the **Insured's** knowledge in **Aircraft** or aerial devices);
- (b) **Hovercraft**; or
- (c) **Watercraft** or vessels exceeding 10 metres in length.

This sub-clause (c) shall not apply where the **Watercraft** or vessel is:

- (i) let out on hire or on charter to the **Insured** and is wholly crewed/manned by a professional crew; and
 - (ii) the **Insured** is not in the business of letting for hire or charter any **Watercraft** or vessels; and
 - (iii) the hiring or chartering of the **Watercraft** or vessel by the **Insured** is not undertaken in the normal course of the **Insured's Business**.
- (d) **Vehicle** which is registered or is required under any legislation to be registered; or
 - (e) **Vehicle** in respect of which compulsory insurance is required to be effected by virtue of any legislation.

Exclusion 7.2(d) and (e) does not apply to **Personal Injury** and/or **Property Damage** arising from:

- (i) the delivery or collection of goods to or from any **Vehicle** where such **Personal Injury** and/or **Property Damage** occurs beyond the limits of any carriageway or thoroughfare;
- (ii) the loading or unloading of any **Vehicle**;
- (iii) the **use of any Vehicle as a Tool of Trade**.

7.3 Alterations/Additions, Construction of Buildings

the erection, construction, demolition, alteration of and/or addition to a building(s) by or on behalf of the **Insured**, except alteration of or addition not exceeding in cost the sum of [currency/amount] to a building(s) owned and/or occupied by the **Insured**.

7.4 Asbestos

any actual or alleged liability, whatsoever for any **Claim** in respect of loss or losses directly or indirectly (exclusively or partially) arising out of, resulting from, or in consequence of, or in any way involving asbestos or respirable ceramic fibres, or any materials containing asbestos or respirable ceramic fibres in whatever form or quantity.

7.5 Contractual Liability

liability assumed under any contract or agreement. This Exclusion 7.5 does not apply to:

- (a) liability which would have been imposed by law in the absence of such contract or agreement;
- (b) those contracts or agreements specified in the Current Schedule

7.6 Nuclear / Radioactive Contamination

Ionising radiation, combustion or contamination by radioactivity from any nuclear fuel, weapon, medical isotope, waste or other material whether occurring naturally or otherwise; the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; or the storage, transport, assembly, disassembly, maintenance or operation of any nuclear weapon or nuclear component thereof.

For the purpose of this Exclusion only, combustion shall include any self-sustaining process of nuclear fission;

7.7 Worker's Compensation/ Employer's Liability

- (a) **Personal Injury** to any **Employee** arising out of or in the course of their employment in the **Insured's Business**;
- (b) **Personal Injury** to any person who is deemed to be the **Employee** of the **Insured** pursuant to any legislation relating to worker's compensation;

- (c) any **Claim** relating to **Employment Practices**, including harassment, discrimination or unfair dismissal;

7.8 Fines and Penalties

finer or penalties imposed by law, punitive, exemplary, aggravated and liquidated damages.

7.9 Libel, Slander and Defamation

the publication of any defamatory material:

- (a) made prior to the commencement of the **Period of Insurance**; or
- (b) made at the **Insured's** direction or with the **Insured's** authority or with knowledge of its falsity or defamatory nature; or
- (c) related to advertising, broadcasting, telecasting or publishing activities conducted by or on behalf of the **Insured**.

7.10 Loss of Use

loss of use of tangible property which has not been physically damaged or destroyed resulting from:

- (a) a delay in or lack of performance by or on behalf of the **Insured** in relation to any contract or agreement; or
- (b) the failure of the **Insured's Products** to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by the **Insured**.

This Exclusion does not apply to the loss of use of other tangible property resulting from the sudden and accidental physical damage to or destruction of the **Insured's Products** after such products have been put to use by any person or organisation other than the **Insured**.

7.11 Pollution

Claims worldwide, except USA and Canada

Except in relation to claims made and/or actions instituted against the **Insured** within the United States of America or Canada, or claims and actions to which the laws of the United States of America or Canada apply:

- (a) the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants**;
- (b) the costs of removing, nullifying or cleaning up **Pollutants**.

These Exclusions do not apply to liability which arises out of a sudden, identifiable, unintended, unexpected and accidental happening during the **Period of Insurance** which takes place in its entirety at a specific time and place.

USA and Canada

In relation to **Claims** made and/or actions instituted against the **Insured** within the United States of America or Canada, or **Claims** and actions to which the laws of the United States of America or Canada apply:

- (a) the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants**;
 - (b) any governmental direction or request that the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **Pollutants**.
- 7.12 **Product Defect/Faulty Workmanship**
- (a) **Property Damage** to the **Insured's Products** if such damage is attributable to any defect therein or the harmful nature thereof or unsuitability for the purpose for which they were intended; or
 - (b) performing, completing, repairing, replacing, correcting or improving any work or service undertaken or provided by or on behalf of the **Insured**.
- 7.13 **Product Recall**
- the withdrawal, recall, inspection, repair, replacement or loss of use of the **Insured's Products** or any property of which such products form a part.
- 7.14 **Professional Liability**
- the rendering of or failure to render professional advice or service by the **Insured** or any error or omission connected therewith.
- This Exclusion does not apply to liability arising out of the rendering or failure to render medical advice at the **Insured's** premises by **Medical Persons** employed by the **Insured** to provide first aid and ancillary medical services.
- 7.15 **Property in Physical or Legal Control**
- Property Damage** to:
- (a) property owned by or leased or rented to the **Insured**; or
 - (b) property in the physical or legal control of the **Insured**.

This Exclusion shall not apply to liability for **Property Damage** to:

- (i) real property, including buildings which are leased or rented to the **Insured**; or
- (ii) real property including contents, not owned, leased or rented to the **Insured** but temporarily occupied by the **Insured** for the purpose of carrying out work in connection with the **Insured's Business**, but no indemnity is granted for damage to that part of the property on which the **Insured** is or has been working or which arises out of such work;
- (iii) vehicles (not belonging to or used by or on the behalf of the **Insured**) in the physical or legal control of the **Insured** where such **Property Damage** occurs whilst any such vehicles are in a car park owned or operated by the **Insured** but not where the **Insured** as part of its business is a car park owner or operator for reward;
- (iv) property belonging to visitors or **Insured's Employees**.

7.16 War/Terrorism

- (a) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority; or
- (b) any act of terrorism, piracy or hijacking;
- (c) any other civil disturbance or civil unrest, including strike, protest and civil commotion.

7.17 Known Circumstances

For any **Claim or Claims** directly or indirectly arising out of facts and/or circumstances of which the **Insured** was aware or ought to have been aware as at the effective date of this **Policy**.

8. STANDARD CONDITIONS

8.1 Notice of Cancellation

- (a) The **Policy Holder** may cancel this **Policy** by giving notice in writing to the **Company**. If such notice is given, the cancellation will take effect on the day the notice is received by the **Company**.
- (b) The **Company** may cancel this **Policy** by giving notice in writing to the **Policy Holder**. Such cancellation is to take effect thirty (30) days from the time notification is received by the **Policy Holder**.
- (c) For any period during which this **Policy** has been in force the **Company** is entitled to keep or charge a pro rata proportion of the premium. If the **Policy Holder** has requested the cancellation the **Company** may charge or deduct from any refund its standard cancellation fee which will represent 10% of the premium applicable for the unexpired term of the **Period of Insurance**.
- (d) When the premium is subject to adjustment, cancellation will not affect the obligation of the **Insured** to supply to the **Company** such information as is necessary to permit the premium adjustment to be calculated and the obligation of the **Policy Holder** to pay the amount of the adjustment applicable up to the date of cancellation.

8.2 Claims Procedure – Action by the insured

- (a) Written notice shall be given as soon as possible to the **Company** of every **Occurrence**, claim, writ, summons, proceedings, impending prosecution and/or inquest (together, a "**Notifiable Circumstance**") in respect of which there may arise a liability under this **Policy**.

If the **Insured** deliberately or through its gross negligence fails to notify the **Company**, of a **Notifiable Circumstance** that the **Company's** ability to determine the nature, cause and degree of damage and any other relevant circumstances is compromised,, the **Company** shall not be liable for that proportion of the loss that could not thus be determined, unless the **Company** has known or should have known of the **Occurrence** or claim in a timely manner through other channels.

- (b) The **Insured** shall not without the **Company's** written consent make any admission, offer, promise or payment in connection with any **Notifiable Circumstance**. In the absence of such consent, the **Company** shall not be bound by and is entitled to review any such admission, offer, promise or payment made by the **Insured**. In no case shall the **Company** be liable for any loss not falling within the cover provided under this **Policy** or exceeding the **Limit of Liability** stated in the **Current Schedule**.
- (c) The **Company** shall be entitled, if it so desires, to take over and conduct in the **Insured's** name the defence or settlement of any **Claim** and the **Company** may make such investigation, negotiation and settlement of any **Claim** or suit as it deems expedient.
- (d) The **Insured** shall use its best endeavours to preserve any property, products, appliances, plant and other objects which may be required in connection with the investigation of or the defending of any **Claim** made against the **Insured** and shall not, except to prevent further **Personal Injury** and/or **Property Damage**, without the **Company's** consent and until the **Company** has had an opportunity of inspection, make any alteration or repair to or dispose of such matter.
- (e) The **Company** shall be entitled to prosecute in the **Insured's** name at its expense and for its own benefit any **Claim** for indemnity or contribution towards any loss or damage.
- (f) The **Company** shall have full discretion in the conduct of any proceedings in connection with any **Claim** and the **Insured** shall give all information and assistance as the **Company** may reasonably require in the prosecution, defence or settlement of any **Claim**.
- (g) In the event of an **Occurrence**, the **Insured** shall promptly take all reasonable steps to prevent further **Personal Injury** and/or **Property Damage** from arising out of the same **Occurrence**. Any such reasonable expense will be recoverable under this **Policy**, but in no case shall such expenses referred hereto exceed the cover and the **Limit of Liability** provided in this **Policy**.
- (h) The **Company** shall be entitled to attend any inquest in respect of which there may arise liability under this **Policy**.
- (i) In respect of **Claims** for amounts less than the **Deductible** the **Insured** shall at all times observe and duly comply with the claims procedure referred to above.

8.3 Claims Procedure – Action by the Company

- (a) After receiving a claim and the complete evidences and materials for claim from the **Insured**, the **Company** shall perform claim assessment and determine whether such claim falls within the cover provided under this **Policy** within 30 days.
- (b) If the evidences and materials for claim provided by the **Insured** are incomplete, the **Company** shall give a timely and one-off notice to the **Insured**, requesting to provide supplementary evidence or materials.
- (c) The **Company** shall notify the **Insured** of the claim assessment result. For a claim which falls within the cover provided under this **Policy**, the **Company** shall make the payment within 10 days after reaching an agreement on claim payment with the **Insured** according to this **Policy**. For a claim which does not fall within the cover provided under this **Policy**, the **Company** shall, within 3 days after completing the claim assessment, send a notice denying the claim to the **Insured** and give reasons.
- (d) If the **Company** cannot determine the amount of indemnity to be paid within 60 days after receiving a claim and the relevant evidences and materials, it shall first pay the amount which can be determined according to the evidences or materials received, and then pay the difference after it finally determines the amount of indemnity.
- (e) The indemnity liability of the **Company** is based on the **Insured**'s liability determined by one of the following ways:
 - (1) agreed upon by the **Insured** and the claimant/injured third party who claims against the **Insured** for damages, and confirmed by the **Company**;
 - (2) awarded by any arbitration authority;
 - (3) adjudged by any court;
 - (4) otherwise determined upon approval by the **Company**

8.4 Third Party Liability

The **Company** may directly indemnify an injured third party for **Personal Injury** or **Property Damage** caused by the **Insured** according to law or this **Policy**.

Where the indemnity liability of the **Insured** to the injured third party has been determined, at the request of the **Insured**, the **Company** shall directly indemnify the injured third party. If the **Insured** has failed to request the **Company** to directly indemnify the injured third party, the injured third party shall have the right to directly request the **Company** to make the claim payment to the extent that the injured third party shall be indemnified for.

Where the **Insured** causes any **Personal Injury** or **Property Damage** to an injured third party and the **Insured** has not indemnified the injured third party for the damage, the **Company** shall not make claim payment to the **Insured**.

8.5 Discharge of Liabilities

The **Company** may at any time pay to the **Insured** the applicable **Limit of Liability** (after deducting all amounts already paid by or on behalf of the **Company**) or any lesser amount for which a **Claim** or **Claims** may be settled. Upon such payment, the **Company** will not be under any further liability to the **Insured** and will be released from all liability, except for expenses including investigation and legal costs incurred by the **Insured** with the **Company's** consent prior to the date of such payment.

If the **Company** has a right to recover any costs charges and expenses or other money from the **Insured**, then this right is not discharged or altered by this clause.

8.6 Inspection of Property

Subject to 8.2 and 8.3 above, the **Company** shall be permitted but not obliged to inspect the **Insured's** property and operations at any time, subject to reasonable notice being given. Neither the **Company's** right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the **Insured** or others, to determine or warrant that such property or operations are safe.

8.7 Limitation of Action

The limitation of action for an **Insured** to make a claim against the **Company** shall be two years, which shall begin from the date when the **Insured** knows or should have known the occurrence of the insured event.

8.8 Applicable Law/Jurisdiction

It is agreed that should any dispute arise concerning this **Policy**, the dispute will be determined in accordance with the laws of the People's Republic of China.

In relation to any such dispute, the Company and the Insured shall use their best efforts to reach amicable settlement through negotiation. In case of failure to reach a settlement through negotiation, the dispute shall be submitted to the arbitration authority stated in the **Current Schedule** for arbitration. If there is no arbitration authority agreed in the **Current Schedule** and no arbitration agreement is reached after the dispute arises, the dispute shall be submitted to the people's court of the PRC for litigation.

Nothing in this Clause affects the assessment of an insured's liability towards claimants/injured third parties.

8.9 Marginal Notes and Headings

Where marginal notes and headings are used in this **Policy** they are purely descriptive in nature and are not intended to be used for interpretive purposes.

8.10 Notice of Change

The **Insured** shall give immediate notice in writing of any change in facts or circumstances that comes to the **Insured's** knowledge which materially varies the risk, the subject of this Insurance, at any time during the existence of this **Policy**.

If any such changes materially increase the risk, the **Company** may increase the insurance premium or cancel this **Policy**. If the **Company** cancels this **Policy**, it shall refund the insurance premium to the **Policy Holder** after deducting the part of premium for the period from the inception date of the coverage to the date of policy cancellation as agreed upon in this **Policy**.

If the **Insured** fails to perform the notification obligation prescribed in the preceding paragraph, the **Company** shall not be liable for the loss resulting from such materially increased risk.

8.11 Other Insurance

If the **Insured** makes a claim under this **Policy** in respect of which the **Insured** is or may be indemnified in whole or part under any other Insurance(s), then the **Insured** must advise the **Company** of the full details of such other Insurance(s) when making the claim under this **Policy**.

The **Company** shall only be liable for indemnity as per the proportion of the **Limit of Liability** of this **Policy** to the total **Limit of Liability** of other insurance(s) and this one.

The **Company** is not liable for advancement of the indemnity payable by other insurers. If the **Company** pays more indemnity due to the fact that the **Insured** fails to make a full and accurate disclosure of other Insurance(s), the **Company** has the right to retrieve the overpaid amount from the **Insured**.

8.12 Reasonable Care

The **Insured** shall:

- (a) Exercise reasonable care that only competent workers are employed and take reasonable measures to maintain all premises (including fittings and plant) owned or occupied by it, in sound condition;
- (b) Comply with and ensure the workers, employees and agents of the **Insured** comply with all statutory obligations, by-laws or regulations in respect of fire prevention, safety, production operation, and labour protection;
- (c) Strengthen supervision, take reasonable precautions and make every effort to:
 - (i) prevent **Personal Injury** and/or **Property Damage**;
 - (ii) prevent the manufacture, sale or supply of defective products;
 - (iii) avoid or reduce the occurrence of any liability accident, and maintain safety of the subject matter insured.
- (d) At the expense of the **Insured** take reasonable action to trace, recall or modify any products containing any defect or deficiency which defect or deficiency the **Insured** has knowledge of or has reason to suspect.

The **Company** may examine the **Insured**'s performance of the condition stipulated in this clause and propose written suggestions to the **Insured** to eliminate risks and latent problems undermining the safety, which shall be conscientiously implemented by the **Insured**. If the **Insured** fails to fulfil its obligation of reasonable care stipulated in this clause, the **Company** shall have the right to increase insurance premium or cancel this **Policy**.

8.13 Subrogation

- (a) In the event of a payment under this **Policy** to or on behalf of the **Insured**, the **Company** shall be subrogated to the **Insured's** rights of recovery against all persons and organisations to the extent of the indemnity paid by the **Company** and the **Insured** shall execute and deliver instruments and papers and do all that is necessary to assist the **Company** in the exercise of such rights.
- (b) Where the **Insured** has been indemnified by any liable persons or organisations after an **Occurrence**, the **Company** may, when making claim payment, deduct the corresponding amount which the **Insured** has been indemnified by such liable persons or organisations.
- (c) If the **Insured** waives the right of indemnity against the liable persons or organisations after an **Occurrence** and before the **Company** makes claim payment, the **Company** shall not be liable for the loss.
- (d) Where the **Insured** waives the right to claim indemnity against the liable persons or organisations without the written consent of the **Company** after the **Company** makes claim payment to the **Insured**, the waiver shall be null and void.
- (e) Where the **Insured**, deliberately or for gross negligence, causes the **Company** to be unable to exercise the subrogation right, the **Company** may deduct or require the **Insured** to refund what the **Company** has paid out.

8.14 Policy Holder's Duty of Disclosure

- (a) Where the **Company** makes any inquiry about the insured subject matter or the **Insured** when concluding this **Policy**, the **Policy Holder** must truthfully disclose.
- (b) Where the **Policy Holder** deliberately or through its gross negligence fails to perform the duty of truthful disclosure so as to affect the **Company's** decision on whether or not to accept the risk of the insurance or to raise the insurance premium rate, the **Company** shall have the right to rescind this **Policy**.
- (c) The **Company's** right to rescind this **Policy** as prescribed above will lapse if not exercised within 30 days from the date when the **Company** knows the cause of rescission. After two years from the date when this **Policy** is issued, the **Company** shall not rescind this **Policy**; in event of an **Occurrence**, the **Company** shall be liable for the loss under this **Policy**.

- (d) Where the **Policy Holder** deliberately fails to perform the duty of truthful disclosure, the **Company** shall not be liable for the loss which occurs before this **Policy** is rescinded, and shall not refund the insurance premiums.
- (e) Where the **Policy Holder** fails to perform the duty of truthful disclosure due to gross negligence, which has a material impact on the occurrence of an insured event, the **Company** shall not be liable for the loss which occurs before this **Policy** is rescinded, but must refund the insurance premiums collected.
- (f) If the **Company** was already aware that the **Policy Holder** failed to perform the duty of truthful disclosure when this **Policy** was issued, the **Company** shall not rescind this **Policy** and shall be liable for the loss under this **Policy**.

SAMPLE

9. DEFINITIONS

“**Advertising Injury**” means:

- (a) unintentional libel, slander or defamation,
- (b) piracy or any act, error or omission in the use of advertising or merchandising ideas, under an implied contract,
- (c) infringement of copyright, title or slogan,
- (d) invasion of the right of privacy,

First published or broadcasted in connection with the **Insured’s** advertising activities during the **Period of Insurance**.

“**Aircraft**” means any vessel, craft or device made or intended to fly or move in or through the atmosphere or space.

“**Claim or Claims**” means:

- (i) any writ, summons, application or other originating legal or arbitral proceeding, cross claim or counterclaim.
- (ii) any written or verbal demand alleging any negligent act, error or omission.

“**Company**” means XL Insurance (China) Company Limited.

“**Current Schedule**” means the Schedule or certificate signed by the authorised person of the **Company** and attached or intended to be attached to the Public and Products Liability Insurance Policy, or any schedule or certificate which replaces it.

“**Deductible**” means the amount specified in the **Current Schedule** which is the amount (inclusive of supplementary payments) per **Occurrence** that must be paid by the **Insured**.

“**Employee**” means any person employed under a contract of employment or of service by the **Insured** or by other means has an employment relationship with the **Insured** during the **Period of Insurance**.

“**Employment Practices**” means any wrongful, unfair or unreasonable dismissal, denial of natural justice, defamation, misleading representation or advertising, sexual harassment or discrimination in respect of employment or prospective employment by the **Insured**.

“**Hovercraft**” means a vehicle which travels across land or water above a cushion of air provided by a downward jet, as from its engines and propellers.

“Insured” means:

- (a) Companies as listed in the **Current Schedule** and their subsidiary companies.
- (b) Any principal in respect of the legal liability of such principal arising out of the performance by a company referred to in (a) above of any contract or agreement for the performance of work for such principal, but limited always to the extent of cover and the **Limit of Liability** provided in this **Policy**.
- (c) Any director, executive officer, **Employee** or partner of a company referred to in (a) above, but only whilst acting within the scope of their duties in such capacity.
- (d) Any office bearer or member of a social and/or sporting club formed with the consent of the **Insured**, in respect of **Claims** covered by this **Policy** arising from or connected with the activities of any such club.

“Insured’s Business” means the business conducted by the **Insured** only as specified in the **Current Schedule** and includes only commercial activities related to that business.

“Insured’s Products” means anything manufactured or deemed manufactured, constructed, grown, extracted, produced, processed, assembled, erected, installed, repaired, serviced, treated, sold, supplied (including services) or distributed by the **Insured** including any container (other than a **Vehicle**) (after it has ceased to be in the physical possession or under the control of the **Insured**).

“Limit of Liability” means:

- (a) The limit of the **Company’s** liability in respect of any **Occurrence**, which shall not exceed the **Limit of Liability** stated in the **Current Schedule**.
- (b) The total aggregate liability of the **Company** during any one **Period of Insurance** for all **Personal Injury** and/or **Property Damage** and/or **Advertising Injury** which occurs during the **Period of Insurance** and which arises out of a Products Hazard, shall not exceed the **Limit of Liability** stated in the **Current Schedule**.

“Medical Persons” means qualified medical practitioners, ancillary medical workers and dentists.

“**Occurrence**” means:

- (a) with respect to **Personal Injury** and **Property Damage**, an event, including continuous or repeated exposure to the same general conditions, which results in **Personal Injury** or **Property Damage** neither expected nor intended from the **Insured’s** standpoint. All **Occurrences** of a series consequent upon or attributable to one source or original cause shall be deemed one **Occurrence** and the total amount of indemnity payable by the **Company** in respect of such **Occurrence** shall be accounted to the period of insurance in which the first **Personal Injury** and / or **Property Damage** from the one source or originating cause occurred.
- (b) With regard to **Personal Injury** an event is deemed to have occurred in case of doubt at the time when an injured party first consults a doctor on account of the symptoms of such **Personal Injury** even if a causal connection is only established at a later stage.
- (c) With respect to **Advertising Injury**, the publishing or broadcasting of the injurious material or act which results in **Advertising Injury** neither expected nor intended from the **Insured’s** standpoint. All liability involving the same injurious material or act, regardless of the frequency of repetition thereof or the number and kind of media used or the number of claimants, shall be deemed as arising out of one **Occurrence** and the total amount of indemnity payable by the **Company** in respect of such **Occurrence** shall be accounted to the period of insurance in which the first publishing or broadcasting of the injurious material or act from the one source of origination cause occurred.

“**Period of Insurance**” means the period commencing on the inception date and ending on the expiry date specified in the **Current Schedule**.

“**Personal Injury**” means:

- (a) Bodily injury, death, sickness, disease, disability, shock, fright, mental anguish and mental injury;
- (b) False arrest, wrongful detention or imprisonment, malicious prosecution;
- (c) Wrongful entry or eviction;
- (d) Assault and battery not committed by or at the direction of the **Insured** unless committed for the purpose of preventing **Personal Injury** and/or **Property Damage** or eliminating danger;
- (e) Libel, slander, defamation of character or invasion of right of privacy.

“Policy Holder” means Companies as listed in the **Current Schedule**. Unless otherwise provided in this **Policy**, the **“Policy Holder”** shall be the **“Insured”**.

“Pollutants” means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acid, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned, or reclaimed.

“Product Hazard” means **Personal Injury** or **Property Damage** arising out of the **Insured’s Products** but only if the **Personal Injury** or **Property Damage** occurs after the physical possession of such products has been relinquished to others.

“Property Damage” means:

- (a) Physical damage to or destruction of tangible physical property including any resultant loss of use; or
- (b) Loss of use of tangible physical property which has not been physically damaged or destroyed provided such loss of use is caused by physical damage to or destruction of other tangible physical property.

“Territorial Limits” means the geographical areas or countries as listed in the **Current Schedule**.

“Use of any Vehicle as a Tool of Trade” means the use of a **Vehicle** on a work site, but does not include:

- (a) vehicles whilst in transit to or from or within any work site; or
- (b) vehicles used for transport or haulage.

“Vehicle” means any type of machine on wheels or on self laid tracks made or intended to be propelled by other than manual or animal power and any trailer or other attachment made or intended to be drawn by any such machine.

“Watercraft” means any vessel, craft or device made or intended to float on or in or travel on or through water.

IMPORTANT NOTICE TO POLICY HOLDER AND INSURED

Insurer's Duty of Explanation

Before you enter into this **Policy**, please carefully read this **Policy** especially the clauses highlighted in grey background and contact [86 21 6058 3988] for any queries regarding any terms and conditions; otherwise you are deemed to fully understand and accept the terms and conditions of this **Policy**.

Privacy

Privacy legislation regulates the way private sector organisations collect, use, keep, secure and disclose personal information. The **Company** has developed a privacy policy which explains what type of personal information we hold about you and what the **Company** does with that information. Please contact the **Company** or your broker to obtain more information about the **Company's** policy.

English Policy

This Policy is issued in both Chinese and English. In the event of any conflict or discrepancy between the Chinese version and the English version, the Chinese version shall prevail

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