

**POLLUTION AND REMEDIATION  
LEGAL LIABILITY INSURANCE POLICY**

**INSUREDS NAME XXXXXXXXXXXXXXXX**

Freedom of Services

XL Insurance Company Limited

PARLL v.FoS-1207 - XLICL

**XL INSURANCE COMPANY LIMITED**

(Herein called "the Company")

**POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY****FREEDOM OF SERVICES**

**THIS IS A "CLAIMS MADE AND REPORTED" POLICY. THE POLICY REQUIRES THAT A CLAIM BE MADE UPON THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD. IN ADDITION, THIS POLICY MAY HAVE PROVISIONS OR REQUIREMENTS DIFFERENT FROM OTHER POLICIES YOU MAY HAVE PURCHASED. PLEASE READ THIS CAREFULLY.**

In consideration for the payment of the Policy Premium set forth in the Schedule and in reliance upon the statements contained in the Application and any other material information submitted to the Company, all of which the INSURED warrants is true and complete and subject to all the terms and conditions of this Policy, and the Limits of Liability and Retention Amount(s) stated in the Schedule, the Company and the INSURED agree as follows:

**I. INSURING AGREEMENT****A. Coverage A - POLLUTION LEGAL LIABILITY**

The Company will pay on behalf of the INSURED for LOSS the INSURED has become legally liable to pay from POLLUTION CONDITIONS in, on, at, under or migrating from the COVERED LOCATION(S) as a result of a CLAIM first made against the INSURED during the POLICY PERIOD provided that the INSURED reports the CLAIM to the Company, in writing, during the POLICY PERIOD or, if applicable, during the Automatic Extended Reporting Period.

**B. Coverage B - REMEDIATION LEGAL LIABILITY**

The Company will pay on behalf of the INSURED for REMEDIATION EXPENSE the INSURED has become legally liable to pay from POLLUTION CONDITIONS in, on, at, under or migrating from the COVERED LOCATION(S) as a result of the following:

1. a CLAIM first made against the INSURED; or
2. a DISCOVERY of POLLUTION CONDITIONS

during the POLICY PERIOD provided that the INSURED reports the CLAIM or DISCOVERY to the Company, in writing, during the POLICY PERIOD or, if applicable, the Automatic Extended Reporting Period.

**C. Coverage C - LEGAL DEFENCE EXPENSE**

The Company will pay on behalf of the INSURED for LEGAL DEFENCE EXPENSE to defend a CLAIM for LOSS under Coverage A – POLLUTION LEGAL LIABILITY or for REMEDIATION EXPENSE under Coverage B – REMEDIATION LEGAL LIABILITY to which this Policy applies. The Company shall have the right and duty to defend the INSURED against any CLAIM for LOSS or for REMEDIATION EXPENSE. The Company will have no duty to defend the Insured against any CLAIM for LOSS or for REMEDIATION EXPENSE to which this policy does not apply.

**II. DEFINITIONS**

- A. ADDITIONAL INSURED(S)** means the person(s) or entity(ies) designated as such in Item 8 of the Schedule or as endorsed onto the Policy but solely to the extent such person(s) or entity(ies) is liable as a result of the ownership, occupation, development, operation, maintenance, financing or use of the COVERED LOCATION(S).
- B. BODILY INJURY** means physical injury, sickness, or disease, and any accompanying mental anguish or emotional distress sustained by any person, including death resulting therefrom, caused by POLLUTION CONDITIONS.
- C. CLAIM(S)** means a demand, notice, notification or other written assertion of a legal right alleging liability or responsibility on the part of the INSURED arising out of POLLUTION CONDITIONS, and shall include but not necessarily be limited to legal proceedings against the INSURED.
- D. CLEAN UP COSTS** means costs incurred to investigate, assess, remove, dispose of, treat, abate, contain or neutralise POLLUTION CONDITIONS, including any monitoring and testing costs associated with such investigation, assessment, removal, disposal, treatment, abatement, containment or neutralisation;
- E. COVERED LOCATION(S)** means the location(s) stated in Item 5 of the Schedule or as endorsed onto the Policy provided that the location(s) continue(s) to be used as set forth in the Application Form or any other supplementary materials or written information submitted to the Company prior to the inception date of this Policy or prior to the date the location is endorsed onto this Policy.
- F. DISCOVERY** means POLLUTION CONDITIONS first discovered at a COVERED LOCATION(S) during the POLICY PERIOD where such POLLUTION CONDITIONS are encountered during the ordinary course of the INSURED's use of the COVERED LOCATION(S) as of the inception date of the Policy or the date that the COVERED LOCATION is endorsed onto the Policy, and are not discovered as a result of an investigation or survey to assess, identify or search for the presence of any POLLUTANTS in, on, at, under or migrating from a COVERED LOCATION.
- G. EMERGENCY COSTS** means reasonable and necessary CLEAN UP COSTS incurred by the INSURED on an emergency basis where any delay on the part of the INSURED would cause BODILY INJURY or PROPERTY DAMAGE, or increase significantly the cost of responding to a CLAIM.
- H. FIRST NAMED INSURED** means the person or entity stated in Item 1 of the Schedule.
- I. INSURED** means the FIRST NAMED INSURED and any ADDITIONAL INSURED(S) as designated in Item 8 of the Schedule or as endorsed onto the Policy, and any present or former director, officer, partner or employee of an INSURED while acting within the scope of their duties as such for an INSURED.
- J. LEGAL DEFENCE EXPENSE** means legal fees, costs, charges and expenses incurred by or on behalf of the INSURED in the investigation, adjustment or defence of a CLAIM(S) (and shall include any necessary fees paid to legal, technical or other experts retained by or on behalf of the INSURED) with the prior written approval of the Company, which approval shall not be unreasonably withheld or delayed.

LEGAL DEFENCE EXPENSE does not include salaries or charges of regular employees or officials of the Company, fees and expenses of supervisory legal advisers retained by the Company or the time and expense incurred by the INSURED in assisting in the investigation or resolution of a CLAIM or in connection with REMEDIATION EXPENSE, including but not limited to the costs of the INSURED's in-house lawyers.

**K. LOSS** means monetary judgment, award or settlement of compensatory damages arising from:

1. BODILY INJURY; or
2. PROPERTY DAMAGE.

LOSS does not include REMEDIATION EXPENSE.

**L. POLICY PERIOD** means the period stated in Item 2 of the Schedule or any shorter period arising as a result of cancellation.

**M. POLLUTANTS** means any solid, liquid, gaseous or thermal pollutant, irritant or contaminant or poisonous, noxious or polluting matter, including but not limited to smoke, vapours, odours, soot, fumes, acids, alkalis, toxic chemicals, hazardous materials, waste materials, including medical, infectious and pathological waste, and low level radioactive waste.

**N. POLLUTION CONDITIONS** means:

1. the discharge, dispersal, release, seepage, migration, or escape of POLLUTANTS into or upon land, or structures thereupon, the atmosphere, or any watercourse or body of water or groundwater; or
2. the unlawful abandonment by anyone other than the INSURED, and without the knowledge or consent of the INSURED, of POLLUTANTS, or any drums, tanks, or similar containers holding such POLLUTANTS, in, on or under the soil at the COVERED LOCATION(S).

**O. PROPERTY DAMAGE** means:

1. physical injury to or destruction of tangible property, including the resulting loss of use thereof, and including the personal property of third parties; or
2. loss of use of such property that has not been physically injured or destroyed; or
3. diminished third party property value ; or
4. third party business interruption

provided that such physical injury or destruction, loss of use, diminished third party property value or third party business interruption is caused by POLLUTION CONDITIONS. PROPERTY DAMAGE does not include REMEDIATION EXPENSE.

**P. REMEDIATION EXPENSE** means CLEAN UP COSTS to the extent payment is required by law enacted to impose liability for POLLUTION CONDITIONS in the jurisdiction of the COVERED LOCATION(S) at issue, including any amendment to any law. REMEDIATION EXPENSE includes REPLACEMENT COSTS.

**Q. REPLACEMENT COSTS** means costs necessarily incurred by or on behalf of the INSURED to repair or replace real or personal property damaged while incurring CLEAN UP COSTS to the condition it was in prior to being damaged during the course of incurring CLEAN UP COSTS. These costs shall not exceed the actual cash value of such real or personal property prior to such damage. For the purposes of this definition, actual cash value means replacement cost reduced by physical depreciation and obsolescence.

- R. RESPONSIBLE INSURED** means any officer, director or partner of the INSURED; any manager of a COVERED LOCATION; or any employee of the INSURED responsible for environmental or health and safety affairs, control or compliance.
- S. TERRORISM** means the commission or threat of:
1. an act of force or violence; or
  2. an act otherwise dangerous to any person, property, animals or the environment, including but not limited to the use of or the discharge, dispersal, release, seepage, migration or escape of any solid, liquid, gaseous or thermal pollutant, irritant or contaminant, including but not limited to smoke, vapours, odours, soot, fumes, acids, alkalis, toxic chemicals, hazardous materials, waste materials, including medical, infectious and pathological waste and low level radioactive waste into or upon land or structures thereupon, the atmosphere, or any watercourse or body of water or groundwater; or
  3. an act which disrupts or interferes with any of the following public or private systems: communication, electronic, information, mechanical, delivery or transportation;
- where the stated or implied purpose or effect of any such act or threat is to cause chaos; to intimidate, coerce or disrupt a government, the military or civilian population or any portion thereof, or any segment of business, industry or the economy; to further political, ideological, religious, social or economic objectives; or to express (or express opposition to) a philosophy or ideology.
- T. UNDERGROUND STORAGE TANK(S)** means any tank and associated piping connected to the tank that has at least ten per cent (10%) of its combined volume underground .
- U. VEHICLES** means any contrivance used or capable of being used as a means of transportation, whether self-propelled or otherwise, including but not limited to motor vehicles, trailers, semi-trailers, mobile equipment, off-road vehicles, watercraft, including barges and tugs, rolling stock, and aircraft, and any machinery or apparatus attached to any of the foregoing .

### III. TERRITORY

This Policy applies to CLAIMS made or brought in any jurisdiction in the European Union.

### IV. EXCLUSIONS

**This Insurance does not apply to LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other coverages afforded under this Policy or any endorsements attached thereto:**

- 1. Known Condition(s)**  
based upon or arising out of POLLUTION CONDITIONS of whose existence a RESPONSIBLE INSURED knew of prior to the inception of this Insurance unless such POLLUTION CONDITIONS are specifically mentioned in documents listed in an Insured Disclosure Schedule endorsed onto the Policy.
- 2. Multiplied Damages/Fines/Penalties**  
based upon or arising out of criminal, non-criminal, civil or administrative fines, penalties, exemplary, aggravated or multiplied damages.
- 3. Employer's Liability**  
based upon or arising out of:

- a. injury to any person who is or was a director, officer, employee or partner of the INSURED, if such injury, or exposure to POLLUTION CONDITIONS which caused such injury, occurs during and in the course of said employment, or during the performance of duties related to the conduct of the INSURED's business;
  - b. any employer's liability, unemployment compensation or disability benefits law or similar law; or
  - c. injury to the spouse or partner, child, parent, brother or sister of such director, officer, employee or partner of the INSURED as a consequence of (a) above.
4. **Contractual Liability**  
based upon or arising out of liability assumed by the INSURED under any contract or agreement to which the INSURED is a party unless that liability would exist in the absence of the contract or agreement. This exclusion does not apply to liability of others assumed by the INSURED in a contract that is specified in the Insured's Contract Schedule and is specifically endorsed onto the Policy.
5. **Insured's Property**  
with respect to property damage only, to property owned, leased or operated by, or in the care, custody or control of the INSURED even if such property damage is incurred to avoid or mitigate LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other damages or expenses which may be covered under this Policy or to respond in any way to POLLUTANTS or POLLUTION CONDITIONS. This exclusion shall not apply to REPLACEMENT COSTS.
6. **Vehicles**  
based upon or arising out of the ownership, maintenance, use, operation, loading or unloading of any VEHICLE, including any cargo carried thereby, beyond the legal boundaries of the COVERED LOCATION(S).
7. **New Pollution Conditions at Divested Properties**  
based upon or arising out of POLLUTION CONDITIONS in, on, at, under or migrating from the COVERED LOCATION(S), which commenced subsequent to the time such COVERED LOCATION(S) were sold, given away, abandoned by the INSURED or divested involuntarily.
8. **Intentional Acts**  
based upon or arising out of POLLUTION CONDITIONS that result from the intentional disregard of, or the deliberate, willful or dishonest non-compliance by a RESPONSIBLE INSURED with, any law, permit, notice, letter, order or other approval or any written instruction from any governmental authority or representative.
9. **Hostile Acts and Terrorism**  
based upon or arising out of any consequence, whether direct or indirect, of war, invasion, act of foreign enemy, hostilities (including but not limited to TERRORISM, and whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, strike, riot, or civil commotion.

This exclusion applies regardless of any other cause or event that contributes concurrently or in any sequence to the LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other coverages afforded under this Policy or any endorsements attached thereto.

**10. Lead Based Paint, Lead Pipes and Asbestos in Buildings, Fixtures and Structures**  
based upon or arising out of the existence, removal or abatement of any of the following:

- a. lead based paint in, on or applied to any fixture, building or other structure, or pipes containing lead or painted with lead based paint; or
- b. asbestos in any form including but not limited to products containing asbestos, asbestos fibres, asbestos dust, and asbestos containing materials in, on or applied to any fixture, building or other structure.

This exclusion does not apply to CLEAN UP COSTS with respect to soil, groundwater and surface water.

**11. Underground Storage Tank(s)**  
based upon or arising out of the existence of any UNDERGROUND STORAGE TANK.

This exclusion does not apply to an UNDERGROUND STORAGE TANK:

- a. the existence of which is unknown to a RESPONSIBLE INSURED as of the inception date of the Policy or the date that the COVERED LOCATION at issue is endorsed onto the Policy; or
- b. listed in the Underground Storage Tank(s) and Associated Piping Schedule, if any; or
- c. which is an in-ground treatment process tank open to the atmosphere; or
- d. which is a flow through process tank, storm-water or waste water collection system, pit or septic tank.

**12. Site Investigation**  
based upon or arising out of any intrusive investigation(s) or survey(s) of POLLUTION CONDITIONS unless such intrusive investigation(s) or survey(s):

- a. is required by a notice(s), order(s) or other written instruction(s) issued by a governmental authority or representative acting under applicable environmental legislation; or
- b. arises from any regular monitoring, that is undertaken by, on behalf of the INSURED:
  - i. to comply with the terms and conditions of license or permit; or
  - ii. as part of best practice for the continued operation of the COVERED LOCATION;  
or
- c. is conducted in response to the assertion of a legal right by a governmental authority or representative alleging liability or responsibility on the part of the INSURED arising out of POLLUTION CONDITIONS.

**13. Insured vs. Insured**  
based upon or arising out of a CLAIM by one INSURED against any other INSURED.

**14. Radioactive / Nuclear Material:**

based upon or arising out of:

- a. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; or
- c. based upon or arising out of the existence, required removal or abatement of naturally occurring radioactive materials, including but not limited to radon,

including but not limited to the actual alleged or threatened exposure of any person(s) or property to any such matter.

**15. Products Liability**

based upon or arising out of goods or products manufactured, sold, handled, distributed, altered or repaired by the INSURED or by others trading under its name including any container thereof, or any reliance upon a representation of warranty made at any time with respect thereto, but only if the LOSS or REMEDIATION EXPENSE occurs away from premises owned, operated or leased to the INSURED or after physical possession of such has been relinquished to others

**V. EXTENDED REPORTING PERIOD****Automatic Extended Reporting Period**

1. The FIRST NAMED INSURED shall be entitled to an Automatic Extended Reporting Period for no additional premium in the event of the termination of this insurance by cancellation or non-renewal. The Automatic Extended Reporting Period shall apply to CLAIMS first made against the INSURED and reported to the Company, in writing, during the sixty (60) days immediately following the effective date of such cancellation or non-renewal, but only where such CLAIMS result from POLLUTION CONDITIONS existing as of or prior to the applicable termination or expiration date and otherwise covered by this insurance. The Automatic Extended Reporting Period does not apply where: (a) POLLUTION CONDITIONS are discovered subsequent to the POLICY PERIOD or cancellation of the Policy; (b) the Policy is terminated for fraud or is cancelled by the Company; or (c) the INSURED has purchased other insurance to replace the insurance covered under the Policy.
2. It is further agreed that if a CLAIM is made against the INSURED during the POLICY PERIOD and reported to the Company, in writing, by the INSURED within ninety (90) days of the expiration date of this Policy, then the CLAIM shall be considered to have been reported to the Company on the last day of the POLICY PERIOD. This provision shall not apply where a new Policy has been issued to the INSURED by any insurer other than the Company or any affiliated company and such Policy commences within ninety (90) days of the expiration date of this Policy.

**VI. LIMIT OF LIABILITY AND RETENTION**

- A. This Policy will pay one hundred per cent (100%) of all covered LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other coverage afforded under this Policy or any endorsements attached thereto in excess of the applicable Retention Amount stated in Item 4 of the Schedule and subject to the Limits of Liability stated in Item 3 of the Schedule and the other terms and conditions of this Policy.

- B.** The Retention Amount is to be borne by the INSURED and is not to be insured unless the Company has provided prior written consent to the FIRST NAMED INSURED. All LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other coverage afforded under this Policy or any endorsements attached thereto arising out of the same or related POLLUTION CONDITIONS at any COVERED LOCATION shall be considered a single LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or other coverage as specified. The applicable Limits of Liability and Retention Amount(s) stated in the Schedule shall apply.
- C.** The Company's total liability for all LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other coverage afforded under this Policy or any endorsements attached thereto in the aggregate during the POLICY PERIOD or Automatic Extended Reporting Period, if applicable, shall not exceed the total Limit of Liability stated in Item 3 of the Schedule.
- D.** Any LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other coverage afforded under this Policy or any endorsements attached thereto incurred and reported to the Company, in writing, over more than one POLICY PERIOD and resulting from the same or related POLLUTION CONDITIONS shall be considered a single LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or other coverage as specified. The LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other coverage afforded under this Policy or any endorsements attached thereto will be subject to the same Limits of Liability and Retention Amount(s) in effect at the time of the first reported LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or other coverage as specified.

#### **VII. REPORTING, DEFENCE, SETTLEMENT AND CO-OPERATION**

- A.** It is a condition precedent to the Company's liability under this Policy that, in the event of BODILY INJURY, PROPERTY DAMAGE, POLLUTION CONDITIONS, or any CLAIM, written or oral notice containing particulars sufficient to identify the INSURED and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured person or entity and of available witnesses, shall be given by or for the INSURED to the Company or any of its authorised agents as soon as practicable. In the event of oral notice, the INSURED agrees to furnish a written report as soon as practicable.
- B.** It is a condition precedent to the Company's liability under this Policy that if a CLAIM is made against the INSURED, the INSURED shall forward to the Company every demand, notification, notice, summons, order or other process including but not limited to written communications from a governmental authority received by the INSURED or the INSURED's representative as soon as practicable.
- C.** No costs, charges or expenses shall be incurred, nor payments made, obligations assumed or remediation commenced without the Company's prior written consent which shall not be unreasonably withheld or delayed. This provision does not apply to EMERGENCY COSTS incurred by the INSURED. The INSURED shall notify the Company as soon as practicable after its initial response to the emergency.
- D.** It is a condition precedent to the Company's liability under this Policy that the INSURED shall not admit liability or settle any CLAIM without the Company's prior written consent. The INSURED shall not do or omit to do anything to prejudice the Company's rights under the Policy. If the Company recommends a settlement of a CLAIM:
  - 1. for an amount within the Retention Amount stated in Item 4 of the Schedule and the INSURED refuses such settlement, the Company shall not be liable for any LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other coverage afforded under this Policy or any endorsements attached thereto in excess of the Retention Amount;  
or

2. for a total amount in excess of the Retention Amount stated in Item 4 of the Schedule and the INSURED refuses such settlement, the Company's liability for LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other coverage afforded under this Policy or any endorsements attached thereto shall be limited to that portion of the recommended settlement and the costs, charges and expenses as of the INSURED's refusal which exceed the Retention Amount and fall within the Limits of Liability stated in Item 3 of the Schedule.
- E. The Company shall have the right and the duty to assume the investigation, adjustment and defence of any CLAIM including but not limited to the right to designate lawyers for the investigation, adjustment and defence of any CLAIM.
- F. The INSURED shall co-operate with the Company and upon the Company's request shall submit to examination by a representative of the Company, under oath if required, and shall attend hearings, depositions, examinations and trials and shall assist in affecting settlement, securing and giving witness statements and any other evidence, obtaining the attendance of witnesses and in the conduct of actions or other administrative or other legal proceedings, as well as in the investigation and/or defence, all without charge to the Company. The INSURED shall further co-operate with the Company and do whatever is necessary to secure and effect any rights of indemnity, contribution or apportionment which the INSURED may have.

The INSURED's agreement to co-operate with the Company shall continue notwithstanding the cancellation or expiration of this Policy.

#### **VIII. TRANSFER OF LEGAL DEFENCE DUTIES**

- A. If the Company considers that the Limit of Liability stated in Item 3 of the Schedule has been or soon will be exhausted in defending CLAIMS or that the Company has paid out or will soon pay out the Aggregate Limit of Liability stated in Item 3 of the Schedule, the Company will so notify the FIRST NAMED INSURED in writing as soon as possible. The Company will advise that its defence of CLAIMS subject to the applicable limit has terminated, subject to payment of the applicable limit, and that it will no longer handle or pay for the defence of any CLAIM for which notice is given after the date it sends out such notice. The Company will take immediate and appropriate steps to transfer control of any existing defence prior to exhaustion of the applicable limit to the FIRST NAMED INSURED. The FIRST NAMED INSURED agrees to reimburse the Company for any costs which the Company bears in connection with the transfer of the defence.
- B. The Company will take appropriate steps necessary to defend the CLAIM during the transfer of the defence and avoid any unfavourable legal action provided that the FIRST NAMED INSURED co-operates in the transfer of the duties of the defence.
- C. The exhaustion of the applicable Limit of Liability by the payment of LOSS, REMEDIATION EXPENSE, LEGAL DEFENCE EXPENSE or any other coverage afforded under this Policy or any endorsements attached thereto will not be affected by the Company's failure to comply with any of the provisions of this section.

#### **IX. CONDITIONS AND GENERAL PROVISIONS**

- A. **INSPECTION AND AUDIT** -- The Company shall be permitted but not obliged to inspect, sample and monitor the INSURED's property and operations and any COVERED LOCATION(S) at any time. Neither the Company's right to make inspections, sample and monitor nor the actual undertaking thereof nor any report thereon shall constitute an undertaking, on behalf of the INSURED or others, to determine or warrant that property or operations are safe, healthful or

conform to acceptable engineering practice or are in compliance with any law, rule, regulation, code of practice or guidance.

- B. CANCELLATION** -- This Policy may be cancelled by the FIRST NAMED INSURED by surrender thereof to the Company or any of its authorised agents or by posting by registered post or courier, whichever is faster, to the Company written notice stating when thereafter the cancellation shall be effective. This Policy may be cancelled by the Company by posting by registered post or courier, whichever is faster, to the FIRST NAMED INSURED at the address shown in the Schedule, written notice stating when not less than sixty (60) days [ten (10) days for non-payment of premium] thereafter such cancellation shall be effective. The posting of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the POLICY PERIOD. Hand delivery of such written notice either by the FIRST NAMED INSURED or by the Company shall be equivalent to posting.

The Company may cancel this Policy only for the following reasons:

1. material misrepresentation or non-disclosure by the INSURED;
2. the INSURED materially breaches or fails to comply with Policy terms, conditions, contractual duties, or any of its obligations under the Policy, fails to pay the premium when due or fails to pay any Retention Amount when required by the Company; or
3. there is a material change in the operations or lack of operations performed by the INSURED, which changes the Company's assessment of the risk of insuring the COVERED LOCATION(S).

The minimum earned premium for this Policy will be the percentage of minimum earned premium stated on the Schedule of this Policy. This means that the percentage of the premium stated therein is fully earned by the Company at the inception date of the Policy, and the FIRST NAMED INSURED is not entitled to any return of the minimum earned premium upon cancellation by the FIRST NAMED INSURED.

If the premium is less than one hundred per cent (100%) minimum earned, and the FIRST NAMED INSURED cancels the Policy, then the amount of premium returnable after the minimum premium earned is retained by the Company and shall be computed in accordance with the customary short rate table and procedure.

If the Company cancels, then the amount of premium returnable to the FIRST NAMED INSURED shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

If a CLAIM is made against the INSURED, POLLUTION CONDITIONS are discovered or coverage is requested from the Company by the INSURED during the POLICY PERIOD or the Automatic Extended Reporting Period, if applicable, then the premium shall be considered one hundred per cent (100%) minimum earned, and the INSURED is not entitled to any return of premium upon cancellation by the INSURED.

- C. DECLARATIONS AND REPRESENTATIONS** -- By acceptance of this Policy, the INSURED agrees that the statements contained in the Application and any other supplemental materials and written information submitted therewith are the INSURED's agreements and representations, that they shall be deemed material, that the INSURED warrants that the agreements and representations are true and complete, that they form the basis of this Policy, that this Policy is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between the INSURED and the Company or any of its agents relating to this insurance.

- D. ACTION AGAINST COMPANY** -- No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy, or until the amount of the INSURED's obligation to pay shall have been finally determined either by judgment against the INSURED after actual trial or by written agreement of the INSURED, the claimant and the Company.

Any person or organisation or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. No person or organisation shall have any right under this Policy to join the Company as a party to any action against the INSURED to determine the INSURED's liability, nor shall the Company be impleaded by the INSURED or its legal representative. Bankruptcy or insolvency of the INSURED or of the INSURED's estate shall not relieve the Company of any of its obligations hereunder.

- E. ASSIGNMENT** -- This Policy may be assigned or transferred only with the prior written consent of the Company. Such written consent shall not be unreasonably withheld or delayed by the Company subject to satisfactory review at the time of the assignment or transfer.
- F. SUBROGATION** -- In the event of any payment under this Policy, the Company shall be subrogated to all the INSURED's rights of recovery against any person or organisation and the INSURED shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The INSURED shall do nothing to prejudice such rights.
- G. CHANGES** -- Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or estop the Company from asserting any right under the terms and conditions of this Policy; nor shall any of the terms and conditions of this Policy be waived or changed, except by endorsement issued by the Company to form a part of this Policy.
- H. SOLE AGENT** -- The FIRST NAMED INSURED stated in Item 1 of the Schedule shall act on behalf of all INSURED(S) for the payment or return of premium, payment of the retention, receipt and acceptance of any endorsement issued to form a part of this Policy, giving and receiving notice of cancellation or non-renewal and the exercise of the rights provided in Section V. Extended Reporting Period.
- I. OTHER INSURANCE** -- Subject to Section VI, Limits of Liability and Retention, this insurance shall be in excess of the Retention Amount stated in Item 4 of the Schedule and any other valid and collectible insurance available to the INSURED, whether such other insurance is stated to be primary, pro rata, contributory, excess, umbrella, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the Limits of Liability provided in this Policy.
- J. HEADINGS** -- The descriptions in the headings of this Policy are solely for convenience and form no part of the Policy terms and conditions.
- K. JURISDICTION AND VENUE** -- It is agreed that in the event of the failure of the Company to pay any amount claimed to be due hereunder or any dispute on the validity, interpretation or operation of any term, condition, definition or provision of this Policy or any other matter concerning this Policy, including but not limited to the performance and enforcement of this Policy, the Company and the INSURED shall submit to the exclusive jurisdiction of the High Court in London, England and shall comply with all the requirements necessary to give such court jurisdiction.

- L. CHOICE OF LAW** -- All matters arising hereunder including questions related to the failure of the Company to pay any amount claimed to be due hereunder or any dispute on the validity, interpretation or operation of any term, condition, definition or provision of this Policy or any other matter concerning this Policy, including but not limited to the performance and enforcement of this Policy, are governed by the laws of England.
- M. SEVERABILITY** -- Except with respect to Limits of Liability and any rights and duties assigned in this Policy to the FIRST NAMED INSURED, this insurance applies as if each INSURED were the only INSURED and separately to each INSURED against whom a CLAIM is made, and misrepresentation, non-disclosure, or breach of a term or condition by one INSURED shall not affect the rights and duties of any other INSURED.

IN WITNESS WHEREOF the Company has caused this Policy to be signed by a duly authorised agent of the Company.

**Signed for and on behalf of the Company:**

**XL INSURANCE COMPANY LIMITED**