



Global Primary Public & Products Liability Insurance

POLICY NO: AU00007979LI18A

INSURED: Rowing New South Wales Incorporated

Date of Issue: Tuesday, 17 July 2018

XL Insurance Company SE

Level 28, 123 Pitt Street Sydney NSW 2000



SCHEDULE

Global Primary Public & Products Liability Insurance

Insured Companies	Rowing New South Wales Incorporated all affiliated Clubs and Schools, members, temporary and trailing members, employees, coaches, instructors, trainers, masseurs, first aid/medical persons, timekeepers, officers, officials, technical officers, technical officials, carers for rowers with disabilities, oarsmen and women where applicable and voluntary workers.						
Insured's Business	<p>The principal activities of the Rowing New South Wales Inc include but are not limited to:</p> <ul style="list-style-type: none">- Public awareness and promotion of the sport, Coordinating National Regattas / Events, Coordinating National teams and Seminars for local and overseas events- Resource publications, administration, educationalists, venues and/or locations hire and/or operators, any associated training, providers of coaching, property owners, property occupiers and all associated services and functions Development programs, holiday clinics and school clinics Hire and operators of venue and facilities Coach, instructor education and in service course- Some rowing clubs have licensed club facilities- Various training methods are used for the athletes participating in rowing. These include but are not limited to; weight / resistance training, cycling, circuit training, interval training, running etc- Repair/patch up of rowing sculls <p>And any other activity incidental thereto</p>						
Period of Insurance	<table><tr><td>Effective date</td><td>31 May 2018</td><td>at 4.00pm LST</td></tr><tr><td>Expiry date</td><td>31 May 2019</td><td>at 4.00pm LST</td></tr></table>	Effective date	31 May 2018	at 4.00pm LST	Expiry date	31 May 2019	at 4.00pm LST
Effective date	31 May 2018	at 4.00pm LST					
Expiry date	31 May 2019	at 4.00pm LST					
Territorial Limits	<p>Worldwide excluding the United States of America (USA) including its territories and Canada, except in respect of:</p> <p>a) Products exported to the United States of America (USA) including its territories and Canada without the knowledge of the insured, the Insured's agents or employees;</p>						





b) Business visits by directors and employees normally resident in the Commonwealth of Australia other than employees who are engaged in manual labour during such visits.

Provided that the Insured has no legal presence in the United States of America (USA) including its territories and Canada

Limit of Liability	A\$20,000,000	any one Occurrence other than liability arising out of the Insured's Products which shall be limited to
	A\$20,000,000	any one Occurrence and in the aggregate for all Personal Injury and Property Damage occurring during the Period of Insurance
	Sub Limit(s)	
	A\$10,000,000	each Claim and in the annual aggregate in respect of Professional Indemnity
	A\$500,000	Each Claim and in the annual aggregate in respect of Molestation, Sexual Abuse/Assault
Deductible(s)	A\$1,000	each and every Occurrence
	Other than	
	A\$1,000	each and every Claim in respect of Professional Indemnity and Molestation, Sexual Abuse/Assault
Premium	As agreed	
Retroactive Date(s)		
Professional Indemnity	31 May 2017	
Molestation, Sexual Abuse / Assault	31 May 2017	





Signed on behalf of XL Insurance Company SE
ABN 36 083 570 441



Date of Issue: Tuesday, 17 July 2018





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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 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.





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) for Personal Injury, Property Damage and/or Advertising Injury occurring within the Territorial Limits as a result of an Occurrence occurring within the Period of Insurance in connection with the Insured's Business;
- (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 clause 3(a); 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 clause 3(a) 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

In relation to claims made and/or actions instituted against the Insured worldwide including the United States of America or Canada, or claims or 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) below, subject to the Limit of Liability:

- (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 clause 3 above 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 clause 3 above applies (other than medical expenses prohibited by law).

5. CROSS LIABILITY

Where the Insured comprises more than one entity the term Insured shall be considered as applying to each entity in the same manner as though a separate policy had been issued to each entity, provided nothing contained in this Clause shall operate to increase the Company's Limit of Liability as specified in the Current Schedule.





6. EXCLUSIONS

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

6.1 Advertising Liability

Advertising Injury resulting from:

- (a) failure of performance of contract or breach of contract; or
- (b) infringement of trade-mark or trade name; or
- (c) incorrect description of any article or commodity; or
- (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.

6.2 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); or
- (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 6.2 (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; or
- (ii) the loading or unloading of any Vehicle; or
- (iii) the use of any Vehicle as a Tool of Trade.

6.3 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 A\$250,000 to a building(s) owned and/or occupied by the Insured.

6.4 Toxic Substances

- (a) any actual or alleged liability, whatsoever for any claim in respect of loss or losses (exclusively or partially) arising out of, resulting from, or in consequence of, or in any way involving asbestos or refractory ceramic fibres, or any materials containing asbestos or refractory ceramic fibres in whatever form or quantity;
- (b) polychlorinated biphenyls (PCBs).

6.5 Contractual Liability

liability assumed under any contract or agreement. Provided that this Exclusion 6.5 does not apply to:

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





6.6 Electro Transmissions and Nuclear/Radioactive Contamination

- (a) electromagnetic fields, extremely low frequency electric fields and/or magnetic fields, microwave emissions or radio emissions;
- (b) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel. For the purpose of this Exclusion only, combustion shall include any self-sustaining process of nuclear fission;
- (c) nuclear weapons material.

6.7 Employer's Liability

- (a) Personal Injury to any person arising out of or in the course of the employment of such person in the service of the Insured;
- (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) Personal Injury for which the Insured is entitled to seek indemnity under any statutory fund, statutory scheme, self-insurance or any policy of Insurance required to be taken out pursuant to any legislation relating to Workers' Compensation, whether or not the Insured is a party to such contract of insurance;
- (d) claims made against the Insured under the provisions of any Workers' Compensation legislation, any industrial award, agreement of determination;
- (e) any claim by any person arising out of or in the course of the employment of such person in the service of the insured for harassment, discrimination or unfair dismissal.





6.8 Fines and Penalties

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

6.9 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
- (c) related to advertising, broadcasting, telecasting or publishing activities conducted by or on behalf of the Insured.

6.10 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 6.10 (b) 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.





6.11 Pollution

claims made and/or actions instituted against the Insured worldwide excluding the United States of America and Canada for:

- a) the actual, alleged or threatened discharge, dispersal, release, escape, seepage or migration of Pollutants; or
- b) any:
 - i) governmental direction or request that the insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralise Pollutants; or
 - ii) claim or action instituted against the Insured by or on behalf of any governmental authority or others for any damages, loss, cost or expense because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralising Pollutants;

provided that these Exclusions 6.11 a) and b) do not apply to liability which arises out of the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants that is sudden, identifiable, unintended, unexpected and which takes place in its entirety at a specific time and place.

In respect of claims made and/or actions instituted against the Insured in the United States of America and Canada, this Policy does not cover any liability arising out of or connected directly or indirectly with:

- c) the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants; or
- d) any governmental direction or request that the Insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralise Pollutants;

in the United States of America or Canada or any territory coming within the jurisdiction of the courts of the United States of America or Canada.





6.12 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.

6.13 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.

6.14 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 6.14 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.





6.15 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 6.15 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; or
- (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; or
- (iv) property belonging to visitors or Insured's Employees; or
- (v) property in the physical or legal control of the Insured (except whilst undergoing any process or being worked upon) for which the Insured has not assumed any responsibility to obtain Insurance. However, for such claims the Company will indemnify the Insured against such claims, subject to the terms of this Policy to a maximum of A\$1,000,000 in the aggregate during the Period of Insurance, subject to payment by the Insured of the Deductible specified in the Current Schedule.





6.16 Tobacco/Tobacco Products

death or the contraction, aggravation or exacerbation of any disease, sickness, injury, or disorder of the human body or mind as a result of the use or consumption (including passive smoking) of tobacco or tobacco products.

6.17 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 hijack; or
- (c) any other civil disturbance or civil unrest, including strike, protest and civil commotion.





7. STANDARD CONDITIONS

7.1 Cancellation

- (a) The Insured may cancel this Policy by giving notice in writing to the Company.
- (b) The Company may cancel this Policy in any of the circumstances set out in the Insurance Contracts Act 1984.
- (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 Insured 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.

7.2 Claims Procedure

- (a) Notice shall be given as soon as possible to the Company of every Occurrence, event, claim, writ, summons, proceedings, impending prosecution and/or inquest in respect of which there may arise a liability under this Policy.
- (b) The Insured shall not without the Company's consent make any admission, offer, promise or payment in connection with any Occurrence, event, claim, writ, summons, proceedings, impending prosecution and/or inquest.
- (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 at its own expense all reasonable steps to prevent further Personal Injury and/or Property Damage from arising out of the same or similar conditions, but such expense shall not be recoverable under 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.
- (j) Any person or organisation for which the Company makes a payment under this Policy must transfer to the Company their right to recovery against any other party. After a loss the Insured must do everything necessary to secure and do nothing to impair these rights.

Any amount recovered will be apportioned in the inverse order of payment of loss to the extent of actual payment. The expenses of all such recovery proceedings will be apportioned in the ratio of respective recoveries.

7.3 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.





7.4 Inspection of Property

The Company shall be permitted but not obliged to inspect the Insured's property and operations at any time. 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.

7.5 Jurisdiction/Proper Law

This Insurance contract shall be subject exclusively to the laws of Australia and the states and territories thereof even if it also covers Insureds who are domiciled or have their headquarters in other countries or states. Nothing in this Clause affects the assessment of an Insured's liability towards claimants/injured third parties.

It is agreed that the exclusive place of jurisdiction for disputes arising under this Policy of Insurance shall be determined in an Australian court.

7.6 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.

7.7 Notice of Change

The Insured shall give notice in writing as soon as practicable 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 Period of Insurance of this Policy.





7.8 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. Subject to the provisions of the Insurance Contracts Act 1984, the Company reserves its rights to seek contribution from such other insurer(s).

7.9 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; and
- (b) Take reasonable precautions to:
 - (i) prevent Personal Injury and/or Property Damage; and
 - (ii) prevent the manufacture, sale or supply of defective products; and
 - (iii) comply and ensure that the Workers, servants and agents of the Insured comply with all statutory obligations, by-laws or regulations which provide for the safety of persons and property; and
- (c) 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.

7.10 Subrogation

In the event of a payment under this Policy to or on behalf of the Insured, the Company shall, subject to the *Insurance Contracts Act 1984*, be subrogated to all the Insured's rights of recovery against all persons and organisations 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.





8. 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.

“Company” means XL Insurance Company SE

“Current Schedule” means the Schedule or certificate approved by 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 service or apprenticeship by the Insured during the Period of Insurance.

“Hovercraft” means any vessel, craft or device made and intended to float on or in or travel on or through the atmosphere or water.





“Insured” means:

- (a) Companies as listed in the Current Schedule and their subsidiary companies.
- (b) Any principal in respect of the 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 combined which occur 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 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.

“Period of Insurance” means the period commencing on the effective 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;

which first occurs during the Period of Insurance.

“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 which first occurs during the Period of Insurance 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 which first occurs during the Period of Insurance.

“Territorial Limits” means as listed in the Policy 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 and intended to float on or in or travel on or through water.



9. IMPORTANT NOTICE TO INSURED

Your duty of disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the *Insurance Contracts Act 1984* to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of the insurance and, if so, on what terms.

You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance.

Your duty however does not require disclosure of a matter:

- that diminishes the risk to be undertaken by the insurer;
- that is of common knowledge;
- that your insurer knows or, in the ordinary course of his business, ought to know;
- as to which compliance with your duty is waived by the insurer.

Non-disclosure

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim or may cancel the contract. If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

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.

General Insurance Code of Practice

XL Insurance Company SE- Australia Branch supports and has adopted the General Insurance Code of Practice. The Code aims to:

- Promote more informed relations between insurers and their customers;
- Improve customer confidence in the general insurance industry;
- Provide better mechanisms for the resolution of complaints and disputes between insurers and their customers; and
- Commit insurers and the professionals they rely upon to higher standards of customer service.

The Code confirms details of the policies specifically covered by the Code and it may be that your policy is an excluded policy and therefore outside the requirements of the Code.



Signed on behalf of XL Insurance Company SE
ABN 36 083 570 441



Tuesday, 17 July 2018





Where the one act, error or omission results in more than one Claim against the Insured which is the subject of indemnity hereunder, all such Claims shall jointly constitute one Claim under this Endorsement. Repeated or causally connected or interrelated acts, errors or omissions, shall be treated as if they were a single act, error or omission and where they result in more than one Claim against the Insured, each of which is the subject of indemnity hereunder, all such Claims shall jointly constitute one Claim under this Policy and shall be considered first made within the Period of Insurance in which the first of such a Claim was first reported.

1.2 Supplementary Payments

With respect to the indemnity provided by this Endorsement, the Company will pay the following Supplementary Payments:

- a) all charges, expenses and legal costs incurred by the Company and/or by the Insured with the written consent of the Company in the settlement or defense of any Claim or suit for compensation in respect of which the Insured is entitled to indemnity under this Endorsement or if sustained would be so entitled;
- b) all legal costs taxed/assessed against the Insured in any such suit and all interest accruing after entry of judgment against the Insured until the Company has paid, tendered or deposited in court such part of such judgment as does not exceed the Limit of Liability.

1.3 Limit of Liability

The Company's liability under this Endorsement shall be limited to the amount specified in the Current Schedule.

The Limit of Liability shall apply inclusive of all Supplementary Payments. The Company shall not be obligated to make any payment or to defend any suit after the Limit of Liability has been exhausted by the payment of any Claims, judgments and/or settlements.

1.4 Deductible

The Deductible shown in the Current Schedule shall be borne by the Insured at the Insured's own risk for each and every Claim under this Endorsement. The Deductible shall include Supplementary Payments incurred by the Company in the defense of a Claim.

1.5 Exclusions

In addition to the Exclusions section of this Policy, the Company shall not cover any liability arising out of or connected directly or indirectly with:

- a) Claims made against or in any way intimated against the Insured prior to the commencement of the Period of Insurance (including the Retroactive Date specified in the Current Schedule) whether or not it is a demand for money, a demand for payment of damages or a demand for a specific performance;





- b) any fact, event or circumstance known or that should have been known by the Insured prior to the commencement of the Period of Insurance (including any Retroactive Date specified in the Schedule) and which a reasonable person in the circumstances might reasonably expect to give rise to a Claim;
- c) any Claim brought by or on behalf of:
 - (i) any Insured or any business enterprise which is owned, managed or operated, directly or indirectly, in whole or part, by any Insured, or
 - (ii) any parent, subsidiary, successor of any Insured, or
 - (iii) any entity affiliated with an Insured through common ownership or control; or
- d) any dishonest, fraudulent, criminal or malicious act or omission of the Insured;
- e) any conspiracy, conversion, deceit, breach of contract, inducement or injurious falsehood; or
- f) any prospectus issued by the Insured;
- g) any liability assumed by the Insured under any contract or agreement, warranties or guarantees of performance relating to the quality of professional advice or service to be provided by the Insured unless such liability would exist in the absence of such contract, agreement, warranty or guarantee;
- h) any failure or omission on the part of the Insured to effect or maintain insurance (subject to the provisions of the Insurance Contract Act 1984);
- i) any other section of this Policy or any Endorsement thereto;
- j) loss or damage which is inevitable having regard to the circumstances and nature of the work undertaken or products supplied;
- k) loss of money, negotiable instruments including shares, bearer bonds, coupons, stamps, bank or currency notes;
- l) any:
 - (i) delay in delivery of or failure to deliver Products; or
 - (ii) delay in performance of or failure to begin any contract or agreement by the Insured;
- m) trading debts, insolvency, bankruptcy or liquidation of the Insured;
- n) proceedings before any court or other body exercising jurisdiction under the law of the United States of America or Canada or any dependency, protectorate, colony, state or territory of either country or any civil liability declared or adjudged by such court or body;
- o) an error or omission in cost estimates or due to estimates being exceeded;
- p) a wrongful act, error or omission on the part of any director or officer of the Insured in the course of their duties as directors or officers to the Insured;





- q) or in any way involving piracy, plagiarism, patent infringement, idea misappropriation or the infringement of copyright, trade name, trade-mark, service mark, trade dress or commercial symbols and slogans;
 - r) any:
 - (i) actual, alleged or threatened discharge, dispersal, release or escape of Pollutants; or
 - (ii) cost of removing, nullifying or cleaning up Pollutants or the cost of preventing the escape of Pollutants;
 - s) any actual or alleged failure, malfunction or inadequacy of:
 - (i) any of the following, whether belonging to the Insured or to others:
 - computer hardware, including microprocessors; or
 - computer application software; or
 - computer operating systems and related software; or
 - computer networks;
 - microprocessors (computer chips) not part of any computer system; or
 - any other computerised or electronic equipment or components; or
 - (ii) any products, property, or any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in item i) above;
- due to the inability to correctly recognise, process, distinguish, interpret or accept any date as its true calendar date;
- t) any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by or on behalf of the Insured to determine, rectify or test for, any potential or actual problems described in paragraph r) above;
 - u) any breach of duty which it is established, after final adjudication, was committed with the full knowledge that it was a breach of duty;
 - v) any acts, errors or omissions committed or alleged to have been committed prior to the Retroactive Date stated in the Current Schedule;
 - w) any Personal Injury, Property Damage or Advertising Injury;
 - x) any libel, slander or defamation.





1.6 Conditions

- a) The Insured shall give as soon as practicable, or within thirty days after the end of the Period of Insurance written notice to the Company of:
 - i) any Claim made or intimated against the Insured which may be the subject of a Claim for indemnity under this Endorsement; or
 - ii) any fact, event or circumstance whether or not a Claim has been made, of which the Insured becomes aware and which a reasonable person in the circumstances would have considered when the fact, event or circumstance was discovered might give rise to a Claim against the Insured.
- b) The Insured shall not without the Company's consent in writing make any admission, offer, promise or payment in connection with any Claim.
- 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 losses, without the Company's consent in writing 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 at its own expense all reasonable steps to prevent further loss or damage from or arising out of the same or similar conditions, but such expense shall not be recoverable under this Endorsement.
- h) The Company shall be entitled to attend any inquest in respect of which there may arise liability under this Endorsement.
- 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.



- j) Any person or organisation for which the Company makes a payment under this Endorsement must transfer to the Company their right to recovery against any other party. After a loss the Insured must do everything necessary to secure and nothing to impair these rights. Any amount recovered will be apportioned between the Company and the Insured in the inverse order of payment of loss to the extent of actual payment. The expenses of all such recovery proceedings will be apportioned in the ratio of respective recoveries

The following Definition is added to the Policy described above for the purposes of this Endorsement **Errors & Omissions** only.

Definition

"**Claim or Claims**" means:

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

All other Policy terms and conditions remain unchanged

Signed on behalf of XL Insurance Company SE
ABN 36 083 570 441

A blue ink handwritten signature is written over a circular stamp. The stamp contains the text 'XL Insurance Company SE' and 'ABN: 36 083 570 441'.

Tuesday, 17 July 2018