

PRODUCT WITHDRAWAL COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES

COVERAGE A – PRODUCT WITHDRAWAL EXPENSE

1. Insuring Agreement

- a. We will reimburse you for "product withdrawal expenses" incurred by you because of a "product withdrawal" to which this insurance applies.

The amount of such reimbursement is limited as described in Section III – Limit Of Insurance. No other obligation or liability to pay sums or perform acts or services is covered.

- b. This insurance applies to a "product withdrawal" only if the "product withdrawal" is initiated in the "coverage territory" during the policy period because:

- (1) You determine that the "product withdrawal" is necessary; or
- (2) An authorized government entity has ordered you to conduct a "product withdrawal".

- c. We will reimburse "product withdrawal expenses" only if:

- (1) The expenses are incurred within one year of the date the "product withdrawal" was initiated;
- (2) The expenses are reported to us within one year of the date the expenses were incurred; and
- (3) The product that is the subject of the "product withdrawal" was produced after the Cut-off Date designated in the Declarations.

- d. The initiation of a "product withdrawal" will be deemed to have been made only at the earliest of the following times:

- (1) When you first announced, in any manner, to the general public, your vendors or to your employees (other than those employees directly involved in making the determination) your decision to conduct or participate in a "product withdrawal". This applies regardless of whether the determination to conduct a "product withdrawal" is made by you or is requested by a third party; or
- (2) When you first received, either orally or in writing, notification of an order from an authorized government entity to conduct a "product withdrawal".

- e. "Product withdrawal expenses" incurred to withdraw "your products" which contain the same or substantially similar "defects" will be deemed to have arisen out of the same "product withdrawal".

- f. With respect to products of which "your product" is a component part, we will only reimburse you the amount to replace, repair or repurchase "your product".

2. Exclusions – Coverage A

This insurance does not apply to "product withdrawal expenses" arising out of:

a. Breach Of Warranty And Failure To Conform To Intended Purpose

Any "product withdrawal" initiated due to the failure of "your products" to accomplish their intended purpose, including any breach of warranty of fitness, whether written or implied. This exclusion does not apply if such failure has caused or is reasonably expected to cause "bodily injury" or physical damage to tangible property other than "your product".

b. Infringement Of Copyright, Patent, Trade Secret, Trade Dress Or Trademark

Any "product withdrawal" initiated due to copyright, patent, trade secret, trade dress or trademark infringements.

c. Deterioration, Decomposition Or Chemical Transformation

Any "product withdrawal" initiated due to the transformation of a chemical nature, deterioration or decomposition of "your product". This exclusion does not apply if it is caused by:

- (1) An error in manufacturing, design, or processing;
- (2) Transportation of "your product"; or
- (3) "Product tampering".

d. Goodwill, Market Share, Revenue, Profit Or Redesign

The costs of regaining goodwill, market share, revenue or "profit" or the costs of redesigning "your product".

e. Expiration Of Shelf Life

Any "product withdrawal" initiated due to expiration of the designated shelf life of "your product".

f. Known Defect

A "product withdrawal" initiated due to a "defect" in "your product" known to exist by the Named Insured or the Named Insured's "executive officers", prior to the date when this Product Withdrawal Coverage Part was first issued to you or prior to the time "your product" leaves your control or possession.

g. Governmental Ban

A recall when "your product" or a component contained within "your product" has been:

- (1) Banned from the market by an authorized government entity prior to the policy period; or
- (2) Distributed or sold by you subsequent to any governmental ban.

h. Defense Of Claim

The defense of a claim or "suit" against you for liability arising out of a "product withdrawal".

i. Third-party Damages, Fines And Penalties

Any compensatory damages, fines, penalties, punitive or exemplary or other noncompensatory damages imposed upon the insured.

j. Pollution-related Expenses

Any loss, cost or expense due to any:

- (1) Request, demand, order, statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

COVERAGE B – PRODUCT WITHDRAWAL LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages for "product withdrawal expenses" incurred because of a "product withdrawal" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any "product withdrawal" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage B.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverage B.

- b. This insurance applies to damages for "product withdrawal expenses" incurred because of a "product withdrawal" only if the "product withdrawal" is initiated in the "coverage territory" during the policy period and the product that is the subject of the "product withdrawal" was produced after the Cut-off Date designated in the Declarations.

c. The initiation of a "product withdrawal" will be deemed to have been made only at the earliest of the following times:

- (1) When a third party conducts or participates in a "product withdrawal"; or
- (2) When a third party first announces, in any manner, to the general public, their decision to conduct or participate in a "product withdrawal".

d. Damages incurred due to the withdrawal of "your products" which contain the same or substantially similar "defects" will be deemed to have arisen out of the same "product withdrawal".

2. Exclusions – Coverage B

This insurance does not apply to "product withdrawal expenses" arising out of:

a. Breach Of Warranty And Failure To Conform To Intended Purpose

Any "product withdrawal" initiated due to the failure of "your products" to accomplish their intended purpose, including any breach of warranty of fitness, whether written or implied. This exclusion does not apply if such failure has caused or is reasonably expected to cause "bodily injury" or physical damage to tangible property.

b. Infringement Of Copyright, Patent, Trade Secret Or Trademark

Any "product withdrawal" initiated due to copyright, patent, trade secret or trademark infringements.

c. Deterioration, Decomposition Or Chemical Transformation

Any "product withdrawal" initiated due to transformation of a chemical nature, deterioration or decomposition of "your product". This exclusion does not apply if it is caused by:

- (1) An error in manufacturing, design, processing;
- (2) Transportation of "your product"; or
- (3) "Product tampering".

d. Goodwill, Market Share, Revenue, Profit, Or Redesign

The costs of regaining goodwill, market share, revenue or "profit" or the costs of redesigning "your product".

e. Expiration Of Shelf Life

Any "product withdrawal" initiated due to expiration of the designated shelf life of "your product".

f. Known Defect

A "product withdrawal" initiated due to a "defect" in "your product" known to exist by the Named Insured or the Named Insured's "executive officers", prior to the date when this Product Withdrawal Coverage Part was first issued to "you" or prior to the time "your product" leaves your control or possession.

g. Governmental Ban

A recall when "your product" or a component contained within "your product" has been:

- (1) Banned from the market by an authorized government entity prior to the policy period; or
- (2) Distributed or sold by you subsequent to any governmental ban.

h. Fines And Penalties

Any fines, penalties, punitive or exemplary or other noncompensatory damages imposed upon the insured.

i. Intercompany Suits

Any claim for damages by any Named Insured against another Named Insured.

j. Contractual Liability

Any "product withdrawal" expense or cost for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

k. Pollution

The actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

l. Pollution-related

Any loss, cost or expense due to any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

m. War

Any loss, cost or expense due to:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

n. Loss Of Use Of Property

Loss of use of other property due to:

- (1) A "defect", deficiency, inadequacy or dangerous condition in "your product"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

o. Bodily Injury Or Property Damage

"Bodily injury" or "property damage".

SUPPLEMENTARY PAYMENTS – COVERAGE B

We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- 1. All expenses we incur.
- 2. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- 3. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- 4. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- 5. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers and directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Any person or organization having proper temporary custody of your property if you die, but only until your legal representative has been appointed.
- b. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
- 3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and
 - b. Coverages **A** and **B** do not apply to "product withdrawals" that were initiated before you acquired or formed the organization.

No person or organization is an insured with respect to any "product withdrawal" arising out of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

SECTION III – LIMIT OF INSURANCE

1. The Aggregate Limit of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. "Product withdrawals" initiated;
 - c. Number of "your products" withdrawn;
 - d. Claims made or "suits" brought; or
 - e. Persons or organizations making claims or bringing "suits".
2. The Aggregate Limit is the most we will pay for the sum of all:
 - a. "Product withdrawal expenses" under Coverage **A**; and
 - b. Damages because of "product withdrawal expenses" under Coverage **B**.
3. **Deductible And Participation Percentage Provisions**

a. Deductible

We will only pay for the amount of:

- (1) "Product withdrawal expenses" under Coverage **A**; and
- (2) Damages because of "product withdrawal expenses" under Coverage **B**;

which are in excess of the deductible amount, if any, shown in the Declarations. The deductible applies separately to each "product withdrawal". The limits of insurance will not be reduced by the amount of this deductible.

We may, or will if required by law, pay all or any part of any deductible amount, if applicable, to effect settlement of any claim or "suit". Upon notice of our payment of a deductible amount, you shall promptly reimburse us for the part of the deductible amount we paid.

b. Participation Percentage

If a Participation Percentage is indicated in the Declarations, the following provision applies:

You agree to participate in the payment of:

- (1) "Product withdrawal expenses" under Coverage **A**; and
- (2) Damages because of "product withdrawal expenses" under Coverage **B**;

which are in excess of the deductible, to the extent of the Participation Percentage indicated in the Declarations. The Participation Percentage applies separately to each "product withdrawal".

You also agree that the cost of your participation in the loss will be borne entirely by you when due and you will not obtain insurance to cover it.

The Limit of Insurance of this Coverage Part applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limit of Insurance.

SECTION IV – CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of A Claim Or Suit Or A Defect Or Product Withdrawal

a. You must see to it that we are notified as soon as practicable of any actual, suspected or threatened "defect" in "your product", or any governmental investigation, that may result in a "product withdrawal" or a claim. To the extent possible, notice should include:

- (1) How, when and where the "defect" was discovered;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature, location and circumstances of any injury or damage arising out of use or consumption of "your product".

b. If a "product withdrawal" is initiated, you must:

- (1) Immediately record the specifics of the "product withdrawal" and the date it was initiated; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the "product withdrawal" as soon as practicable.

c. You must promptly take all reasonable steps to mitigate the expenses associated with a "product withdrawal". Any "profit" that you receive from mitigating the expenses will be deducted from the amount of reimbursement that you will receive for "product withdrawal expenses".

d. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

e. You and any other involved insured must:

- (1) Immediately send us copies of any pertinent correspondence received in connection with the "product withdrawal", claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation of the "product withdrawal";
- (4) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (5) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of a "product withdrawal" to which this insurance may also apply.

3. Suit Outside Of United States, Canada Or Puerto Rico

a. If a "suit" is brought in a part of the "coverage territory" that is outside the United States of America (including its territories and possessions), Puerto Rico or Canada, and we are prevented by law, or otherwise, from defending the insured, the insured will initiate a defense of the "suit". We will reimburse the insured, under Supplementary Payments, for any reasonable and necessary expenses incurred for the defense of a "suit" seeking damages to which this insurance applies, that we would have paid had we been able to exercise our right and duty to defend.

If the insured becomes legally obligated to pay sums because of damages to which this insurance applies in a part of the "coverage territory" that is outside the United States of America (including its territories and possessions), Puerto Rico or Canada, and we are prevented by law, or otherwise, from paying such sums on the insured's behalf, we will reimburse the insured for such sums.

b. All payments or reimbursements we make for damages because of judgments or settlements will be made in U.S. currency at the prevailing exchange rate at the time the insured became legally obligated to pay such sums. All payments or reimbursements we make for expenses under Supplementary Payments will be made in U.S. currency at the prevailing exchange rate at the time the expenses were incurred.

4. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary. Our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **b.** below.

b. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

6. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

7. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

8. Concealment Or Fraud

We will not provide coverage under Coverage A of this Coverage Part to you, or any other insured, who at any time:

- a. Engaged in fraudulent conduct; or
- b. Intentionally concealed or misrepresented a material fact concerning a "product withdrawal" or "product withdrawal expenses" incurred by you under Coverage A of this Coverage Part.

9. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

10. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
2. "Coverage territory" means anywhere in the world with the exception of any country or jurisdiction which is subject to trade or other economic sanction or embargo by the United States of America.
3. "Defect" means a defect, deficiency or inadequacy that creates a dangerous condition.
4. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
5. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
6. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
7. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
8. "Product tampering" is an act of intentional alteration of "your product" which has caused or is reasonably expected to cause "bodily injury" or physical injury to tangible property other than "your product".

When "product tampering" is known, suspected or threatened, a "product withdrawal" will be limited to those batches of "your product" which are known or suspected to have been tampered with.

For the purposes of this insurance, electronic data is not tangible property.

9. "Product withdrawal" means the recall or withdrawal:
 - a. From the market; or
 - b. From use by any other person or organization; of "your products", or products which contain "your products", because of known or suspected "defects" in "your product", or known or suspected "product tampering", which has caused or is reasonably expected to cause "bodily injury" or physical injury to tangible property other than "your product".

For the purposes of this insurance, electronic data is not tangible property.

10. "Product withdrawal expenses" means those reasonable and necessary extra expenses, listed below, paid and directly related to a "product withdrawal":

- a. Cost of replacing "your product", repairing the "defect" in "your product" or repurchasing "your product" for your initial purchase price, whichever is less;
- b. Costs of notification;
- c. Costs of stationery, envelopes, production of announcements and postage or facsimiles;
- d. Costs of overtime paid to regular nonsalaried employees and costs incurred by such employees, including costs of transportation and accommodations;
- e. Costs of computer time;
- f. Costs of hiring independent contractors and other temporary employees;
- g. Costs of transportation, shipping or packaging;
- h. Costs of warehouse or storage space; or
- i. Costs of proper disposal of "your products", or products that contain "your products", that cannot be reused, not exceeding your initial purchase price or your cost to produce the products.

11. "Profit" means the positive gain from business operation after subtracting for all expenses.

12. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purpose of this insurance, "electronic data" is not tangible property.

13. "Suit" means a civil proceeding in which damages because of "bodily injury" or physical damage to tangible property arising out of a "product withdrawal" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

14. "Your product" means:

- a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (1) You;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have acquired; and
- b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.