PRODUCT RECALL
EXPENSE COVERAGE ENDORSEMENT

POLICY NUMBER: COMMERCIAL GENERAL LIABILITY
CG 79 35 07 08

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

SUB-LIMITS OF INSURANCE:

“Product Recall Expense”

Per Occurrence:

Annual Aggregate:

“Additional Covered Expenses”

The “Additional Covered Expenses” Per Occurrence and Annual Aggregate Limit is equal to 50% of the above “Product Recall Expense” Limit.

DEDUCTIBLE:

COVERAGE IN THIS ENDORSEMENT DOES NOT APPLY TO THESE PRODUCTS:

THIS ENDORSEMENT ONLY PROVIDES REIMBURSEMENT TO YOU FOR EXPENSES INCURRED BECAUSE OF A COVERED “PRODUCT RECALL”. THIS ENDORSEMENT DOES NOT PROVIDE ANY LIABILITY COVERAGE OR COVERAGE FOR THE COST OR EXPENSE OF DEFENDING ANY CLAIM OR SUIT.

A. The following is added to SECTION I — COVERS:

SECTION I — LIMITED PRODUCT RECALL EXPENSE COVERAGE

1. Insuring Agreement

a. We will reimburse you for “Product Recall Expense” and “Additional Covered Expenses” incurred by you because of a “product recall” to which this insurance applies.

The amount of such reimbursement is limited as described in SECTION III — LIMITS OF INSURANCE. No other obligation or liability to pay sums or perform acts or services is covered.

b. This insurance applies to a “product recall” only if the “product recall” is initiated in the “coverage territory” during the policy period because:

(1) You determine that the “product recall” is necessary; or

(2) An authorized government entity has ordered you to conduct a “product recall”.

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c. We will reimburse you for “Product Recall Expense” and “Additional Covered Expenses” only if:
   (1) These expenses are incurred within one year of the date the “product recall” was initiated;
   (2) These 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 recall” is not listed in the “COVERAGE IN THIS ENDORSEMENT DOES NOT APPLY TO THESE PRODUCTS” entry in the SCHEDULE above.

d. The initiation of a “product recall” 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 recall”. This applies regardless of whether the determination to conduct a “product recall” 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 recall”.

e. “Product Recall Expense” or “Additional Covered Expenses” incurred to recall “your products” which contain the same or substantially similar “defects” will be deemed to have arisen out of the same “product recall”.

2. Exclusions

This insurance does not apply to “Product Recall Expense” or “Additional Covered Expenses” arising out of:

a. Any “product recall” initiated due to the failure of “your product” to accomplish its 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 “property damage” to tangible property other than “your product”.

b. Any “product recall” initiated due to copyright, patent, trade secret, trade dress, trade name or trademark infringements, or any other intellectual property laws.

c. Any “product recall” 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, or processing;
   (2) Transportation of “your product”; or
   (3) “Product tampering”.

d. Any “product recall” initiated due to expiration of the designated shelf life of “your product”.

e. A “product recall”, initiated because of 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 Coverage Part was first issued to you or prior to the time “your product” leaves your control or possession.

f. A recall of any specific products for which “bodily injury” or “property damage” is excluded under Coverage A — Bodily Injury And Property Damage Liability by endorsement.

g. 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. The defense of a claim or “suit” against you for liability arising out of a “product recall”.

i. Any compensatory damages, fines, penalties, punitive or exemplary or other non-compensatory damages imposed upon the insured.

j. 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”.

k. Liability assumed by you in any contract or agreement.

l. Damages or expenses arising out of the violation of any government regulation.

m. Any unauthorized change in “your product” after it leaves your possession or control. This exclusion does not apply to a covered “product recall” due to “product tampering.”

n. Redistribution or replacement of “your product” which has been recalled by like products or substitutes.

o. Caprice or whim of the insured.

p. Recall of “your products” that have no known or suspected defect solely because a known or suspected defect in another of “your products” has been found.

q. Willful, dishonest, fraudulent, criminal or malicious acts.

B. For the purposes of this endorsement, SECTION III — LIMITS OF INSURANCE is replaced by the following:

SECTION III — LIMITS OF INSURANCE

1. The Limits of Insurance shown in the SCHEDULE are Sub-Limits and the rules below fix the most we will pay regardless of the number of:

   a. Insureds;
   b. “Product recalls” initiated; or
   c. Number of “your products” withdrawn.

2. If there are no amounts shown in the SCHEDULE, these Sub-Limits will apply:

   a. “Product Recall Expense”:
      Per Occurrence $25,000
      Annual Aggregate $25,000

   b. “Additional Covered Expense”: The Per Occurrence and Annual Aggregate is 50% of the “Product Recall Expense” Per Occurrence and Annual Aggregate limit.

3. The most we will pay for “Product Recall Expense” during any policy period is the Annual Aggregate Sub-Limit shown on this endorsement’s SCHEDULE.

4. The most we will pay for “Additional Covered Expenses” during any policy period is 50% of the “Product Recall Expense” Annual Aggregate Sub-Limit on this endorsement’s SCHEDULE.

5. Deductible Provision

   a. Deductible
      We will only pay for the amount of “Product Recall Expense” and “Additional Covered Expenses” which are in excess of the deductible amount, if any, shown in the Schedule of this endorsement. The deductible applies separately to each “product recall”. 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.

      The Limits of Insurance apply 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 Limits of Insurance.

C. For the purposes of this endorsement, the Duties In The Event Of Occurrence, Claim Or Suit Condition under SECTION IV — CONDITIONS is replaced by the following:

2. Duties In The Event Of A “Defect” Or A “Product Recall”

   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 recall”. 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”.

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b. If a “product recall” is initiated, you must:
   (1) Immediately record the specifics of the “product recall” 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 recall” as soon as practicable.

c. You must promptly take all reasonable steps to mitigate the expenses associated with a “product recall”. Any financial gain or salvage recovery you receive or may be entitled to receive from mitigating the expenses will be deducted from the amount of reimbursement that you will receive for “Product Recall Expense” and “Additional Covered Expenses”.

d. You and any others involved insured must:
   (1) Immediately send us copies of pertinent correspondence received in connection with the “product recall”;
   (2) Authorize us to obtain records and other information; and
   (3) Cooperate with us in our investigation of the “product recall”.

D. For the purposes of this endorsement, the following condition is added to SECTION IV — CONDITIONS:

Concealment Or Fraud

We will not provide coverage under SECTION I of this endorsement to you, or any other insured, who at any time:

1. Engaged in fraudulent conduct; or
2. Intentionally concealed or misrepresented a material fact concerning a “product recall” or “Product Recall Expenses” or “Additional Covered Expenses” incurred by you under SECTION I of this endorsement.

E. The following definitions are added to SECTION V — DEFINITIONS:

1. “Additional Covered Expenses” includes reimbursement to the named insured for “customer consequential loss of profit expense”, “cost to replace”, “good faith advertising”.

2. “Customer consequential loss of profit expense” means the loss of financial gain incurred by your direct customers as a consequence of the “product recall” of “your product” or the “product recall” of their product because their product incorporated “your product.”

3. “Cost to replace” means the cost to produce or acquire a like replacement product, including the cost to return “your product” to the purchaser, not to exceed the cost of goods sold. This also includes the cost of unsold finished stock but only if your product cannot be repaired, reconditioned, decontaminated or made marketable.

4. “Good faith advertising” means those advertising costs you pay for the specific purpose of regaining customer approval or faith in “your product.”

5. “Defect” means a defect, deficiency or inadequacy that creates a dangerous condition.

6. “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 recall” 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.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

7. “Product recall” 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.
As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

8. “Product Recall Expense” means those reasonable expenses, listed below, paid on a reimbursement basis and directly related to a “product recall”:
   a. Costs of advertising;
   b. Costs of stationery, envelopes, production of announcements and postage or facsimiles;
   c. Costs of overtime paid to your regular nonsalaried employees and costs incurred by your employees, including costs of transportation and accommodations;
   d. Costs of hiring independent contractors and other temporary employees;
   e. Costs of transportation, shipping or packaging;
   f. Costs of warehouse or storage space; or
   g. Costs of proper disposal of “your products”, or products that contain “your products”, that can not be reused, not exceeding your purchase price or your cost to produce the products.
   h. Inspection and testing of “your products” to determine whether or not they may be subject to a “product recall”.