

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEXAS CHANGES – LIMITED PRODUCT WITHDRAWAL EXPENSE ENDORSEMENT

This endorsement modifies insurance provided under the following:

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

SCHEDULE

Aggregate Limit	\$
Deductible Amount Per Product Withdrawal	\$
Participation Percentage Per Product Withdrawal	%
Cut-off Date	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

THIS ENDORSEMENT ONLY PROVIDES REIMBURSEMENT TO YOU FOR EXPENSES INCURRED BECAUSE OF A COVERED "PRODUCT WITHDRAWAL". 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 – Coverages:

Section I – Limited Product Withdrawal Expense Coverage

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 – 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 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 Schedule.

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".

2. Exclusions

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 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 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 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 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.

g. Otherwise Excluded Products

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.

h. 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.

i. Defense Of Claim

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

j. Fines And Penalties

Any fines or penalties imposed upon the insured.

k. 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".

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 and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. "Product withdrawals" initiated; or
 - c. Number of "your products" withdrawn.
2. The Aggregate Limit is the most we will reimburse you for the sum of all "product withdrawal expenses" incurred for all "product withdrawals" initiated during the policy period.
3. **Deductible And Participation Percentage Provisions**

a. Deductible

We will only pay for the amount of "product withdrawal 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 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. 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 Schedule of this endorsement, the following provision applies:

You agree to participate in the payment of "product withdrawal expenses" which are in excess of the Deductible, to the extent of the Participation Percentage indicated in the Schedule. The Participation Percentage will apply separately to each "product withdrawal".

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

The Limits of Insurance of Product Withdrawal Expense Coverage 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 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". 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. You and any other involved insured must:

- (1) Immediately send us copies of pertinent correspondence received in connection with the "product withdrawal";
- (2) Authorize us to obtain records and other information; and

(3) Cooperate with us in our investigation of the "product withdrawal".

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 withdrawal" or "product withdrawal expenses" incurred by you under Section I of this endorsement.

E. The following condition is added:

Claims Payment

1. Within 15 days after we receive written notice of claim, we will:

- a. Acknowledge receipt of the claim. If we do not acknowledge receipt of the claim in writing, we will keep a record of the date, method and content of the acknowledgment;
- b. Begin any investigation of the claim; and
- c. Request a signed, sworn proof of loss, specify the information you must provide and supply you with the necessary forms. We may request more information at a later date, if during the investigation of the claim such additional information is necessary.

2. We will notify you in writing as to whether:

- a. The claim or part of the claim will be paid;
- b. The claim or part of the claim has been denied, and inform you of the reasons for denial;
- c. More information is necessary; or
- d. We need additional time to reach a decision. If we need additional time, we will inform you of the reasons for such need.

We will provide notification, as described in Paragraphs 2.a. through 2.d. above, within:

- a. 15 business days after we receive the signed, sworn proof of loss and all information we requested; or
- b. 30 days after we receive the signed, sworn proof of loss and all information we requested, if we have reason to believe the loss resulted from arson.

If we have notified you that we need additional time to reach a decision, we must then either approve or deny the claim within 45 days of such notice.

3. We will pay for covered loss or damage within five business days after:

- a. We have notified you that payment of the claim or part of the claim will be made and have reached agreement with you on the amount of loss; or
- b. An appraisal award has been made.

However, if payment of the claim or part of the claim is conditioned on your compliance with any of the terms of this Coverage Part, we will make payment within five business days after the date you have complied with such terms.

4. The term "business day", as used in the Claims Payment Condition, means a day other than Saturday, Sunday or a holiday recognized by the state of Texas.

F. The following definitions are added to the **Definitions** section:

1. "Defect" means a defect, deficiency or inadequacy that creates a dangerous condition.
2. "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.

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.

3. "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.

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.

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

a. Costs of notification;

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 computer time;

e. Costs of hiring independent contractors and other temporary employees;

f. Costs of transportation, shipping or packaging;

g. Costs of warehouse or storage space; or

h. Costs of proper disposal of "your products", or products that contain "your products", that cannot be reused, not exceeding your purchase price or your cost to produce the products.

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