



## **PRODUCT GUARANTEE, FINANCIAL LOSS AND PRODUCT RECALL INSURANCE**

### **Do You Have A Problem?**

As a Company you will be proud of your product. Your reputation for supplying a quality product will be a valuable asset to your business.

You will have spent time and effort in ensuring your Quality Control is such that only perfect products are released. Unfortunately, mistakes happen, procedures fail and defective products can be released to customers.

In these circumstances the pressure on a company to retrieve the product and rectify the problem is intense. Legislation is in place to ensure that dangerous products are removed from sale and made safe. Even non safety issues can result in recalls/withdrawals if the Customer feels they need to protect their reputation.

What would you do if one of your customers notifies you that they have a problem with one of your products and that they have suffered significant losses because of the problem?

They are holding you responsible for their losses.

### **What are the Potential Costs?**

You may believe that the potential cost will be insignificant because the replacement value of your product, on an individual item basis, is not considerable. This may be

underestimating the problem. We have found in the past that a low value item can produce a total claim in excess of GBP 1,000,000 when costs of removing the item, exchanging the defective item

with a new one and reinstalling the item are taken into account.

Under your Contract with your Customer you may be responsible for all costs and losses that they incur and which arise from the supply of a defective product by you. These may include your Customers recall costs, advertising costs, additional warehousing costs, additional staff costs, destruction costs, down time and loss of profits.

### **Is Product Liability Insurance the Answer?**

Your first reaction may be to register a potential claim under your Products Liability policy.

Unfortunately, this may fail because a standard Products Liability policy will normally exclude damage to any product, costs incurred in repair, reconditioning, replacement of any product, and costs arising out of the Recall of that product.

A Products Liability Policy will also exclude any losses suffered by a Third Party where no Personal Injury or Property Damage has occurred.

### **If not Products Liability Insurance, then what?**

If a Products Liability policy will not be able to assist you, then a Product Guarantee, Financial loss and Product Recall Insurance may be able to cover your customer's costs and losses.



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### What does a Product Guarantee Policy Cover?

A Product Guarantee, Financial Loss and Product Recall policy may be the answer. This type of insurance policy will provide you with cover against:-

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| <p>1) Products Guarantee - the costs of replacing, reworking or recovering products that have failed to perform their intended function due to faulty design, manufacture, installation etc., after unqualified acceptance by a customer.</p>   | <p>2) Unqualified acceptance of the product by a Customer has to have occurred</p>   |
| <p>2) Financial Loss - costs of meeting financial losses suffered by third parties as a direct consequence of a product failing to perform.</p>   | <p>3) A recall has to have occurred or the need to replace, rework etc., the defective product has to arise</p>  |
| <p>3) Recall - your costs incurred in recalling products where their continued use or consumption may cause the Insured to incur a legal liability either by reason of the products having failed to perform their intended function, or the use or consumption could cause bodily injury and/or property damage.</p> | <p>4) The product has to be supplied after the Retroactive Date stated within the Policy - this is usually inception of the cover.</p> <p>5) the Assured has to be legally liable for the loss</p> |

The Limit of Indemnity is in aggregate any one period and is a combined single limit for all three covers. Limits of Indemnity of up to GBP10,000,000 are available (higher limits are also available subject to agreement) Legal Fees are in addition to the Limit of Indemnity.

U.S.A. and Canadian Jurisdiction are excluded, but can be included. Where these Jurisdictions are covered by agreement, the Limit of Indemnity is inclusive of costs, fees and expenses incurred in the defence or settlement of any claim, and cover excludes Pollution entirely and excludes Punitive Damages and/or exemplary.

### What triggers Cover?

Cover is available for the Products Guarantee, Financial Loss and Products Recall insurance under a Claims Made Annually Renewable Wording. For the cover to respond to a claim:-

- 1) There has to be a defect in a product supplied etc., due to manufacture etc.

### What Isn't Covered

The Policy Exclusions are:

#### **Products Guarantee/Financial Loss**

- \* third party property damage or third party injury



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### Products Recall

- \* Deliberate Product Contamination
- \* Governmental or Public Authority enforced recall unless a recall would have occurred in the absence of said enforcement order
- \* Weathering, external damage or gradual deterioration
- \* Products Misdelivered or Misdirected
- \* Products still in the Assured's custody and control
- \* import duties, taxes and Customs and Excise charges before delivery of products to Assured

### General Exclusions applying to all Sections

- \* Absence of unqualified acceptance
- \* War Risks and Radioactive Contamination
- \* The amount of the excess – this will be at least GBP10,000 each and every claim
- \* Products supplied before the retroactive date
- \* Insolvency of Assured
- \* Incidents/claims which are known about before inception
- \* Punitive and Exemplary Damages
- \* Liquidated Damages and Penalties
- \* Financial Default
- \* Pollution except where sudden and unforeseen
- \* Aviation Products
- \* Asbestos
- \* Terrorism
- \* Failure of date recognition etc.

### Conditions

Deposit Premium is adjustable on actual turnover subject to application of a Minimum Premium.

In event of cancellation/non renewal of the policy no cover continues for products supplied during currency of policy.

All instances likely to produce a claim must be notified immediately to Underwriters irrespective of whether or not it will fall within the excess. Failure to do so may leave an Insured uninsured in respect of an incident due to late notification.

### Claims Handling

We know that the test of any Insurance Policy is the Claims Service provided to you. Our Claims Personnel are experienced in handling claims for defective products and/or recalls.

We know how important it is to respond to a potential recall quickly and that the first 48 hours are crucial. We will, where possible, discuss with Underwriters on the day of notification and arrange for someone to contact you urgently.

In the event of a problem, Underwriters, when necessary, will appoint Adjusters, solicitors and forensic scientists to help in the handling of a claim and the possible defence

We have good relations with Underwriters, Solicitors and Adjusters, and can discuss any aspect of a claim with these parties.



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We recently handled a claim where it was necessary to appoint solicitors to protect our Assured's interest when it was alleged that they had delivered a

faulty product. The defence was successful but cost GBP400,000 plus! A cost paid by Underwriters.

### **We Can Help**

We, at Houlder Insurance Services Limited, have 30 plus years experience in the placement of Product Guarantee, Financial Loss and Products Recall Insurance.

We only place business with first class security in the London Insurance Market and Lloyd's of London.

During this time we have built up a wealth of experience in the handling of the placement of this often complex cover.

We also have experience dealing with claims which must be handled correctly as often this is vital to the Assured's commercial trading position with their Customers.

We are proud of our reputation in the Market, which is second to none.

For further information please contact Jamie Holbech on 020 7980 3959 or e-mail

[jamie.holbech@limestreetbrokers.com](mailto:jamie.holbech@limestreetbrokers.com).

**The above is not exhaustive; for precise terms and conditions of cover see Policy Wording.**

Broker at **LLOYD'S**

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