

**Form # MWEO2013 (Rev August 12, 2013)**  
**Manufacturers and Wholesalers E&O Endorsement**

It hereby agreed and understood that this Endorsement forms part of and in addition to the Commercial General Liability Policy:

The Insurer agrees to, subject to all the terms and conditions of this Endorsement and the Policy, pay on behalf of the "Insured" all sums which the "Insured" shall become legally liable to pay as Damages and Claimants' costs, fees and expenses as a result of any Claim first made against the "Insured" and notified to Insurers during the Policy Period or during the Extended Reporting Period arising out of any negligent act, negligent error or negligent omission by the "Insured" in or about the conduct of the "Insured's Business".

"Defence Costs" and Limits of Liability

With respect to the coverage afforded by this Endorsement, the Insurer shall appoint legal counsel or other experts to take up the defence of the "Insured" and pay those "Defence Costs".

The Insurer may make such investigation and settlement of any Claim as they deem expedient and shall have the exclusive right to contest or settle any of said Claim. The "Insured" shall not admit liability for or settle any Claim or incur any cost, charge or expense without the written consent of the Insurer as such action may render this coverage null and void. Any obligation to defend or continue to defend any Claim ends once the available Limit of Liability is exhausted. "Defence Costs" are inclusive to the Limit of Liability as stated in the Declarations Page.

Definitions

1. "Product" shall mean any physical property which will leave or has left the care, custody or control of the "Insured" which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the "Insured".
2. "Insured's Business" shall mean the
  - i. design, specification or formulation of a "Product" and
  - ii. advice, design or consultancy services provided in connection with the supply or possible supply of a "Product"
3. "Insured" shall mean the Named Insured as stated in the Schedule and any past, present or future employee or director of or partner in the Named Insured.
4. "Defence Costs" shall mean reasonable costs and expenses incurred by the "Insured" with Underwriters' prior consent in the investigation, defence or settlement of any claim made against the "Insured" or the investigation of any circumstances of which the "Insured" shall become aware which might reasonably be expected to give rise to a claim being made against the "Insured", providing such claims are indemnifiable under this Policy.

Exclusions

Insurer shall not be liable to pay any "Defence Costs" or indemnify the "Insured" against any claim or claims arising directly or indirectly out of or in respect of:

1. Retroactive Date  
any actual or alleged negligent act, negligent error or negligent omission committed or alleged to have been committed before the Retroactive Date stated in the Declarations Page.
2. Circumstances Known at Inception  
any circumstance which could give rise to a Claim under this Policy of which the "Insured" were aware or ought reasonably to have been aware at or prior to the inception date of this POLICY stated in Item 3 of the SCHEDULE, whether notified under any other insurance or not.
3. Product's
  - i. any "Product" or part thereof or for the costs incurred in the manufacture, construction, installation, supply, sale, distribution, treatment, service, alteration or repair of any "Product" or part thereof, other than the design, specification or formulation of the "Product" undertaken by suitably professionally qualified directors and employees and those under their direct control,
  - ii. any "Product" or part thereof unless it has been delivered to and unconditionally accepted by the "Insured"'s customer,
  - iii. inspection or supervision of any manufacture, construction, installation, supply, sale, distribution, treatment, service, alteration or repair of any "Product",
  - iv. the costs and expenses incurred by the "Insured" relating to the return of any "Product" or part thereof,
  - v. the failure by the "Insured" to meet Product supply dates,
4. Construction Contracts  
any building or engineering construction contract undertaken by the "Insured" whether in conjunction with the "Insured"'s Professional Business or not,
5. Injury  
death, bodily injury, illness or disease of or to any person,
6. Property Damage  
loss of or damage to property other than:
  - i. damage to the "Product" and
  - ii. financial loss arising directly out of damage to the "Product",
7. Insurance  
the failure to ensure that insurances have been effected and maintained,
8. Defamation  
any actual or alleged libel or slander,
9. Infringement of Copyright  
any actual or alleged infringement of copyright, patent, registered design, trade mark or passing-off,
10. Recourse Rights  
where and to the extent the Insurer have or would have rights of recourse in respect of such Claim but the "Insured" has granted without Insurer's prior consent a waiver of such recourse rights to others whether by express term or by reason of an assumption of liability under contract.
11. Cross Liability  
where the Claim is made by one "Insured" or an entity financially associated with the "Insured" against another "Insured", unless the Claim originally emanates from an independent third party.
12. Contractual Liability  
any liability assumed by the "Insured" under any contract or agreement with exception to:
  - i. the extent that such liability would have attached to the "Insured" in the absence of such contract or agreement; or
  - ii. any any negligent act, negligent error or negligent omission by the "Insured" or any negligent act, negligent error or negligent omission arising out of the "Insured"'s Business" conducted by or on behalf of the "Insured".
13. Fines, Penalties and Punitive Damages  
awards or damages of a punitive or exemplary nature whether in the form of fines, penalties, multiplication of compensation awards or damages or aggravated damages or in any other form whatsoever,

- 14 Dishonesty  
any dishonest, fraudulent, criminal or malicious act or omission including the knowing, willful or deliberate noncompliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body
- 15 Libel and Slander  
Claims resulting from liability arising from: oral or written publication of material that violates a person's right of privacy; or oral or written publication of material, declaration or interview by the media that slanders or libels a person or organization or disparages a person's or organization's goods, products or services.
- 16 Insolvency or Bankruptcy of "Insured"  
the administration, receivership, insolvency or bankruptcy of the "Insured".
- 17 Financial Estimates  
financial estimates, tenders, quotations or price bids or the activities of an Estimator other than for cost advice and cost planning services provided by Quantity Surveyors,
- 18 Directors and Officers  
any person acting in their capacity as a director or officer of the "Insured" or of any firm or company,
- 19 Other Insurance  
any expense or liability covered under or indemnified by any other policy of insurance, however, this exclusion shall not apply to any expense or liability in excess of the limit of indemnity in such other policy of insurance, and
- 20 US Domiciled  
any Professional Business, including but not limited to "Insured's Business", undertaken from an office situated in the United States of America or in any territories which operate under the laws of the United States of America.

Extended Reporting Period

The Insurer will provide an automatic, non-cancellable Extended Reporting Period of sixty (30) days starting at the end of the Policy Period if no other insurance purchased by the "Insured" to replace this Policy applies or would apply but for the exhaustion of its applicable Limit of Liability.

The Extended Reporting Period does not extend the Policy Period or change the scope of coverage provided nor does it reinstate or increase the Limit of Liability as stated in the Declarations Page.

A Claim first made during the Extended Reporting Period will be deemed to have been made on the last day of the Policy Period provided that the Claim arose from a covered incident which took place before the end of the Policy Period and after the Retroactive Date;

The Extended Reporting Period shall not be construed to be a new Policy and shall otherwise be governed by all of the Insuring Agreements, Conditions, Exclusions and Definitions of this Policy;

Nothing herein contained shall vary, alter or extend any provision or condition of the Policy other than as above stated.