

Policy

Mandatory

May 2020



Public and Products Liability Insurance Policy

A handwritten signature in black ink, reading 'Adrian P. Hernandez'.

Adrian P. Hernandez

Company Director/CEO

Issuing Department
Corporate Management

Target audience
All employees and parties concerned

Repository
All IRIE Principles and Policies, Standard and Guidelines can be found in the online repository, IRIE-COCO website.

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Introduction

Please read the policy carefully to ensure that it meets your requirements. The insurer will provide insurance in accordance with the terms of this policy.

The policy, endorsements and the schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached shall bear that specific meaning wherever it may appear. The singular shall include the plural and vice versa.

Where headings are used in this policy, they are purely descriptive in nature and are not intended to be used for interpretative purposes.

The named insured received important notices about their duty of disclosure and our privacy statement prior to acquiring this policy. The notices are replicated at the back of this document for your reference.

Also included in the notices is important information relating to 'Extension 2 – Errors or omissions coverage' which is issued on a claims made and notified basis.

Policy wording

The Named Insured and the Insurer agree that the Insurer will provide insurance in accordance with the terms, conditions, exclusions, definitions and Limits of Liability of this Policy.

1. Insuring clauses

Section A – Public liability

The Insurer will pay to or on behalf of the Insured all sums which the Insured shall become legally liable to pay as Compensation in respect of:

- a. Personal Injury, or
- b. Damage to Property, or
- c. Advertising Injury

happening during the Period of Insurance within the Territorial Limits as a result of an Occurrence and in connection with the Insured's Business.

Section B – Products liability

The Insurer will pay to or on behalf of the Insured all sums which the Insured shall become legally liable to pay as Compensation in respect of:

- a. Personal Injury,
- b. Damage to Property,
- c. Advertising Injury

Happening during the Period of Insurance within the Territorial Limits as a result of an Occurrence and caused by or arising from the Insured's Products.

2. Extensions to Section B – Products liability

These 'Extensions' are subject to the terms, conditions, exclusions and definitions of the Policy, unless otherwise stated.

The total of all payments made under the 'Extensions' will be part of and not in addition to the Limit of Liability in respect of

'Section B – Products liability'.

Extension 1 – Product recall expense coverage

The Insurer will pay to the Insured any Product Recall Expense necessary because the use or consumption of any Product has resulted in or may result in bodily injury, death, illness or disability or physical damage to or destruction of tangible property due to:

1. the accidental omission of a substance or the accidental introduction or substitution of a harmful or damaging substance in the manufacture of the Product; or
2. any unintentional error or deficiency in the manufacture, design, blending, mixing, compounding or labelling of the Product; or
3. a ruling of a government or other regulatory body requiring the Insured to recall any Product as a result of any of the matters set out in paragraphs 1 or 2 above.

Coverage under this extension is subject to:

a. the Insured first discovering during the Period of Insurance that the use or consumption of any Product has resulted or may result in bodily injury, death, illness or disability or physical damage to or destruction of tangible property; and

b. the bodily injury, death, illness or disability or physical damage to or destruction of tangible property being indemnifiable under 'Section B – Products liability'; and

c. the Insurer's maximum liability in respect of this extension for all Product Recall Expenses during the Period of Insurance not exceeding \$1,000,000, or as otherwise stated in the Schedule, whichever is greater.

Extension 2 – Errors or omissions coverage

The Insurer will pay to or on behalf of the Insured all sums which the Insured becomes legally liable to pay as Compensation in respect of financial loss solely and directly attributable to any negligent act, error or omission committed or alleged to have been committed by or on behalf of the Insured in connection with the Insured's Products.

Coverage under this extension is subject to:

1. such act, error or omission occurring after the inception date of this Policy or the retroactive date specified in the Schedule, whichever the earlier; and
2. such act, error or omission occurring within the Territorial Limits; and
3. a demand for Compensation being first made against the Insured and notified to the Insurer during the Period of Insurance; and

4. The Insurer's maximum liability in respect of this extension for all claims payable during the Period of Insurance not exceeding \$200,000, or as otherwise stated in the Schedule, whichever is greater.

3. Limits of liability

Unless otherwise stated in the Policy, the Insurer's:

1. liability to indemnify the Insured will not exceed the Limit of Liability in respect of any one Occurrence; and
2. maximum liability in respect of 'Section B – Products liability' for all Occurrences during the Period of Insurance will not exceed the Limit of Liability.

The applicable Limit of Liability is over and above the Deductible payable by the Insured.

4. Defense costs and supplementary payments

With respect to claims for which indemnity is available under this Policy, the Insurer will defend, in the Insured's name and on the Insured's behalf, any claim or suit against the Insured alleging such Personal Injury or Damage to Property and/or Advertising Injury or any other loss or damage covered under 'Extension 2 – Errors or omissions coverage' and seeking

Compensation on account thereof even if any of the allegations of such claim or suit is groundless, false or fraudulent and pay:

- 4.1 all costs and expenses incurred by the Insurer and/or by the Insured with the Insurer's written consent;
- 4.2 all interest accruing on the Insurer's portion of any judgment until the Insurer has paid, tendered or deposited in court that part of such judgment which does not exceed the Limit of Liability;
- 4.3 premium on appeal bonds or security for costs required in any suit, and premium on bonds to release attachments in any suit, for an amount not exceeding the applicable Limit of Liability, but the Insurer shall have no obligation to apply for or furnish any such bond or security;
- 4.4 expenses incurred by the Insured for rendering of first aid or other medical service to others at the time of any Personal Injury (other than the payment of any medical expense by the Insurer which the Insurer is prevented from paying by law);
- 4.5 temporary protection of property, including temporary repairs or protection of property of others that has been damaged as a result of an Occurrence which is the subject of indemnity under this Policy;
- 4.6 all costs incurred by the Insured with the Insurer's written consent for legal representation at any coronial inquest or inquiry, court or tribunal, royal commission or government inquiry, or any inquiry or hearing of a disciplinary nature held before a legally constituted inquiry board, committee, or authority; and
- 4.7 up to \$25,000 in respect of each Occurrence for reasonable professional fees or costs incurred by the Named Insured for the preparation of a claim under this Policy.

6. Exclusions

Exclusions applicable to Section A – Public liability The Insurer does not cover any liability:

6.1 Products liability

indemnifiable under ‘Section B – Products liability’ or any extension thereto.

However this exclusion does not apply to Personal Injury or Damage to Property caused by food or beverages sold or supplied by the Insured as a service to the Insured’s employees or visitors for consumption on the Insured’s premises.

6.2 Product recall or replacement

1. for the cost of recalling, withdrawing, replacing or repairing Products, or of making any refund on the price paid for Products. However this exclusion shall not apply:

a. to liability for physical damage to or destruction of Products caused by other Products if they were physically independent at the time of such physical damage or destruction; or

b. where coverage is provided under ‘Extension 1 – Product recall expense coverage’.

2. for Product Recall Expense directly or indirectly caused by or arising from:

a. any Product of the same trade or brand name but which is of a different batch, code or other identification from the Product for which Product Recall Expense cover has been provided;

b. inherent deterioration or decomposition of any Product or its packaging;

c. loss of customer approval or confidence, or any costs incurred to regain customer approval, or other consequential loss;

d. knowledge of the Insured at the inception of this Policy of any pre-existing condition of the Product that may result in a claim under this Policy;

e. mislabeling or non-labelling of any Product or any container or packaging in relation to a ‘use by’ or ‘best before’ date authorized or required by a government agency or other statutory or regulatory authority;

f. continued use by the Insured of materials that have been banned or declared unsafe by a government agency or other responsible body; or

6.3 Liability under agreement

assumed under a contract or agreement that requires the Named Insured to:

1. effect insurance over property; or

2. accept liability regardless of fault. However this exclusion does not apply where:

a. that liability would otherwise exist at law in the absence of the contract or agreement; or

b. the contract is an Incidental Contract and liability does not arise due to an obligation to insure rented, leased or hired property or an obligation to indemnify a landlord irrespective of fault.

6.4 Loss of use

for loss of use of tangible property, which has not been physically lost, damaged or destroyed, resulting from:

1. delay in or lack of performance by or on behalf of the Insured of any contract or agreement;
2. the failure of Products or work performed by or on behalf of the Insured to meet the level of performance, quality, fitness or durability warranted or represented by the Insured. However this exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical damage to or destruction of Products or work performed by or on behalf of the Insured after such Product or work has been put to their intended use by any person or organization other than the Insured.

6.5 Penalties and punitive damages

for fines, penalties, aggravated, exemplary, punitive or liquidated damages.

7. Definitions

For the purpose of determining the cover provided by this Policy:

Advertising Injury means: any unintentional:

1. libel, slander, defamation;
2. infringement of copyright or passing off of title or slogan;
3. piracy, unfair competition, idea misappropriation or invasion of rights of privacy;
4. breach of the misleading or deceptive conduct provisions of any consumer protection legislation or similar legislation of any country, state or territory, committed or alleged to have been committed during the Period of Insurance in any advertisement, publicity article, broadcast, telecast or via an internet website, and caused by or arising out of the Insured's advertising activities.

Damage to Property means:

1. physical damage to, destruction of or loss of tangible property including the loss of use thereof at any time resulting therefrom; and/or
2. loss of use of tangible property which has not been physically damaged, destroyed or lost, provided that such loss of use is caused by or arises out of physical damage of other tangible property.

Deductible means: the amount stated in the Schedule payable by the Insured.

Employment Practices means: any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination in respect of the Insured's employees.

Insured means:

1. the **Named Insured**;
2. every past, present or future director, stockholder or shareholder, partner, proprietor, officer, executive, employee or volunteer of the Named Insured, including the spouse or any family member of any such person while

accompanying such person on any commercial trip or function in connection with the Business, while such persons are acting for or on behalf of the Named Insured and/or within the scope of their duties in such capacities;

3. every principal in respect of the principal's liability arising out of: a. the performance by or on behalf of the Named Insured of any contract or agreement for the performance of work for such principal, but only to the extent required by such contract or agreement and in any event only for such coverage and Limit of Liability as is provided by this Policy;

b. any Products sold or supplied by the Named Insured, but only in respect of the Named Insured's own acts or omissions in connection with such products and in any event only for such coverage and Limit of Liability as is provided by this Policy;

4. every person, corporation, organisation, joint venture company or partnership, to whom the Named Insured is obligated by virtue of any contract or agreement to provide insurance such as is afforded by this Policy; but only to the extent required by such contract or agreement and in any event only for such coverage and Limit of

Insurer means:

ISA Regal International, LLC. Trading as IRIE Coconut Product Manufacturing (IRIE COCO EXPORTS)

Limit of Liability means:

the limit of liability stated in the Schedule.

Product Recall Expense means:

the reasonable and necessary costs and expenses incurred by the **Insured** in relation to effecting the recall of a **Product** for:

1. communications to customers and the public, including media announcements;
2. external advice to prepare such communications;
3. transporting any recalled Product to a place designated by the Insured;
4. the hiring of necessary additional persons to conduct the duties performed by regular employees of the Insured who are involved in effecting the recall of a Product, and the hiring of necessary additional storage space;
5. additional remuneration paid to employees (other than salaried employees);
6. expenses incurred by employees for transport and accommodation; and
7. disposing of any recalled Product that cannot be reused.

Schedule means:

the schedule issued by the Insurer in connection with this Policy.

8. Conditions

To the extent allowed by the Insurance Contracts Act 1984, the following Conditions apply and in the event of breach the Insurer may refuse indemnity.

8.1 Cancellation

The Named Insured may cancel this Policy by giving notice in writing to the Insurer. If such notice is given, the cancellation will take effect on the day the notice is received by the Insurer.

8.2 Claims conditions

1. In the event of an Occurrence or loss or if an Occurrence or loss appears reasonably likely to take place the Insured must immediately take at its own expense all responsible steps to prevent or minimise Personal Injury, Damage to Property, Advertising Injury and/or any other loss or expense.
2. Subject to paragraph 3 below for claims made under 'Extension 2 – Errors or omissions coverage', the Insured must give notice in writing to the Insurer as soon as possible of every Occurrence or loss likely to give rise to a claim under this Policy and must immediately forward to the Insurer all documents and information relevant to each such Occurrence or loss including but not limited to every demand, writ, summons, proceedings, notice of prosecution, inquest or inquiry and all associated information.
3. 'Extension 2 – Errors or omissions coverage' is issued on a 'claims made and notified' basis. In the event of a claim under this Extension, the notice of claims must comply with the 'Claims made and notified basis of coverage' notice attached to this Policy.
4. The Insured must not, without the Insurer's prior written consent, make any admission, offer, promise or payment in connection with any Occurrence or loss.
5. The Insured must use its best endeavours to preserve all property, any Product, appliance and plant and all other things which may assist in the investigation or defense of a claim or in the exercise of rights of subrogation and so far as may be reasonably practicable no alteration or repair is to be effected without the consent of the Insurer until the Insurer has had an opportunity of inspection.
6. In respect of any Occurrence or loss covered under this Policy, the Insurer has the right, if it so elects, to defend any suit against the Insured seeking Compensation or reimbursement of expenses for an Occurrence or loss and to bring any cross claim in the name of the Insured even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient. However the Insurer is not obligated to pay any claim or judgment or to defend any suit after the Insurer's liability under this Policy in respect of the claim has been exhausted.
7. The Insured must cooperate with the Insurer and comply with the terms and conditions of this Policy, and assist as necessary in enforcing any right to contribution or indemnity from any person, corporation or organization.

8.4 Cross liability

Each of the parties comprising the Insured is considered a separate legal entity and the word Insured applies to each party as if a separate policy had been issued to each of the said parties, provided always that:

1. each of such parties shall be separately subject to the terms, conditions, exclusions and definitions of this Policy; and
2. nothing contained in this clause will operate to increase the Insurer's liability under this Policy.

8.5 Currency

All amounts referred to in this Policy are in US Dollars.

Dollars at the applicable currency rate of exchange on the date on which the payment is made, subject to the Limit of Liability.

8.6 Material facts

Every change materially affecting the facts or circumstances existing at the commencement of this insurance, or at any subsequent renewal date, must be notified to the Insurer in writing as soon as possible after such change comes to the notice of the Insured.

8.7 Reasonable care

The Insurer at their own expense shall take all reasonable measures and care to:

1. maintain premises and plant in satisfactory condition;
2. employ only competent employees;
3. comply with all statutory obligations, by-laws or regulations imposed by any public authority for the safety of persons or property;
4. prevent Personal Injury and/or Damage to Property and/or Advertising Injury and/or any other loss, damage or expense; and
5. prevent the manufacture, sale or supply of defective Products.

9. Our complaints handling procedures

Resolving your complaints

If you think we have let you down in any way, or our service is not what you expect (even if through one of our agents or representatives), please tell us so we can help. You can tell us by phone, in writing or in person.

Should you tell us in writing it will help to send us the full details of your complaint together with any supporting documents and an explanation of what you want us to do. If you would like to come in to talk to us face to face, please call and we will arrange an appointment for a meeting.

What we will do to resolve your complaint

When you first let us know about your complaint or concern the person trying to resolve your complaint will listen to you, consider the facts and contact you to resolve your complaint as soon as possible, usually within 24 hours.

If you are not satisfied with this person's decision on your complaint, then it will be referred to the relevant operational manager, who will contact you within 5 working days.

Should you not be satisfied with the operational manager's decision, then it will be referred to the general manager (or their delegate). We will send you our final decision within 15 working days from the date you first made your complaint.

What if you are not satisfied with our final decision?

We expect our procedures will deal fairly and promptly with your complaint. However if you are not satisfied with our final decision there are external dispute remedies such as mediation, arbitration or legal.