

Policy

Errors and Omissions Insurance for Ambulance Operators

This is a claims-made and reported policy. Please read the entire policy carefully.

Terms in capital letters have special meaning. Please refer to the definitions section of this policy (Part I).

Part I – Definitions

As used in this policy, the following words or expressions shall mean:

1. **Bodily Injury**

Bodily injury, physical injury, sickness, disease, mental anguish, mental suffering or shock, including death resulting from any of these at any time.

2. **Claim**

Any written or oral allegations received by the INSURED resulting from an error, omission or negligent act in the rendering of INSURED SERVICES.

3. **Damages**

Compensatory DAMAGES, including all pre-judgment and post-judgment interest.

4. **Extended Reporting Period**

EXTENDED REPORTING PERIOD means the additional period of time in which to report CLAIMS following the expiry of this policy through either the basic or optional supplemental EXTENDED REPORTING PERIOD as detailed in Part VI of this policy, whichever is applicable.

5. **Fissionable Substance**

Any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.

6. **Insurance Manager**

The insurance administrator under this policy, who is duly authorized to issue this policy as well as to issue and receive notices under this policy for and on behalf of the INSURERS, and whose name and address appear in the Declarations. The INSURANCE MANAGER is not a party to this contract of insurance.

7. **Insured**

The Named INSURED mentioned in the Declarations, as well as persons described hereafter, excluding physicians, surgeons or dentists, but solely for CLAIMS resulting from an error, omission or negligent act in the rendering of INSURED SERVICES, while acting within the scope of their duties for the Named INSURED:

- (a) any present or former partner, officer, director, employee or volunteer of the Named INSURED;
- (b) any independent contractor retained by the Named INSURED;
- (c) employees of others on loan to and while working for and under the guidance of the Named INSURED.

8. **Insured Services**

Those services rendered by the INSURED encompassing the provision of emergency and non-emergency transport and first aid of persons requiring definitive medical care. This includes training carried out with the knowledge and approval of the employer.

9. **Insurers**

The insurance companies whose names appear in the Declarations. It is agreed that such INSURERS are binding themselves severally and not jointly, each in its own layer of coverage only, and each only for that amount determined by multiplying its percentage proportion of coverage by the amount of the LOSS.

10. **Loss**

One or more CLAIMS resulting from the same or related error, omission or negligent act in the rendering of INSURED SERVICES, regardless of the number of suits, claimants or INSUREDS. Such CLAIMS will be considered first reported within the policy period in which the earliest CLAIM was reported and subject to that single limit of liability.

11. Nuclear Energy Hazard

The radioactive, toxic, explosive or other hazardous properties of RADIOACTIVE MATERIAL.

12. Nuclear Facility

- (a) Any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium, uranium, or any one or more of them;
- (b) any equipment or device designed or used for:
 - (i) separating the isotopes of plutonium, thorium, uranium, or any one or more of them;
 - (ii) processing or utilizing spent fuel; or
 - (iii) handling, processing or packaging waste;
- (c) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them, if at any time the total amount of such material in the custody of the INSURED at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste RADIOACTIVE MATERIAL.

The above includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

13. Pollution

Emission, release, discharge, dispersal, escape or disposal of smoke, gases, vapours, soot, fumes, acids, alkalis, toxic substances, waste materials, irritants, contaminants or pollutants into or upon land or any water of any description no matter where located or how contained, or into any drainage or sewage system, or into the atmosphere.

14. Radioactive Material

Uranium, thorium, plutonium, neptunium, their respective derivatives and other compounds, radioactive isotopes of other elements and any other substances that the Canadian Nuclear Safety Commission may, by regulation, designate as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy.

Part II – Insuring Agreements

1. General Agreements

In consideration of the premium indicated in the Declarations, and in reliance upon the attachments to and the statements made in the application form, and subject to the terms, conditions and limitations contained in this policy, the INSURERS agree to pay on behalf of the INSURED all sums which the INSURED shall become legally obligated to pay as DAMAGES because of a CLAIM first made and reported to the INSURANCE MANAGER during the policy period resulting from an error, omission or negligent act in the rendering of INSURED SERVICES by the INSURED:

- (a) during the policy period; or
- (b) before the effective date of the initial policy issued and renewed without interruption by the INSURANCE MANAGER, but after the retroactive date (if one is shown in the Declarations), provided that on the effective date of this policy the INSURED did not know of the CLAIM or of the circumstance that could reasonably have given rise to the CLAIM.

This policy of insurance, subject to its terms, conditions and limitations, applies to CLAIMS first made against the INSURED and reported to the INSURANCE MANAGER during the policy period.

2. Defence and Other Payments

With respect to the insurance afforded by the General Agreements of Part II of this policy, the INSURERS further agree:

- (a) that they shall have the right and duty to defend the INSURED in any suit first brought against the INSURED before a court of civil jurisdiction in Canada or the United States of America;
- (b) to pay any premium payable under guarantee bonds required to release attachments and any premium payable on appeal bonds but without any obligation to apply for or furnish any such bonds;
- (c) to pay the reasonable and necessary legal, adjusting, investigating or expert expenses incurred for the defence of CLAIMS for which coverage is provided by this policy;
- (d) to pay costs taxed against the INSURED following a judgment by a court of civil jurisdiction;
- (e) to reimburse INSUREDS for the reasonable expenses incurred by the INSURED to assist in the investigation and defence of the CLAIM at the request of the INSURANCE MANAGER. Such expenses shall include the amount paid in salaries up to a total of three hundred dollars (\$300) per day per INSURED, subject to a maximum of ten thousand dollars (\$10,000) for all INSUREDS who, in lieu of work, attend at discoveries,

mediation, trial, coroner's inquest or human rights tribunal as part of the defence of a CLAIM;

- (f) the INSURERS shall have no duty to defend a CLAIM which arises from demands or proceedings first brought against the INSURED outside Canada or the United States of America.

Where it is the duty of the INSURED to defend, the INSURED shall not select defence counsel without the INSURANCE MANAGER'S written consent, which shall not be unreasonably withheld. The INSURERS shall have the right and shall be given the opportunity to effectively associate with the INSURED in the investigation, defence and settlement of any CLAIM for which coverage is provided under this policy. The payment of sums provided for in Item 2 of Part II shall be on a current basis.

3. The payment of the sums provided for in Item 2 of Part II is to be considered an integral part of the applicable limit of liability of the INSURERS as it erodes the limit of liability.
4. The INSURERS' obligation to defend any CLAIM ends once the available limit of liability is exhausted.
5. **Territory**

This policy applies to CLAIMS which give rise to demands or proceedings against the INSURED anywhere in the world.

Part III – Exclusions

The coverage afforded under this policy does not apply to:

1. **Abuse and Sexual Misconduct**

CLAIMS resulting directly, indirectly, in whole or in part from any actual or alleged:

- (a) sexual, physical, psychological or emotional abuse, molestation or harassment committed by, at the direction of, or with the knowledge of any person insured by this policy; or
- (b) failure of any person insured by this policy to prevent sexual, physical, psychological or emotional abuse, molestation or harassment.

This exclusion applies regardless of any other cause or event contributing concurrently or in any other sequence to the LOSS.

2. **Asbestos Liability Bodily Injury**

CLAIMS for DAMAGES for BODILY INJURY which is actually or allegedly, in whole or in part, directly or indirectly, caused by, based upon or in any way involving asbestos or any material derived therefrom in whatever form or quantity.

This exclusion applies to such CLAIMS regardless of any other cause or event (whether insured or not)

contributing concurrently or in any sequence to the occasioning of the BODILY INJURY.

3. **Bankruptcy/Insolvency**

CLAIMS resulting from the bankruptcy or insolvency of the INSURED.

4. **Care, Custody and Control**

CLAIMS resulting from damage caused to property in the care, custody or control of the INSURED or property over which the INSURED is for any purpose exercising control.

5. **Deliberate, Dishonest or Fraudulent Acts**

CLAIMS resulting from deliberate, dishonest, criminal or fraudulent acts committed by the INSURED, unless it was done in order to protect persons or property, but this exclusion does not apply to any INSURED who is neither the author of nor an accomplice to the act.

6. **Economic Return**

CLAIMS resulting from representations, forecasts or estimates of profit, return on capital or economic return.

7. **Fines, Penalties**

CLAIMS resulting from any fines, penalties, punitive or exemplary damages.

8. **Insured vs. Insured**

CLAIMS initiated by one or more INSUREDS against any other INSURED.

9. **Liability of Others**

CLAIMS resulting from the liability of others assumed by the INSURED under a contract; however, this exclusion shall not apply to the INSURED'S legal liability for subconsultants contractually bound to the INSURED or for the INSURED'S liability for errors, omissions or negligent acts of the INSURED'S own employees.

10. **Nuclear Energy**

CLAIMS:

- (a) resulting from any liability imposed by or arising under the Nuclear Liability Act; or
- (b) with respect to which an INSURED under this policy is also insured under a contract of nuclear energy liability insurance (whether the INSURED is named in such contract or not and whether or not it is legally enforceable by the INSURED) issued by the Nuclear Insurance Association of Canada or any other group or pool of insurers, or would be an INSURED under any such policy but for its termination upon exhaustion of its limit of liability; or

(c) resulting directly or indirectly from the NUCLEAR ENERGY HAZARD arising from:

- (i) the ownership, maintenance, operation or use of a NUCLEAR FACILITY by or on behalf of an INSURED;
- (ii) the furnishing by an INSURED of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any NUCLEAR FACILITY; and
- (iii) the possession, consumption, use handling, disposal or transportation of FISSIONABLE SUBSTANCES, or of other RADIOACTIVE MATERIAL;

but this exclusion shall not be construed to apply in any commercial or medical radioactive isotopes.

11. Other Activities

CLAIMS resulting from the legal liability of the INSURED arising from the operation of any business enterprise, other than INSURED SERVICES.

12. Other Insurance

CLAIMS covered under another valid and collectible insurance policy. Any coverage provided by this policy shall be specifically excess of and shall not act in contribution with such other insurance policy.

13. Pollution

CLAIMS arising out of or attributable to POLLUTION.

14. Prior Knowledge

CLAIMS or circumstances, reported or not in the application, known to the INSURED before the effective date of the initial policy issued and renewed without interruption by the INSURANCE MANAGER to the INSURED.

15. Related Entities

CLAIMS made against the INSURED, when such CLAIMS are made by another business:

- (a) owned totally or partially by an INSURED;
- (b) controlled or managed totally or partially by an INSURED;
- (c) which is directly or indirectly involved in any way in the ownership or management of an INSURED'S business; or
- (d) of which an INSURED is a partner, director, officer or employee.

This exclusion shall not apply where the interest held by such an entity in the INSURED, or interest held by the INSURED in such an entity, whether held as

equity, ownership or voting rights, is less than or equal to ten per cent (10%).

16. War Risk

CLAIMS resulting from DAMAGES caused directly or indirectly by war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection.

Part IV – Computation of Amounts Payable by the Insurers

Limit of Liability of the Insurers

Subject, when applicable, to the deductible as stated in the Declarations, the liability of the INSURERS under Part II – Insuring Agreements of this policy is limited, for each LOSS and per policy period, to the amounts as stated in the Declarations. It is agreed that the INSURERS and the INSURED shall contribute equally towards DAMAGES until the INSURED has paid the deductible referred to in the Declarations.

Part V – Conditions

1. Action Against the Insurers

No action or legal proceedings may be initiated against the INSURERS unless the INSURED has fully complied with the requirements of this policy.

2. Amendments

The terms of this policy may only be waived or changed by the INSURANCE MANAGER and then, only by written endorsement signed by the INSURANCE MANAGER. Such endorsement shall form a part of this policy.

3. Assignment

Assignment of interest under this policy shall not bind the INSURERS until their consent is endorsed hereon; if, however, the Named INSURED should be adjudged bankrupt, insolvent or incompetent or die within the policy period, this policy shall cover the Named INSURED'S legal representative as Named INSURED. The INSURED agrees that any notice of any kind the INSURANCE MANAGER mails to the Named INSURED at the address shown in the Declarations shall constitute notice to the INSURED'S legal representatives.

4. Cancellation of Policy

- (a) The Named INSURED may cancel this policy by giving written notice to the INSURANCE MANAGER to this effect, indicating when thereafter the cancellation shall be effective. The INSURANCE MANAGER will reimburse the excess of premium paid by the INSURED over and above the premium earned for the time on risk, the calculation being made in accordance with the customary short rate table and procedure.

(b) The INSURANCE MANAGER may cancel this policy by giving to the Named INSURED written notice to this effect, either by registered mail or by delivering it by hand and the termination takes effect thirty (30) days after the date of the notice; in the event of non-payment of premium, the termination takes effect fifteen (15) days after the date of the notice. The INSURANCE MANAGER shall reimburse this excess premium paid by the INSURED over the earned premium for the time on risk, such calculation to be made on a pro rata basis.

5. **Conformity to Statute**

The terms of this policy that are in conflict with the terms of any applicable laws construing this policy, including the Quebec Civil Code, are hereby amended to conform to such laws.

6. **Continuity**

In the event this policy replaces, without interruption, a prior policy issued by the INSURANCE MANAGER, any CLAIMS or circumstances that could reasonably give rise to a CLAIM of which the INSURED is aware and which the INSURED reports to the INSURANCE MANAGER shall be deemed to have been reported on the date the INSURED first became aware of such CLAIM or circumstances and will be insured subject to the terms, conditions and limits of liability of the policy in force on such date.

7. **Co-operation of the Insured**

The INSURED must co-operate with the INSURANCE MANAGER and, at the request of the INSURANCE MANAGER, assist to effect settlement, forward proceedings, attend hearings and trials, assist in securing and giving evidence and in obtaining the attendance of witnesses.

The INSURED shall not, without the INSURANCE MANAGER'S approval and except at the INSURED'S own cost, voluntarily make any payment, assume any obligation or incur any expense.

8. **Named Insured Represents All Insureds**

The Named INSURED, INSURED, INSURERS and INSURANCE MANAGER agree that the Named INSURED represents all INSUREDS under this policy.

9. **Notice of Claim**

This is a claims-made and reported policy. The INSURED shall, as soon as practicable after being made aware of a CLAIM for which coverage would be afforded by this policy, provide written notice with the full particulars thereof to the INSURANCE MANAGER, ENCON Group Inc., at the address indicated in the Declarations.

If during the policy period the INSURED becomes aware of a circumstance which could reasonably give rise to a CLAIM, the INSURED shall give written

notice thereof to the INSURANCE MANAGER as soon as practicable and prior to the date of the termination of the policy. Any such CLAIM received by the INSURED resulting from such circumstances shall be treated as a CLAIM made during the policy period in which such notice was given.

If the effective date of termination of the policy is a Saturday, Sunday or Statutory Holiday, any CLAIM presented to the INSURANCE MANAGER on the business day immediately following the termination date will be deemed to have been reported within the policy period.

Notwithstanding the aforementioned, any late notice or absence of notice is cause of forfeiture of the rights of the INSURED, if the INSURERS sustain injury therefrom.

10. **Right to Audit**

The INSURANCE MANAGER may, at any time, inspect the premises of the INSURED. In relation to the object of this policy, the INSURANCE MANAGER may also examine the financial records and files of the INSURED during the policy period and during the two (2) years which follow its expiry or cancellation provided that prior notice of forty-eight (48) hours is given to the INSURED.

11. **Settlement and Contestation of Claims**

In the event of a CLAIM, the INSURANCE MANAGER will not settle the LOSS without first obtaining the written consent of the INSURED.

However, if a settlement is rendered impossible by the sole refusal of the INSURED, the latter must continue the defence at the Named INSURED'S own expense and the liability of the INSURERS will then be limited to the amount for which the CLAIM could have been so settled together with expenses incurred under the present policy at the date of such refusal.

12. **Severability of Interests**

In the event that a CLAIM is made against more than one INSURED, it is agreed that the obligation of the INSURERS under this policy is the same as if separate policies had been issued to each. Notwithstanding the number of INSUREDS involved, the total amount payable hereunder on behalf of all INSUREDS shall not exceed the INSURERS' limit of liability stated in the Declarations.

13. **Subrogation**

In the event of any payment under this policy, the INSURERS shall be subrogated to all the INSURED'S rights of recovery therefore against any person or organization and the INSURED shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The INSURED shall do nothing to prejudice such rights.

14. Suspension of Permit or Provisional Administration

If the Named INSURED has its permit or licence to practice suspended by virtue of the laws governing its practice, or if a provisional administration is imposed by governmental authority, notice must be given to the INSURANCE MANAGER within a period of not more than thirty (30) days from such suspension or provisional administration.

Part VI – Extended Reporting Provisions

The INSURERS will provide one or more EXTENDED REPORTING PERIODS, as described below:

1. A basic EXTENDED REPORTING PERIOD is automatically provided without additional charge. This period starts upon the expiry of the policy period and lasts for fifteen (15) days. The basic EXTENDED REPORTING PERIOD does not apply to any CLAIM that is covered under any subsequent insurance the INSURED purchases, or that would be covered but for the exhaustion of the limit of liability applicable to such CLAIM(S).
2. An optional supplemental EXTENDED REPORTING PERIOD of one (1) year is available by endorsement for a required additional premium to be determined by the INSURANCE MANAGER, and only if:
 - (a) this policy is cancelled or non-renewed, except for non-payment of the premium; or
 - (b) the INSURANCE MANAGER renews or replaces this policy with insurance that:
 - (i) has a retroactive date later than the date shown in the Declarations of this policy; or
 - (ii) does not apply to any CLAIM(S) on a claims-made and reported basis.

The supplemental EXTENDED REPORTING PERIOD starts when the basic EXTENDED REPORTING PERIOD, set forth in Item 1 of Part VI, ends; and

The Named INSURED must give the INSURANCE MANAGER a written request and pay the additional premium for the supplemental EXTENDED REPORTING PERIOD endorsement within fifteen (15) days after the end of the policy period. Otherwise, the supplemental EXTENDED REPORTING PERIOD will not go into effect. The entire premium for the supplemental EXTENDED REPORTING PERIOD shall be deemed fully earned and non-refundable at the commencement of the supplemental EXTENDED REPORTING PERIOD.

3. Neither the basic EXTENDED REPORTING PERIOD nor the supplemental EXTENDED REPORTING PERIOD (if purchased) extends the policy period or changes the scope of coverage provided or reinstates or increases the limit of liability stated as such in the Declarations.

4. Both the basic EXTENDED REPORTING PERIOD and the supplemental EXTENDED REPORTING PERIOD (if purchased) apply only to CLAIMS first made during the policy period or EXTENDED REPORTING PERIOD(S) and reported during the EXTENDED REPORTING PERIOD(S) that result from an error, omission or negligent act in the rendering of INSURED SERVICES by the INSURED:

- (a) during the policy period; or
- (b) before the effective date of the initial policy issued and renewed without interruption by the INSURANCE MANAGER, but after the retroactive date (if one is shown in the Declarations), provided that on the effective date of this policy the INSURED did not know of the CLAIM or of the circumstance that could reasonably have given rise to the CLAIM.

5. Any CLAIM that is first made and reported to the INSURANCE MANAGER during the basic EXTENDED REPORTING PERIOD or the supplemental EXTENDED REPORTING PERIOD (if purchased) will be deemed to have been reported on the last day of the policy period.

Once in effect, neither the basic EXTENDED REPORTING PERIOD nor a supplemental EXTENDED REPORTING PERIOD (if purchased) may be terminated, except for non-payment of premium.