

Educational Institution Liability

Intact Insurance Company - (hereinafter called the Insurer)

Words and phrases that appear in quotation marks have special meaning.

Please read this policy carefully.

Preamble

This policy only covers "claims" which are first made during the "policy period" or **Optional Extension Period** subject to:

- (i) Payment of the premium
- (ii) The statements in the application for cover
- (iii) The terms and conditions of the policy.

I. Insuring Clause

- A. To pay on behalf of the "insureds" for "loss" sustained as a result of any "claim" arising from a "wrongful act"
- B. To pay on behalf of the "institution" for "loss" sustained as a result of any "claim" arising from a "wrongful act"

II. Extensions

A. Estates and Legal Representatives.

This policy is extended to cover "loss" sustained as a result of any "claim" arising from a "wrongful act" of any "insureds" made against the estates, heirs, legal representatives or assigns of any "insureds" who are deceased or against the legal representatives or assigns of any "insureds" who are incompetent, insolvent or bankrupt

B. Optional Extension Period.

If this policy is cancelled or not renewed by the insurer for any reason other than non payment of premium, the "insureds" have the right to purchase an Optional Extension Period of 365 days following the effective date of cancellation or non renewal. However, coverage during the Optional Extension Period shall only apply to "claims" made in respect of "wrongful acts" committed prior to such effective date.

In order to invoke the Optional Extension Period:

- 1. the "insureds" must give notice within 30 days of the effective date of cancellation or non renewal.
- 2. the "insureds" must pay an additional premium calculated at the percentage shown in the Declarations, This premium is non returnable in whole or in part.

The purchase of the Optional Extension Period does not increase the Limit of Liability.

III. Definitions

- A. **"institution"** shall mean the Educational Institution shown in Item 1 of the Declarations as legally constituted at the inception of this Policy.
- B. **"insureds"** shall mean all persons who were, now are or shall be employed by the "institution" and shall also include student teachers and all elected or appointed members of the Board of Education. Trustees, Governors or Directors of the "institution".
- C. **"abuse"** shall mean physical abuse, mental abuse, sexual abuse and assault and battery.
- D. **"claim"** shall mean any judicial or administrative proceeding initiated against any "insureds" or "institution" for damages or other relief.
- E. **"costs, charges and expenses"** shall mean legal fees, and expenses incurred in defending, investigating or monitoring a "claim" and appeals and the cost of appeal, attachment or similar bonds, excluding salaries and expenses of any "insureds".
- F. **"data"** means representations of information or concepts in any Form.
- G. **"declaration page(s)"** means the declaration pages applicable to this Form.
- H. **"fungi"** includes, but is not limited to, any Form or type of mould, yeast, mushroom, mildew, wet or dry rot, or bacteria whether or not allergenic, pathogenic or toxigenic, and any substance, vapour or gas produced by, emitted from or arising out of any "fungi" or "spores" or resultant mycotoxins, allergens, or pathogens.

- I. **“loss”** shall mean damages, judgements, settlements and “costs, charges and expenses”, excluding:
 - 1. punitive or exemplary damages;
 - 2. criminal or civil fines or penalties;
 - 3. taxes other than those for which the “insureds” are personally liable under statute for non-remittances by the “institution”
 - 4. matters deemed uninsurable under law
- J. **“policy period”** shall mean the period shown in item 3 of the Declarations plus the **Optional Extension Period** if applicable.
- K. **“spores”** includes, but is not limited to, any reproductive particle or microscopic fragment produced by, emitted from or arising out of any “fungi”.
- L. **“terrorism”** means an ideologically motivated unlawful act or acts, including but not limited to the use of violence or force or threat of violence or force, committed by or on behalf of any group(s), organization(s) or government(s) for the purpose of influencing any government and/or instilling fear in the public or a section of the public.
- M. **“wrongful act”** shall mean any actual or alleged error or misstatement or misleading statement or act or omission or neglect or breach of duty by any “insureds”, or any other matter claimed against any “insureds” in the discharge of their duties, individually or collectively.

IV. Exclusions

The Insurer shall not be liable to make any payment for “loss” in connection with any “claim” made against the “insureds” or the “institution”:

- A. for
 - 1. bodily injury, sickness, disease or death.
 - 2. damage to, destruction of, or loss of use of any tangible property.
- B. based upon, or arising out of, or directly or indirectly resulting from, or in consequence of actual, or alleged “abuse”.
- C. based upon or arising out of any “wrongful act” or circumstances or situation which has been the subject of notice given under any prior policy.
- D. which is insured under any existing policy regardless of whether such “claim” is collectable or recoverable. However, this exclusion shall not apply to “loss” which exceeds the retention or deductible and limit of such existing policy.
- E. based upon, arising out of or directly or indirectly resulting from or in consequence of, or in any way involving, actual or alleged seepage, pollution or contamination of any kind.
- F. based upon, or arising out of:
 - 1. any “insured” gaining any personal profit or advantage to which they were not legally entitled;
 - 2. the receipt by any “insured” of remuneration to which they were not legally entitled;
 - 3. any dishonest, fraudulent or criminal act or omission;
 except the Insurer agrees to reimburse the “insured” for “costs, charges and expenses” incurred by any “insured” if the defence of such “claim” is successful.
- G. for false arrest, libel, slander, defamation of character, invasion of privacy, wrongful dismissal, wrongful eviction, assault or battery, except insofar as may be insured under any other valid policy or policies and then only in excess of such insurance but excluding in any event claims made against the “insured” arising out of publications or utterances in the course of or related to advertising, broadcasting or telecasting activities conducted by or on behalf of the “insureds” or “institution”.
- H. for any activities where the “insured” acts in any capacity as an insurance agent, insurance broker or consultant.
- I. based upon or arising out of the failure to purchase or maintain insurance.
- J. for anti-combine, price fixing, or anti-competitive, or restraint of trade actions.
- K. based upon, or arising out of, an actual or alleged breach of contract or failure to proceed with a contract, including an employment contract, whether verbal or written.
- L. for Nuclear Liability described in the attached endorsement.
- M. for:
 - 1. erasure, destruction, corruption, misappropriation, misinterpretation of “data”; or
 - 2. erroneously creating, amending, entering, deleting or using “data”; and
 any loss of use arising therefrom.
- N. arising out of the distribution or display of “data”, by means of an Internet Website, the Internet, an intranet, extranet, or similar device or system designed or intended for electronic communication of “data”.
- O. Arising directly or indirectly, in whole or in part, out of “terrorism” or out of any activity or decision of a government agency or other entity to prevent, respond to or terminate “terrorism”. This exclusion applies regardless of any other contribution or aggravating cause or event that contributes concurrently or in any sequence to the “claim”.

- P. 1. or any other cost, loss or expense incurred by others, arising directly or indirectly, from the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, presence of, spread of, reproduction, discharge or other growth of any “fungi” or “spores” however caused, including any costs or expenses incurred to prevent, respond to, test for, monitor, abate, mitigate, remove, cleanup, contain, remediate, treat, detoxify, neutralize, assess or otherwise deal with or dispose of “fungi” or “spores”.
2. any supervision, instructions, recommendation, warnings, or advice given which should have been given in connection with the testing for, assessment, monitoring, removal, abatement, mitigation, treatment, detoxification, or neutralization of, “fungi” or “spores; or
3. any obligation, whether imposed under statute or common law, to share damages with, to pay or repay someone else who must pay damages because of the “loss”, damage or activity referred to in (1). or (2). above.

This exclusion applies regardless of the cause of the “loss” or damage, other causes of the “loss”, damage, expense or costs or whether other causes acted concurrently or in any sequence to produce the “loss”, damage, expense or costs.

- Q. nor does this insurance cover, any actual or alleged liability whatsoever for any “loss” or “losses”, damage, cost or expense directly or indirectly caused by, resulting from or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever Form or quantity. This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the “loss”, damage, cost or expense.

NOTE: Any “wrongful act” pertaining to any “insureds” shall not be imputed to any other person for the purpose of determining the applicability of Exclusion F.

V. Limit of Liability

The Limit of Liability shall be the maximum aggregate amount payable hereunder inclusive of “costs, charges and expenses”.

VI. Retention

- A. No “loss” shall be paid by the Insurer until the retention is exceeded
- B. If more than one “claim” arises from the same “wrongful act”, then it will be deemed a single “claim”

VII. General Conditions

A. Warranty and Severability Clause:

- The application for this policy is considered as part of the policy, which is issued based upon the statements contained in the application and in reliance on any other material submitted to the Insurer.
- In the event that material misrepresentations have been made within the application, then this policy shall be void and of no effect.
- This policy is a severable contract or series of contracts with the “insureds” and the “institution”. This does not increase the Limit of Liability shown in item 4 of the Declarations.

B. Cancellation

This policy may be cancelled:

- by the “institution” giving written notice in which event a return of premium calculated at short rate will be made.
- by the insurer giving written notice, but such notice must be given 30 days before the effective date of cancellation. In this event a pro rata return premium will be made.

C. Authorisation:

It is agreed that the “institution” shall act on behalf of all “insureds” in matters concerning this policy including cancellation and the giving of notice.

D. Subrogation:

In the event of payment under this policy, the insurer has the right of subrogation against any person or entity.

E. Assignment:

This policy may not be assigned without the insurer’s consent.

F. Changes:

The “institution” or “insureds” are not authorised to make changes to this policy without the Insurer’s consent. This policy’s terms can be amended or waived only by endorsement issued by the insurer and made part of this policy.

G. Defence and Settlements:

The insurer has the right to defend any “claim” for “loss” arising out of a “wrongful act” even if any of the allegations are groundless, false or fraudulent, or alternatively may at the option of the insurer, give its written consent to the defence of any such “claim” by the “insured”.

The “institution” or “insureds” will not, except at their own cost, voluntarily admit liability, make a payment, assume any obligation or incur any expense without the insurer’s consent, such consent not to be unreasonably withheld.

H. Notification:

1. In the event of a “claim”, notice must be given to the insurer as soon as practicable.
2. If during the “policy period”, the “insureds” or the “institution” becomes aware of a “wrongful act” which they believe will lead to a “claim” notice must be given to the insurer as soon as practicable. Any “claim” arising out of such “wrongful act” shall then be deemed to have been made during the “policy period”. Such notice must state why it is believed that a “claim” will be made.

This endorsement changes the policy. Please read it carefully.

Nuclear Liability Exclusion

This endorsement modifies insurance provided under the following:

Educational Institution Liability

The following is added to **Section IV. Exclusions:**

- L. 1. for liability imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof;
2. for loss with respect to which an “insured” under this policy is also insured under a contract of nuclear energy liability insurance (whether the “insured” is unnamed in such contract and whether or not it is legally enforceable by the “insured”) issued by the Nuclear Insurance Association of Canada or any other insurer or 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;
3. for loss 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;
 - (iii) the possession, consumption, use, handling, disposal or transportation of fissionable substances, or of other radioactive material (except radioactive isotopes, away from a nuclear facility, which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an “insured”.

As used in this policy:

1. The term “nuclear energy hazard” means the radioactive, toxic, explosive or other hazardous properties of radioactive material;
2. The term “radioactive material” means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances which may be designated by any nuclear liability act, law or statute, or any law amendatory thereof as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;
3. The term “nuclear facility” means:
 - (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, and uranium or any one or more of them;
 - (b) any equipment or device designed or used for (i) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (ii) processing or utilising 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;

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

4. The term "fissionable substance" means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements, or limitations of this policy other than above stated.