



Canadian Lawyers Liability Assurance Society

2019/2020 Renewal Application for  
Excess Professional Liability Insurance

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This application is made by the undersigned member (the "Firm") of the Canadian Lawyers Liability Assurance Society ("CLLAS") for issuance by CLLAS to the Firm of policies of professional liability insurance.

**Note:** *The policies applied for are "claims made" policies and only provide coverage for claims first made against the Insured during the policy period.*

Please answer **ALL** questions. Where space to answer is insufficient, attach a separate sheet.

1. Name of Firm (Named Insured): Fasken Martineau DuMoulin LLP

2. Address of principal office: 333 Bay Street, Suite 2400, Bay Adelaide Centre  
Box 20, Toronto ON M5H 2T6

Phone: (416) 366-8381 Fax: (416) 364-7813

3. Address, phone and fax numbers of other office(s):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Management or service companies, date(s) established and services provided:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Is the Firm a multi-disciplinary partnership ("MDP")? ☐ yes ☐ no

If "yes", provide date MDP was established and name the non-lawyer partners and their respective disciplines.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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6. Since the most recent CLLAS application, has the name of the Firm been changed, or has any firm merged into the Firm? If so, give full particulars (including the number of lawyers merged into the Firm in each such situation) unless previously provided.

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7. Attached as Appendix A is a list of the Firm's predecessor firms resulting from mergers since July 1, 1987. Is the list complete?

☐ yes      ☐ no

If "no", please provide update.

Note: A predecessor firm is one a) which has undergone dissolution; and b) in which more than 50% of the partners and employed lawyers became partners and employed lawyers of the Firm.

8. Please complete Appendices B and C to provide the following details as of March 1, 2019:

- a) Number of lawyers (including partners, employed lawyers, counsels/of counsels and lawyer consultants).
- b) Number of patent & trademark agents (who are not lawyers).
- c) Number of other non-lawyer consultants.
- d) Number of paralegals.
- e) Number of other employees.
- f) If applicable, the number of lawyers who are not partners, employed lawyers, counsels/of counsels or lawyer consultants of the Firm who, directly or indirectly, provide services to professional corporations which are partners of the Firm. Please identify such individuals and professional corporations as requested in Appendix B.

Note: A common professional corporation structure is one where the lawyer remains a partner of the firm but the firm contracts with a professional corporation to provide the services of the partner to the firm via the professional corporation. Those lawyers would be accounted for in a) above. Question f) is intended to address an alternative structure whereby the professional corporation itself is a partner of the firm and it contracts directly or via another professional corporation with a lawyer to provide professional services.

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9. Please show the Firm's practice split by indicating the approximate percentage of billings for the following areas of law:

	<u>This Year</u>		<u>Last Year</u>	
a) Corporate and Commercial Law	_____	%	31.3	%
b) Criminal Law	_____	%	0.0	%
c) Family Law	_____	%	0.0	%
d) Intellectual Property	_____	%	5.2	%
e) Labour Law	_____	%	12.9	%
f) Litigation	_____	%	25.0	%
g) Real Estate	_____	%	8.8	%
h) Securities Law	_____	%	7.8	%
i) Tax Matters	_____	%	3.3	%
j) Wills, Estates, Trust	_____	%	1.3	%
k) Other (please specify)	_____	%	2.6	%

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10. Have any of the lawyers or non-lawyer consultants listed in Appendices B and C or former lawyers or former non-lawyer consultants of the Firm been the subject of disciplinary proceedings, suspended or disbarred from practice since the date of the Firm's most recent CLLAS application? ☐ yes ☐ no

If "yes", please provide full details:

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11. Attached as Appendix D is a description of the "Associated Firms" and "Umbrella Firms" which are identified in the Associated Firm Endorsement (Endorsement No. 1) of the current CLLAS Primary Policy. Please verify, update where appropriate and advise CLLAS of any anticipated changes.
12. Canadian law society programs may restrict coverage if Professional Services are provided outside of Canada or if the Professional Services relate to non-Canadian law. The CLLAS Primary Policy also excludes coverage for lawyers providing Professional Services from a U.S. office as well as the practice of non-Canadian law. Please provide details of such services in Appendix E.
13. Attached as Appendix F is a schedule of claims and notices which have been given to the applicable law society and CLLAS as of December 31, 2018. Please verify and provide any changes in status. All known claims or notices that are not on the schedule, including those reported to any underlying insurance carrier, should be reported up to the date of this application. **Notices on this application are not considered proper notice of a claim.**

If applicable, CLLAS will also require an update on claims of your predecessor firms which were reported prior to any merger which are paid or currently reserved excess of \$500,000.

Note: Details required on all claims or notices are: name of lawyer, name of claimant, date claim reported, error date, date claim closed (if applicable), a brief description of the claim, including damages sought, amount paid (legal & indemnity) and amount reserved (legal & indemnity).

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14. Will the Firm purchase coverage under the CLLAS optional excess layer?

☐ yes      ☐ no

If "yes", please indicate preferred limit option:

<input type="checkbox"/> \$10M xs \$160M	<input type="checkbox"/> \$20M xs \$160M
<input type="checkbox"/> \$30M xs \$160M	<input type="checkbox"/> \$40M xs \$160M
<input type="checkbox"/> \$50M xs \$160M	<input type="checkbox"/> \$60M xs \$160M

15. Under Appendix G, please provide a full description of the Firm's most current risk management policies and procedures or, if appropriate, an update to your response to Appendix G of last year's renewal application.

16. Please complete Appendix H to provide underwriting information with respect to cyber liability.

17. Please attach as Appendix I copy of the Firm's 2019 Professional Liability Insurance Application and Exemption Form submitted to LawPro.

The undersigned hereby declares that the above statements and particulars, including those set forth in Appendices A through I, are true and that no material facts have been omitted, suppressed or misstated and that this application, which is deemed to include the information from any previous applications completed by the Firm for CLLAS, shall be the basis of each of the insurance contracts with CLLAS.

Signature: \_\_\_\_\_

*(Must be signed by a Partner of the Firm)*

Name of Signatory: \_\_\_\_\_

*(Who shall be the designated contact person between CLLAS & the Firm as respects this insurance.)*

Date: \_\_\_\_\_

APPENDIX A

PREDECESSOR FIRMS

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Name of Firm: Fasken Martineau DuMoulin LLP

**APPENDIX B**  
**ACTIVE MEMBERS OF THE FIRM AS OF MARCH 1, 2019**

Name of Firm: Fasken Martineau DuMoulin LLP

	<u>CANADA</u>					<u>OUTSIDE OF CANADA</u> <sup>/5</sup>	
	<u>B.C.</u>	<u>Alberta</u>	<u>Ontario</u>	<u>Quebec</u>	<u>Other Provinces</u> <u>(Please specify)</u>	<u>U.S.</u>	<u>Other</u> <u>Locations</u>
a) No. of Lawyers <sup>/1</sup>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
b) No. of Patent & Trademark Agents <sup>/2</sup>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
c) No. of Non-lawyer Consultants <sup>/3</sup>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
d) No. of Paralegals	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
e) No. of Other Employees	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
f) No. of lawyers who are not employees of the Firm who, directly or indirectly, provide services to professional corporations which are partners of the Firm <sup>/4</sup>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>

<sup>/1</sup> Including partners, employed lawyers, counsels/of counsels and lawyer consultants.

<sup>/2</sup> These are not lawyers.

<sup>/3</sup> Please complete Appendix C if individuals are reported under this category.

<sup>/4</sup> Lawyers reported here should not be included under a). (See note at Question 8.f) of the application.)

<sup>/5</sup> Please complete Question 3 of Appendix E to provide further information on lawyers reported under these columns.

***Please attach a list of the lawyers reported under a) above, showing in each case his/her full name, date of call, date joined the Firm and, if applicable, date became partner.***

***Please attach a list of the names of the individuals reported under f) above, together with the names of the professional corporations to which they provide services.***

***If underlying insurance is purchased outside any Canadian mandatory law society program for lawyers, please provide full details under Appendix E, Question 4.***

If members of the Firm, either alone or with others, engage in the conduct of any profession or business other than the practice of law (e.g. financial management, mortgage brokering or other consulting; underwriting or brokering of securities or investment banking activities; real estate appraisal; actuarial analysis) either directly or indirectly as an agent, employee or partner of any organization, please give full particulars.

APPENDIX C  
ACTIVE NON-LAWYER COUNSULTANTS OF THE FIRM AS OF MARCH 1, 2019  
(Excluding Patent & Trademark Agents)

Name of Firm: Fasken Martineau DuMoulin LLP

**SECTION A**

<u>Professional Service Provided or Type of Profession</u>	<u># Person in Same Profession</u>	<u>Location (Province)</u>	<u>Client Contact</u>	<u>Advise Clients</u>	<u>Supervised by Lawyers</u>	<u>Underlying Insurance</u> <sup>/1</sup>	<u>% of Time Docketed</u> <sup>/2</sup>
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	

**SECTION B**

Please provide the following details on the underlying insurances purchased and attach a copy of the policies:

Type of Exposure: \_\_\_\_\_  
Insurance Carrier: \_\_\_\_\_  
Policy Number: \_\_\_\_\_  
Period of Insurance: \_\_\_\_\_  
Retroactive Date: \_\_\_\_\_  
Limits: \$\_\_\_\_\_ per claim, \$\_\_\_\_\_ aggregate

Type of Exposure: \_\_\_\_\_  
Insurance Carrier: \_\_\_\_\_  
Policy Number: \_\_\_\_\_  
Period of Insurance: \_\_\_\_\_  
Retroactive Date: \_\_\_\_\_  
Limits: \$\_\_\_\_\_ per claim, \$\_\_\_\_\_ aggregate

<sup>/1</sup> If underlying insurance is purchased, please complete Section B.

<sup>/2</sup> PLEASE COMPLETE THIS COLUMN ONLY FOR INDIVIDUALS WHO ARE NOT ACTING UNDER THE SUPERVISION OF A LAWYER AND FOR THAT PORTION OF TIME THE INDIVIDUAL IS NOT ACTING UNDER THE SUPERVISION OF A LAWYER.

APPENDIX D  
"ASSOCIATED FIRMS" AND "UMBRELLA FIRMS"

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Name of Firm: Fasken Martineau DuMoulin LLP



## APPENDIX E

### PROFESSIONAL SERVICES PROVIDED RELATING TO NON-CANADIAN LAW & PROFESSIONAL SERVICES PROVIDED IN THE U.S. & OUTSIDE OF CANADA

Name of Firm: Fasken Martineau DuMoulin LLP

#### 1. Professional Services Provided by Canadian Lawyers Relating to Non-Canadian Law

Please provide the following information on lawyers primarily resident in Canada who provide Professional Services relating to non-Canadian law (not including those which are incidental to the practice of Canadian law). Please only report on lawyers with more than 5% of docketed time in this category.

Name of Lawyer	Location of Office	% of Docketed Time Relating to Non-Canadian Law

#### 2. Professional Services Provided by Canadian Lawyers from a U.S. Office

Please provide the following information on lawyers primarily resident in Canada who provide Professional Services part time in an office or branch of the Firm located in the United States. Please only report on lawyers with more than 5% of docketed time in this category.

Name of Lawyer	Location of Office	% of Docketed Time in the U.S. Office

#### 3. Professional Services Provided by Offices Outside of Canada

Please provide the following information on all lawyers reported in Appendix B under the "Outside of Canada" column.

Location of Office	# of Lawyers Practise 100% Canadian Law	# of Lawyers Practise 100% Non-Canadian Law	# of Lawyers Practise both Canadian & Non-Canadian Law

#### 4. Other Insurance

For the exposures identified in Questions 1, 2 and 3 above, please provide details of specific insurance protection (e.g. coverage provided for a non-Canadian office or by a non-Canadian law society) as well as a copy of the policies.

Type of Exposure: \_\_\_\_\_

Insurance Carrier: \_\_\_\_\_

Policy Number: \_\_\_\_\_

Period of Insurance: \_\_\_\_\_

Retroactive Date: \_\_\_\_\_

Limits: \$\_\_\_\_\_ per claim, \$\_\_\_\_\_ annual aggregate

Type of Exposure: \_\_\_\_\_

Insurance Carrier: \_\_\_\_\_

Policy Number: \_\_\_\_\_

Period of Insurance: \_\_\_\_\_

Retroactive Date: \_\_\_\_\_

Limits: \$\_\_\_\_\_ per claim, \$\_\_\_\_\_ annual aggregate

Type of Exposure: \_\_\_\_\_

Insurance Carrier: \_\_\_\_\_

Policy Number: \_\_\_\_\_

Period of Insurance: \_\_\_\_\_

Retroactive Date: \_\_\_\_\_

Limits: \$\_\_\_\_\_ per claim, \$\_\_\_\_\_ annual aggregate

Type of Exposure: \_\_\_\_\_

Insurance Carrier: \_\_\_\_\_

Policy Number: \_\_\_\_\_

Period of Insurance: \_\_\_\_\_

Retroactive Date: \_\_\_\_\_

Limits: \$\_\_\_\_\_ per claim, \$\_\_\_\_\_ annual aggregate

APPENDIX F

SCHEDULE OF CLAIMS AND NOTICES AS OF DECEMBER 31, 2018

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Name of Firm: Fasken Martineau DuMoulin LLP

## APPENDIX G

### RISK MANAGEMENT POLICIES AND PROCEDURES

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Name of Firm: Fasken Martineau DuMoulin LLP

Please provide a full description of the Firm's most current risk management policies and procedures or, if appropriate, an update to your response to Appendix G of last year's renewal application.

**APPENDIX H**  
**CYBER LIABILITY**

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Name of Firm: Fasken Martineau DuMoulin LLP

**1. Personnel**

- a) Do you have a Chief Security Officer or Chief Information Security Officer or equivalent? ☐ yes ☐ no

If "no", who within the Firm is responsible for the management of and compliance with the Firm's Security Policies?

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- b) Do you have a Chief Privacy Officer or equivalent? ☐ yes ☐ no

If "no", who within the Firm is responsible for the management of and compliance with the Firm's Privacy Policies?

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**2. Protection**

- a) Do you use encryption tools to enhance the integrity and confidentiality of confidential information?  
☐ yes ☐ no

If you use encryption tools, in which scenarios is data encrypted? (Check all statements that you believe are applicable.)

- ☐ Data at rest  
☐ Data in transit  
☐ Data transferred to removable media (laptops, CD's, backup tapes, USB devices, etc.)  
☐ None of the above

- b) Do you use and regularly update industry-standard antivirus software? ☐ yes ☐ no

- c) Do you install the latest software updates to reduce security vulnerabilities? ☐ yes ☐ no

- d) Do you require that passwords be a minimum length and contain alpha and numeric characters?  
☐ yes ☐ no

- e) Do you require that passwords be regularly updated? ☐ yes ☐ no

- f) Do you check to make sure that no spyware or adware resides on your computers? ☐ yes ☐ no

- g) Do you use and regularly update industry-standard firewall protection systems to prevent unauthorized access to internal networks and computer systems? ☐ yes ☐ no

- h) Is the data on your servers encrypted? ☐ yes ☐ no

- i) Is the data on your desktop and laptop computers encrypted? ☐ yes ☐ no
- j) Is the data on your mobile devices encrypted? ☐ yes ☐ no
- k) Have predesignated computer system/application access rights and privileges been set for all authorized users? ☐ yes ☐ no
- l) Is there hourly or daily automatic backup of documents and emails? ☐ yes ☐ no
- m) Is there hourly or daily automatic backup of your firm-wide tickler system and/or your lawyers' own personal tickler systems? ☐ yes ☐ no
- n) Are backups stored off-site at a secure location? ☐ yes ☐ no
- o) Do you use software that can be used to wipe laptops and mobile devices clean if they are misplaced or stolen? ☐ yes ☐ no
- p) Do you use software that can detect unauthorized transfers of personal information and unauthorized copying of files? ☐ yes ☐ no
- q) Do you use a metadata scrubber on documents that you transmit to clients or third parties such as opposing counsel? ☐ Most of the time ☐ Occasionally ☐ Never

### 3. Incident Response

Do you have a written network security incident response plan? ☐ yes ☐ no

If "yes":

- a) Does it include alternative options should a critical third party outsourcing provider's operations be incapacitated? ☐ yes ☐ no
- b) Does it include procedures to alert your clients that their data may have been compromised? ☐ yes ☐ no

### 4. Policies

- a) Do you maintain a comprehensive information security and privacy policy that is updated and enforced on a continuous basis? ☐ yes ☐ no
- b) Do you advise your lawyers of the risks of using unencrypted email? ☐ yes ☐ no
- c) Does your firm advise your lawyers of the dangers of metadata? ☐ yes ☐ no
- d) Do you purchase insurance other than CLLAS coverage to protect you in the case of privacy breaches? ☐ yes ☐ no
- e) Do you purchase insurance other than CLLAS coverage to protect you in the case of cyber-attacks? ☐ yes ☐ no

APPENDIX I

2019 PROFESSIONAL LIABILITY INSURANCE APPLICATION AND  
EXEMPTION FORM SUBMITTED TO LAWPRO

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Name of Firm: Fasken Martineau DuMoulin LLP