

CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY
(Hereinafter called the "Insurer" or "CLLAS")
36 Toronto Street, Suite 510
Toronto, Ontario M5C 2C5

LAWYERS EXCESS PROFESSIONAL LIABILITY INSURANCE GROUP POLICY

THE DECLARATIONS

1. POLICY NO.:

2. THE INSURED:

Subscribers

Addendum No.

**Designated Underlying
Policy No.**

Borden Ladner Gervais LLP
Davies Ward Phillips & Vineberg LLP
Fasken Martineau DuMoulin LLP
Dentons Canada LLP
Goodmans LLP
McCarthy Tétrault LLP
McMillan LLP
Osler, Hoskin & Harcourt LLP
Torys LLP
WeirFoulds LLP
Cassels Brock & Blackwell LLP

together, in the case of each Subscriber, with any and all other persons and organizations that are named or defined as Insureds under the Designated Underlying Policy of the Subscriber, all as more fully described in the Underlying Insurance.

3. ADDRESS:

As per the address indicated on the Addendum for each individual Subscriber.

4. POLICY PERIOD:

July 1, 2016 to July 1, 2017 at 12:01 a.m. Local Time at the address shown in Item 3.

5. LIMIT OF LIABILITY:

\$30,000,000 per claim/\$60,000,000 in the annual aggregate (including Defence Costs, Charges and Expenses) for all CLLAS Subscribers combined.

6. COVERAGE:

Lawyers Excess Professional Liability

7. UNDERLYING INSURANCE:

- (a) Designated Underlying Policy Nos.:

As per Item 2 and as more fully described in Addendum Nos. _____.

- (b) Total Limits of all Underlying Insurance including the Designated Underlying Policies:

As more fully described in Addendum Nos. _____

8. PREMIUM:

9. ENDORSEMENTS/ADDENDA ATTACHED AT POLICY ISSUANCE:

Addendum Nos. _____

Endorsement Nos. 1, 2 & 3

CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY

Per: _____

Attorney

LAWYERS EXCESS PROFESSIONAL LIABILITY INSURANCE GROUP POLICY

This is a “claims made” excess professional liability insurance contract. In reliance upon the statements made and information furnished in the application process, all of which are deemed to be made a part hereof, and subject to the limits, terms, conditions and exclusions of the Policy, the “Insurer” whose name appears on the Declarations agrees with the Insured as follows:

INSURING AGREEMENTS

To pay on behalf of the Insured Subscribers sums which the **Insured** is legally obligated to pay as damages for the **Ultimate Net Loss** which is in excess of the total limits of Underlying Insurance, where applicable, identified in Item 7 of the Declarations and which arises out of a claim made during the **Policy Period** and which is covered by Underlying Insurance, or would be covered by Underlying Insurance if the insurance were not exhausted by the payment of claims.

Incorporation of Underlying Policy Provisions

This Policy of excess professional liability insurance is to indemnify the Insured Subscribers in accordance with the Insuring Agreements, exclusions, terms, conditions and endorsements of the Designated Underlying Policies as specified in Item 7 of the Declarations.

Change in Underlying Insurance/Defence Provisions

1. This Policy of excess professional liability insurance is issued in reliance upon the existence of Underlying Insurance. If the Underlying Insurance is not maintained as described, or is altered in any manner, the obligation of the Insurer to respond is not increased in any way and the obligation under this Policy of insurance is to pay the amounts which would have been payable if the Underlying Insurance had been maintained in full force and effect as represented at the inception date of this Policy.
2. The Insurer shall not be obligated to pay any claim, judgment, award or to undertake or continue defence of any suit or proceeding after the applicable limit of the Insurer’s liability has been exhausted by payment of judgements, awards, settlements or after deposit of the applicable Limits of Liability in a court of competent jurisdiction, and in such a case, the Insurer shall have the right to withdraw from further defence by tendering control of the defence to the **Insured**.
3. At no time shall the Insurer be called upon to assume charge of the settlement or defence of any claims made or suits brought or proceeding instituted against the **Insured**, but the Insurer shall have the right and shall be given the opportunity to associate with the **Insured**, or its underlying insurer or insurers, or both, in the control, defence and trial of any claims, suits or proceedings which, in the opinion of the Insurer, involve or appear reasonably likely to involve the Insurer. If the Insurer avails itself of such rights and opportunities, the **Insured** shall cooperate in the control, defence and/or trial of such matters.

To the extent that Underlying Insurance is reduced or exhausted by the payment of claims within the scope of coverage of the Underlying Insurance and within the scope of coverage of this contract of insurance, then this Policy of insurance shall operate to respond to claims in excess of the reduced Underlying Insurance or Retention. A claim is not within the scope of coverage of this Policy for the purpose of this provision unless:

1. the claim is made, or triggering notice of circumstances reasonably expected to give rise to a claim is given, during the **Policy Period**, and

2. the claim, or triggering notice of circumstances reasonably expected to give rise to a claim, is not excluded by this Policy, and
3. all other terms and conditions of this Policy have been met.

Aggregate Limit of Liability

Regardless of the number of **Insureds** under this Policy, persons or organizations alleging damages payable or claims made or suits brought, the Insurer's total Limit of Liability for all claims (including defence costs, investigation costs and interest) for the **Policy Period** is limited to the amount stated in Item 5 of the Declarations.

DEFINITIONS

The term "**Insured**" shall mean the Subscribers as stated in Item 2 of the Declarations and the Insured as more fully described in the Underlying Insurance stated in Item 7 of the Declarations.

The term "**Policy Period**" shall mean the period of time stated in Item 4 of the Declarations or any lesser period in the event of cancellation of this Policy but specifically excluding any Extended Reporting Period hereunder.

The term "**Ultimate Net Loss**" shall mean sums paid as damages in settlement of a claim or in satisfaction of a judgement for which the **Insured** is legally liable after making proper deductions for all recoveries and salvages collectible, and includes investigation, adjustment, appraisal, pre-judgement interest, post-judgement interest, appeal and defence costs paid by or incurred by the Insurer with respect to damages covered hereunder.

Ultimate Net Loss does not include (a) costs and expenses which an underlying insurer has paid or incurred or is obligated to pay to or on behalf of the **Insured**, (b) office costs and expenses of the **Insured** and salaries and expenses of employees of the **Insured**, (c) general retainer fees of counsel retained by the **Insured**, or (d) expenses incurred by the **Insured** under contract with another party to provide loss prevention, risk management or claims services or other similar services.

GENERAL CONDITIONS

Interprovincial/International Partnerships

Any endorsements granting coverage for Interprovincial and/or International Partnerships, if any, of the Designated Underlying Policies are applicable to this Policy.

Extended Reporting Period

If the Insurer shall cancel or refuse to renew this Policy, the Subscribers, subject only to the unanimous agreement of all Subscribers, shall then jointly have the right, in consideration of the payment of an additional premium equal to one hundred percent (100%) of the annual premium paid for this Policy, to an extension of the cover granted by this Policy to apply, subject to its terms, conditions, exclusions and limitations, to claims first made against the **Insured** during the period of twelve (12) calendar months after the expiry or effective cancellation date but only when such claim arises out of Acts rendered prior to the expiry date or effective cancellation date. To exercise this right, the Subscribers must jointly give notice in writing (together with payment of the additional premium) not later than thirty (30) days after the expiry date or effective cancellation date. In the event of failure by the Subscribers to give such notice, the Subscribers shall not, at a later date, be entitled to give such notice. The mailing of notice by the Subscribers by registered mail to the Insurer shall be sufficient proof of notice. For the purpose of establishing the Insurer's Limit of Liability under this Extended Reporting Period, the period of twelve (12) months referred to herein shall not in any way increase the Limit of Liability of this Policy as stated in Item

5 of the Declarations, which limit shall apply to the **Policy Period** and the Extended Reporting Period taken together.

Partnership Dissolution Extension

In the event of the dissolution of a Subscriber hereunder during the **Policy Period**, the Insurer hereby agrees to maintain coverage for the Subscriber for the balance of the **Policy Period** in respect of claims arising out of Acts rendered prior to the date of dissolution. The Subscriber shall have the right, in consideration of the payment of an additional premium equal to eighty-five percent (85%) of the Subscriber's proportion of the annual premium paid for this Policy, to an extension of the cover granted by this Policy to apply, subject to its terms, conditions, exclusions and limitations, to claims first made against the Subscriber during a further twelve (12) calendar months but only when such claim arises out of Acts rendered or which should have been rendered prior to the date of dissolution. To exercise this right, said Subscriber must give notice in writing within thirty (30) days of the dissolution date (together with payment of the additional premium). In the event of failure by the Subscriber to give such notice prior to such date, the Subscriber shall not, at a later date, be able to invoke the extension. The mailing by the Subscriber of notice by registered mail to the Insurer shall be sufficient proof of notice.

Insured's Duties in the Event of Claim or Suit

For the purposes of this Policy, the date upon which notice of a claim or circumstance giving rise to a claim is made by the Subscriber to the Canadian Lawyers Liability Assurance Society shall be the date on which such claim attaches to this Policy. The Subscriber shall further, upon request, give the Insurer such information as the Insurer may reasonably request at any time and is in the Subscriber's power to give.

The Subscriber shall further cooperate with the Insurer and take such action as may be necessary to secure and effect any rights of indemnity, contribution or apportionment which any **Insured** may have.

Subrogation and Other Recoveries

The Insurer's obligations to pay are net of any and all recoveries available to an **Insured**. In the event that this Policy is called upon to pay an amount and a subsequent recovery is effected, the amount of recovery shall be remitted to the Insurer except to the extent necessary to reimburse the **Insured** or an insurer for amounts paid in excess of the Limits of Liability of this Policy.

The **Insured** shall prosecute all actions for recovery in good faith on behalf of the Insurer or shall cooperate with the Insurer in its efforts at recovery of any amounts.

Premium and Currency

This Policy is issued for an annual premium as stated in Item 8 of the Declarations.

All limits of liability, premiums and other amounts expressed in this Policy are in Canadian currency.

Firm Changes

Any change among the partners of a Subscriber during the **Policy Period**, or the immediately preceding policy period under a policy with the Insurer, resulting in changes in the name and/or business style of the Subscriber or any merger, acquisition or affiliation involving the addition or withdrawal of eleven (11) or more partners at one time shall be reported to the Insurer promptly but in no event later than thirty (30) days after such event occurs, and the Subscriber shall pay to the Insurer such additional premium as the Insurer may require.

Service of Suit

Service of any action to enforce the obligations of the Insurer under this Policy may be made upon the Attorney for the Insurer at the following address:

Mr. Nicholas Leblovic
Attorney
Canadian Lawyers Liability Assurance Society
c/o 40th Floor, 155 Wellington Street West
Toronto, Ontario M5V 3J7

Notice of Cancellation

This Policy may not be cancelled by the **Insured**. This Policy may be cancelled by the Insurer by mailing to the **Insured** at the address shown in Item 3 of the Declarations written notice stating when not less than sixty (60) days thereafter such cancellation shall be effective. However, if the **Insured** has failed to pay a premium when due or has failed, after demand, to reimburse the Insurer such amounts as the Insurer had paid in settlement or satisfaction of claims or judgement in excess of the applicable limit of the Insurer's liability, this Policy may be cancelled by the Insurer by mailing a written notice of cancellation to the **Insured** at the address shown in Item 3 of the Declarations stating when not less than ten (10) days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice by the Insurer shall be equivalent to mailing.

If the Insurer cancels, the computed pro rata cancellation of the annual premium will be charged to the **Insured**.

Choice of Law

This Policy shall be governed by the laws of the Province of Alberta.

Action Against Insurer

Every action or proceeding against an insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the *Insurance Act, RSA 2000, cI-3*, as amended.

Entire Contract

By acceptance of this Policy, the Subscribers agree that the statements in the Declarations and Applications are their agreements and representations that this Policy is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between the Subscribers and the Insurer or any of its agents relating to this insurance.

IN WITNESS WHEREOF the Insurer has caused this Policy to be executed as of the 1st day of July, 2016 by its Attorney.

CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY

Per: _____
Attorney

**CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY
("CLLAS")**

Endorsement No. 1

In consideration of the premium charged under this Policy, it is understood and agreed that prior acts coverage is provided, in accordance with the terms of Endorsement No. 3 (Heenan Blaikie LLP Lateral Hire Extension Endorsement) attached to each Subscriber's respective CLLAS Primary Policy, to the former Heenan Blaikie LLP lawyers named on that endorsement, but only in respect of professional services performed while acting solely in a professional capacity on behalf of Heenan Blaikie LLP.

This endorsement does not increase the Limit of Liability.

All other terms, conditions, exclusions and limitations remain unchanged.

Attaching to and forming part of Policy Number _____ issued by the Canadian Lawyers Liability Assurance Society.

This endorsement shall be effective from July 1, 2016, 12:01 a.m. Local Time at the address of the **Insured** shown in Item 3 of the Declarations.

CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY

Per: _____
Attorney

**CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY
("CLLAS")**

Endorsement No. 2

With respect to Subscriber Fasken Martineau DuMoulin LLP, it is understood and agreed that:

1. The Declarations are amended by adding the following Item 7-1:

7-1 UNDERLYING INSURANCE SOUTH AFRICA:

In the case of Bell Dewar Inc. (a South African corporation) and Fasken Martineau DuMoulin (PTY) Ltd. (a South African corporation), this Item 7-1 applies in the place of Item 7 and for the purposes of Item 2, the policies identified in this Item 7-1 apply in the place of the Designated Underlying Policy of the Subscriber identified in Item 2.

- (a) Designated Underlying Policies

Policy Period:

Insurer:

Limit:

- (b) Total Limits of all Underlying Insurance, including the Designated Underlying Policies:

2. The coverage afforded by this endorsement shall not include the additional coverages under the Designated Underlying Policies, i.e. North America; Outside Directors & Officers; Fidelity Guarantee; Misappropriation of Trust Money; Identity Theft/Cyber Cover.

This endorsement does not increase the Limit of Liability.

All other terms, conditions, exclusions and limitations remain unchanged.

Attaching to and forming part of Policy Number _____ issued by the Canadian Lawyers Liability Assurance Society.

This endorsement shall be effective from July 1, 2016, 12:01 a.m. Local Time at the address of the **Insured** shown in Item 3 of the Declarations.

CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY

Per: _____
Attorney

**CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY
("CLLAS")**

Endorsement No. 3

With respect to Subscriber Dentons Canada LLP, it is understood and agreed that the clause entitled "Change in Underlying Insurance/Defence Provisions" is deleted and is replaced by the following but only in respect of the Subscriber named herein:

Change in Underlying Insurance/Defence Provisions

1. This Policy of excess professional liability insurance is issued in reliance upon the existence of Underlying Insurance and shall only respond to claims that are covered or fall within the scope of coverage of both the Designated Underlying Policy and the Underlying Insurance excess of the Designated Underlying Policy. If the Underlying Insurance is not maintained as described, or is altered in any manner, the obligation of the Insurer to respond is not increased in any way and the obligation under this Policy of insurance is to pay the amounts which would have been payable if the Underlying Insurance had been maintained in full force and effect as represented at the inception date of this Policy.
2. The Insurer shall not be obligated to pay any claim, judgment, award or to undertake or continue defence of any suit or proceeding after the applicable limit of the Insurer's liability has been exhausted by payment of judgements, awards, settlements or after deposit of the applicable Limits of Liability in a court of competent jurisdiction, and in such a case, the Insurer shall have the right to withdraw from further defence by tendering control of the defence to the **Insured**.
3. At no time shall the Insurer be called upon to assume charge of the settlement or defence of any claims made or suits brought or proceeding instituted against the **Insured**, but the Insurer shall have the right and shall be given the opportunity to associate with the **Insured**, or its underlying insurer or insurers, or both, in the control, defence and trial of any claims, suits or proceedings which, in the opinion of the Insurer, involve or appear reasonably likely to involve the Insurer. If the Insurer avails itself of such rights and opportunities, the **Insured** shall cooperate in the control, defence and/or trial of such matters.

To the extent that Underlying Insurance is reduced or exhausted by the payment of claims within the scope of coverage of both the Designated Underlying Insurance and the Underlying Insurance excess of the Designated Underlying Insurance and within the scope of coverage of this contract of insurance, then this Policy of insurance shall operate to respond to claims in excess of the reduced Underlying Insurance or Retention. A claim is not within the scope of coverage of this Policy for the purpose of this provision unless:

1. the claim is made, or triggering notice of circumstances reasonably expected to give rise to a claim is given, during the **Policy Period**, and
2. the claim, or triggering notice of circumstances reasonably expected to give rise to a claim, is not excluded by this Policy, and
3. all other terms and conditions of this Policy have been met.

This endorsement does not increase the Limit of Liability.

All other terms, conditions, exclusions and limitations remain unchanged.

Attaching to and forming part of Policy Number _____ issued by the Canadian Lawyers Liability Assurance Society.

This endorsement shall be effective from July 1, 2016, 12:01 a.m. Local Time at the address of the **Insured** shown in Item 3 of the Declarations.

CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY

Per: _____
Attorney

**CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY
("CLLAS")**

Lawyers Excess Professional Liability Insurance Group Policy

Addendum No. _____

Subscriber: «2»

Address: «F3»
 «F4»

Primary Underlying Insurance (cost inclusive):

Limit of Liability:

Insurer:

Policy Period:

Policy Number:

Designated Underlying Insurance (cost inclusive):

Limit of Liability:

Insurer:

Policy Period:

Policy Number:

Other Excess Underlying Insurance (cost inclusive):

Limit of Liability:

Insurer:

Policy Period:

Policy Number: