

MEMORANDUM OF INSURANCE



POLICY NO. CLX 1001761

INSURED: McCarthy Tétrault Registered Foreign Lawyers & Solicitors; McCarthy Tétrault (NY) LLP; McCarthy Tétrault LLP; and others as more fully described in the Policy.

ADDRESS: 5 Old Bailey, 2nd Floor
London England EC4M 7BA

In accordance with your instructions we have effected insurance as follows:

PERIOD OF INSURANCE: Inception Date: September 30, 2011
Expiration Date: September 30, 2012
(12:01 a.m. Prevailing Time at the Assured's address set forth above)

LIMIT OF LIABILITY: US\$30,000,000 each Claim and in the Annual Aggregate including Defense Costs, charges and expenses excess of the Retention.

RETENTION: US\$ 75,000 per claim for U.K. work
US\$ 50,000 per claim for U.S. work
US\$ 50,000 ex-U.S.A. and U.K. work

TYPE OF INSURANCE: Lawyers Professional Liability Insurance following the Lead Underwriter and subject to the terms and conditions of the Policy issued by the Lead Underwriter.

LEAD UNDERWRITER: Lexington Insurance Company

COMPANY'S PARTICIPATION: 40.00% of 100.00% of the annual limit and premium expressed hereon.

ANNUAL PREMIUM: \$152,361 exclusive of the Excess & Surplus lines taxes and fees, of PREMIUM: which \$60,944 being 40.00% of 100.00% shall be payable to the Company.

INSURED WITH: Interstate Fire & Casualty Company (the "Company")

DATED:

Oct. 13, 2011

 Underwriting Specialist
Signature and Title of Authorized Representative of the Company

ATTACHING TO AND FORMING PART OF POLICY NUMBER NO: **CLX 1001761**

The Company warrants that:

- A. This MEMORANDUM OF INSURANCE incorporates and is subject to all terms set forth in the Followed Policy issued by the Lead Underwriter – Lexington Insurance Company, Policy No. 023462688 on the identical subject matter and risk and is subordinate to the Followed Policy (except as regards the PREMIUM, the SUM INSURED and Section III B. REINSTATEMENT OF THE LIMIT OF LIABILITY) as contained in the Followed Policy. In matters regarding claims, the Company will act exclusively through the representative or representatives designated by the Underwriters of the Followed Policy. Notwithstanding the foregoing, the Company may, at its sole discretion, elect to associate in the investigation, settlement and/or defense of any claims to which the Company may be liable to contribute.
- B. This MEMORANDUM OF INSURANCE incorporates, and is subordinate to any changes and endorsements of the Followed Policy provided the Company consents to such changes and endorsements, such consent not to be unreasonable withheld.
- C. Any changes of insurers or co-insurers, including incomplete placements, are permitted without notice but loss of coverage resulting from any incomplete placement is assumed by the INSURED and shall not cause the layer of coverage in which the Company participates to drop to a lower level of coverage or increase the participation of the Company in such layer of coverage.
- D. In the events of the reduction or exhaustion of the sums insured under the Followed Policy and/or underlying policies by reason of claims paid thereunder, this MEMORANDUM OF INSURANCE shall:
 - a. in the event of reduction, pay the excess of the reduced underlying sums insured;
 - b. in the event of exhaustion, continue in force as Primary insurance

provided always that in the latter event, this MEMORANDUM OF INSURANCE shall only pay the excess of the retention as provided in the Followed Policy.

DECLARATIONS

Policy Number: 023462720

NOTICE: THIS IS A CLAIMS MADE POLICY, WHICH APPLIES ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD," OR ANY EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY "DEFENSE COSTS," AND "DEFENSE COSTS" WILL BE APPLIED AGAINST THE RETENTION AMOUNT. IN NO EVENT WILL THE COMPANY BE LIABLE FOR "DEFENSE COSTS" OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE APPLICABLE LIMIT OF LIABILITY. THE COVERAGE AFFORDED UNDER THIS POLICY DIFFERS IN SOME RESPECTS FROM THAT AFFORDED UNDER OTHER POLICIES. READ THE ENTIRE POLICY CAREFULLY.

- ITEM 1. **FIRM:** McCarthy Tétrault Registered Foreign Lawyers & Solicitors; McCarthy Tétrault (NY) LLP; McCarthy Tétrault LLP, and others as more fully described in the Policy.
- ITEM 2. **PREDECESSOR FIRM(S):** N/A
- ITEM 3. **POLICY PERIOD:**
- (A) Inception Date: September 30, 2011
 (B) Expiration Date: September 30, 2012
 At 12:01 a.m. both dates at the Address in ITEM 1.
- ITEM 4. **LIMITS OF LIABILITY** (inclusive of **Defense Costs**):
- (A) 30,000,000 maximum limit of liability each **Claim**
- (B) 30,000,000 maximum aggregate limit of liability under this Policy for all **Claims**.
- ITEM 5. **RETENTION AMOUNT:** **US\$ 75,000** per claim for U.K. work
 US\$ 50,000 per claim for U.S.A. work
 US\$ 50,000 per claim ex-U.S.A. and U.K. work
- ITEM 6. **EXTENDED REPORTING PERIOD:**
- | | | | |
|-----|-------------------|-----|------------------------|
| (A) | Additional Period | (B) | Additional Premium |
| | 1 Year | | 150% of Annual Premium |
| | 2 Year | | 225% of Annual Premium |
| | 3 Year | | 300% of Annual Premium |
- ITEM 7. **PENDING OR PRIOR DATE:** Not applicable.
- ITEM 8. **PREMIUM:** \$ 152,361
- ITEM 9. **INSURERS and PARTICIPATIONS**
- Lexington Insurance Company:** 60.00% of 100.00% of the LIMIT and PREMIUM
- Interstate Fire & Casualty Company:** 40.00% of 100.00% of the LIMIT and PREMIUM

These Declarations, the completed signed Application and this Policy with Endorsements shall constitute the contract between the Insured and the Company. In witness whereof, the Company issuing this Policy has caused this Policy to be signed by its authorized officers, but it shall not be valid unless also signed by a duly authorized representative of the Company.

10/11/11

Date



Authorized Representative

CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY INTERNATIONAL

LAWYERS PROFESSIONAL LIABILITY INSURANCE POLICY

In consideration of payment of the premium and subject to the Declarations, limitations, conditions, provisions and other terms of this Policy, the Company and the **Insured** agree as follows:

I. **INSURING CLAUSE**

The Company shall pay **Loss** on behalf of an **Insured** on account of any **Claim** first made against such **Insured** or **Potential Claim** arising during the **Policy Period** or, if exercised, during the Extended Reporting Period, for a **Wrongful Act** committed by the **Insured** before or during the **Policy Period**.

II. **DEFINITIONS**

Application means all signed applications, including attachments and other materials submitted therewith or referenced or incorporated therein, submitted by or on behalf of the **Insured** to the Company for this Policy or for any policy of which this Policy is a direct or indirect renewal or replacement. All such applications, attachments and materials are deemed attached to, incorporated into and made a part of this Policy.

The term "attorney" shall be read to include "attorney, barrister, solicitor, lawyer or the equivalent in any applicable jurisdiction".

Claim means:

(1) any of the following:

- (a) a written demand or written request for monetary damages or non-monetary relief;
- (b) a written demand or arbitration;
- (c) a civil proceeding commenced by the service of a complaint or similar pleading; or
- (d) a formal civil administrative or civil regulatory proceeding (including a disciplinary or grievance proceeding before a court or bar association) commenced by the filing of a notice of charges or similar document or by the entry of a formal order of investigation or similar document,

against an **Insured** for a **Wrongful Act**, including any appeal therefrom;
or

(2) a written request received by an **Insured** to toll or waive a statute of limitations relating to a potential **Claim** described in paragraph (1) above.

Except as may otherwise be provided in Section X Reporting, a **Claim** will be deemed to have been first made when such **Claim** is commenced as set forth in this definition (or, in the case of a written demand or written request, including but not limited to a demand for arbitration, when such demand or request is first received by an **Insured**).

Controlled Enterprise means any business enterprise (other than an **Insured** or a business enterprise in which the ownership, control, operation or management by the **Insured** is exclusively in a fiduciary capacity as an administrator, conservator, executor, trustee, guardian, receiver or committee or in any similar fiduciary capacity incidental to the practice of law by an **Insured**) if at the time the **Wrongful Act** occurs:

- (1) such business enterprise is a publicly traded entity and five percent (5%) or more of its issued and outstanding securities or voting rights to elect or appoint a board of directors or an equivalent governing body is owned or controlled, individually or collectively, by the **Firm** or by one or more **Insured Persons**;
- (2) such business enterprise is not a publicly traded entity and twenty-five percent (25%) or more of the legal and/or equitable ownership of such enterprise is owned or controlled, individually or collectively, by the **Firm** or by one of more **Insured Persons**; or
- (3) such business enterprise is controlled, operated or managed by the **Firm** or by one or more **Insured Persons**.

Defense Costs means that part of **Loss** consisting of reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries, fees, overhead or benefits) of any **Insured** incurred in defending any **Claim** or **Potential Claim** and the premium for appeal, attachment or similar bonds; provided that the Company will have no obligation to procure or provide any bonds.

Domestic Partner means any natural person qualifying as a domestic partner under the provisions or any applicable law or under the provisions of any formal program established by the **Firm**.

Financial Impairment means the status of a **Firm** resulting from:

- (1) the appointment by any government official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate the **Firm**; or
- (2) the **Firm** becoming a debtor in possession under the United States bankruptcy law or the equivalent of a debtor in possession under the law of any other country.

Firm means (the organization) engaged in the practice of law under the name(s) set forth in ITEM 1 of the Declarations, whether as a partnership, professional corporation or association, limited liability partnership, limited liability company or otherwise, and any predecessor firm(s) designated in ITEM 2 of the Declarations.

Foreign Legal Consultant means any natural person who is a lawyer who is accredited and licensed to practice in a foreign jurisdiction and who has been approved by the applicable bar, *law society or court* as a **Foreign Legal Consultant** to provide advice and services about the laws of the lawyer's foreign jurisdiction but only if such services are performed by or on behalf of the **Firm**.

Insured means the **Firm** and any **Insured Person**.

Insured Person means any natural person or entity:

- (1) who was, now is or shall become a partner, principal, director, officer, shareholder or member of the **Firm**;
- (2) who was, now is or shall become designated (as evidenced in the **Firm's** records) as "counsel" or "of counsel" by the **Firm**;
- (3) whose labor or service was, now is or shall be engaged by and directed by the **Firm** to perform **Professional Services**, including a full-time, part-time, seasonal, contracted, leased and temporary employees, or seconded lawyers who are providing Professional Services on behalf of the **Firm**.
- (4) **Foreign Legal Consultants**, or
- (5) **Service Companies** which are corporations or partnerships including any principal, director, officer or employee of such **Service Company** providing services exclusively to the Named Insured.

but only while acting in his, her or its capacity as such.

Intra Firm Representation means **Professional Services** provided with the prior written consent of, or in accordance with the established policies of the **Firm**, by an **Insured Person** to any other **Insured Person** in a lawyer/client relationship.

Loss means the amount that an **Insured** becomes legally obligated to pay as a result of any covered **Claim**, including but not limited to damages (including punitive or exemplary damages if and to the extent that such punitive or exemplary damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages, provided such jurisdiction has a substantial relationship to the relevant **Insured**, to the Company, or to the **Claim** giving rise to the damages), judgments, settlement, pre-judgments and post-judgment interest and **Defense Costs**.

Loss also includes any **Defense Costs** incurred by an Insured with respect to any **Potential Claim** (written notice of which has been given to the company pursuant to Section X(A)(2) Reporting.)

Loss does not include:

- (1) any costs incurred by an **Insured** to comply with any order for injunctive or other non-monetary relief, or to comply with an agreement to provide such relief;
- (2) taxes, fines, penalties (except as provided above with respect to punitive or exemplary damages), liquidated damages or the multiple portion of any multiplied damage award;
- (3) the cost of correcting, re-performing or completing any **Professional Services** or any amount which constitutes restitution, reduction, disgorgement, or set off or return of any fees or expenses paid to or charged by an **Insured** for **Professional Services**; or
- (4) any amount not insurable under the law pursuant to which this Policy is construed.

Personal Injury means libel, slander, disparagement, violation of rights of privacy, false arrest, detention or imprisonment, wrongful entry or eviction, malicious prosecution or abuse of process;

Policy Period means the period of time set forth in ITEM 3 of the Declarations, subject to any prior termination in accordance with Section XX Termination of Policy.

Pollutants means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by the United States Environmental Protection Agency or any state, county, municipality or locality counterpart thereof. Such substances shall include, without limitation, solid, liquid, gaseous or thermal irritants, contaminants, smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also include any air emission, odor, wastewater, oil or oil products, infectious or medical waste, asbestos, or asbestos products and any noise.

Pollution means the actual, alleged or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of **Pollutants** or any clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of any **Pollutants**, or any voluntary decision to do so.

Potential Claim has the meaning set forth in Section X(A)(2) Reporting.

Professional Services means services provided to others by an **Insured** as:

- (1) an attorney or notary public;
- (2) an administrator, conservator, executor, trustee, guardian, escrow agent, receiver or committee or in any similar fiduciary capacity incidental to the practice of law by the **Firm**;

- (3) an arbitrator or mediator;
- (4) a member, director or officer of any non-profit professional legal association, its governing board, or any of its committees;
- (5) a government affairs advisor or lobbyist;
- (6) a title insurance agent pursuant to a written agency agreement with licensed title insurance company, but only when acting in such capacity for real estate transactions for which an **Insured** has provided services as an attorney;
- (7) a paralegal or legal assistant, solely in connection with the performance of **Professional Services**;
- (8) patent or trademark agent or title searcher; or
- (9) a **Foreign Legal Consultant**.

but only if such services are performed in the name of or on behalf of the **Firm** and some or all of the fee, if any, accruing from such services (regardless of whether such fee is actually collected) inures to the benefit of the **Firm**. **Professional Services** shall include the provision of any investment advice.

Related Claims means all **Claims** based upon, arising from, or in consequence of the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events.

Wrongful Act means any actual or alleged act, error or omission committed, attempted, or allegedly committed or attempted, solely in the performance of or failure to perform **Professional Services** by the **Firm** or by an **Insured Person** acting in his or her capacity as such on behalf of the **Firm**.

III. EXCLUSIONS

- (A) The Company shall not be liable for **Loss** incurred by an Insured on account of any **Claim** or **Potential Claim**;
 - (1) based upon, arising from, or in consequence of any fact, circumstance, situation, transaction, event or **Wrongful Act** that was the subject of any notice given under any policy of which this Policy is a direct or indirect renewal or replacement;
 - (2) based upon, arising from or in consequence of any fact, circumstance, situation, transactions, event or **Wrongful Act** occurring prior to the inception date of the first lawyers professional liability policy issued to the **Firm** by the Company which, prior to such inception date, any **Insured** knew or should have known might give rise to a **Claim**;

- (3) based upon, arising from, or in consequence of any demand, suit or other proceeding pending against, or order, decree or judgment entered for or against such **Insured**, on or prior to the Pending or Prior Date set forth in ITEM 7 of the Declarations, or the same or substantially the same fact, circumstance, situation, transaction, event or **Wrongful Act** underlying or alleged therein;
- (4) based upon, arising from, or in consequence of **Pollution**; provided that this exclusion shall only apply where the **Insured** is an actual or alleged owner, lessee or operator of the property in question;
- (5) for bodily injury, mental anguish, emotional distress (except mental anguish and emotional distress resulting from **Personal Injury**), sickness, disease or death of any person or damage to, destruction of or loss of use of any property (including software, data or other information that is in electronic form), whether or not it is damaged or destroyed; provided that this Exclusion shall not apply if the allegations of bodily injury, mental anguish, emotional distress (except mental anguish and emotional distress resulting from **Personal Injury**), sickness, disease or death of any person or damage to, destruction of or loss of use of any property (including software, data or other information that is in electronic form) arises out **Professional Services**.
- (6) for any actual or alleged violation by such **Insured** of the responsibilities, obligations or duties imposed on fiduciaries by the Employee Retirement Income Security Act of 1974, or any amendments thereto, or any rules or regulations promulgated thereunder, or any similar provisions of any federal, state, or local statutory law or common law anywhere in the world;
- (7) by or on behalf of, in the name or right of, or based upon, arising from or in consequence of any **Wrongful Act** on the part of such **Insured** in connection with any **Controlled Enterprise**;
- (8) based upon, arising from, or in consequence of the service of such **Insured Person** in his or her capacity as a partner, member, principal, director, officer, shareholder, counsel, of counsel, or employee of any entity other than the **Firm** or any **Service Company**; provided that this Exclusion shall not apply where the **Insured Person** is acting in his or her capacity as a member, director or officer of any non-profit professional legal association, its governing board, or any of its committees;
- (9) brought or maintained by or on behalf of any **Insured** in any capacity, other than as a client in connection with **Intra Firm Representation**;

- (10) based upon, arising from, or in consequence of **Professional Services** performed as a title insurance agent where there allegedly exists;
 - (a) any defect in title of which any **Insured** had actual knowledge as of the date the title insurance policy was issued by or through any **Insured**; or
 - (b) any actual or alleged breach of underwriting authority by an **Insured**;
- (B) The Company shall not be liable for **Loss** on account of any **Claim** or **Potential Claim** against an **Insured**:
 - (1) based upon, arising from or in consequence of such **Insured** having gained in fact any profit, remuneration or advantage to which such **Insured** was not legally entitled; or
 - (2) based upon, arising from or in consequence of any deliberately fraudulent or dishonest act or omission or any willful violation of any statute or regulation by such **Insured**, or any libel or slander committed by such **Insured** with knowledge of its falsity.

as evidenced by any final judgment or ruling in any judicial, administrative or alternative dispute resolution proceeding.

IV. SPOUSES, ESTATES AND LEGAL REPRESENTATIVES

Coverage shall extend to **Claims** and **Potential Claims** for the **Wrongful Acts** of an **Insured Person** made against:

- (a) the lawful spouse or **Domestic Partner** of such **Insured Person**, if named as a co-defendant with such **Insured Person** solely by reason of such person's status as a spouse or **Domestic Partner**, or such spouse or **Domestic Partner's** ownership interest in property that is sought by a claimant as recovery for an alleged **Wrongful Act** of such **Insured Person**; and
- (b) the estate, heirs, legal representatives or assigns of such **Insured Person** if such **Insured Person** is deceased or the legal representatives or assigns of such **Insured Person** if such **Insured Person** is incompetent, insolvent or bankrupt

All terms and conditions of this Policy including, without limitation, the Retention Amount applicable to **Loss** incurred by the **Insured Person**, shall also apply to **Loss** incurred by the **Insured Person's** spouse, **Domestic Partner**, estate, heirs, legal representatives or assigns. The coverage provided by this Section IV. shall not apply with respect to any loss arising from an act or omission by an **Insured Person's** estate, heirs, legal representatives, assigns, spouse or **Domestic Partner**.

V. OTHER INSURANCE

This Policy shall be specifically excess over, and shall not contribute with, any other valid and collectible insurance, whether such other insurance is stated to be primary, contributory, excess (except insurance specifically in excess of this Policy), contingent or otherwise. This Policy will not be subject to the terms of any other insurance.

VI. TERRITORY

Coverage shall extend anywhere in the world.

VII. EXTENDED REPORTING PERIOD

- (A) If the Company or the **Firm** terminates or does not renew this Policy, other than termination by the Company for nonpayment of premium, then the **Firm** shall have the right to purchase an Extended Reporting Period for either the twelve (12) month period, twenty-four (24) month period or thirty-six (36) month period beginning on the effective date of the termination or non-renewal of this Policy. This right to purchase an Extended Reporting Period shall lapse unless written notice of election to purchase the Extended Reporting Period, together with payment of the additional premium due, as set forth in ITEM 6 of the Declarations, is received by the Company within thirty (30) days following effective date of the termination or non renewal of this Policy. The **Firm** may not change the option selected once that selection has been made.
- (B) If the Extended Reporting Period is purchased, then coverage otherwise afforded by this Policy will be extended to apply to **Loss** from **Claims** and **Potential Claims** first made or notified during such Extended Reporting Period and reported in accordance with Section X. Reporting, but only for **Wrongful Acts** committed or allegedly committed before the effective date of termination or nonrenewal or the date of any event described in Section XIII(B) Changes in Exposure, whichever is earlier. The entire additional premium for the Extended Reporting Period shall be deemed fully earned at the inception of such Extended Reporting Period. Any **Claim** made during the Extended Reporting Period shall be deemed to have been made during the immediately preceding **Policy Period**. The Limit of Liability for the Extended Reporting Period shall be part of and not in addition to the applicable Limits of Liability for the immediately preceding **Policy Period**.

VIII. LIMIT OF LIABILITY

- (A) The Company's maximum liability for all **Loss** from each **Claim** and **Potential Claim** first made or notified during the **Policy Period** shall not exceed the each **Claim** Limit of Liability set forth in ITEM 4(A) of the Declarations.

- (B) The Company's maximum aggregate liability for all **Loss** from all **Claims** and **Potential Claim** first made or notified during the **Policy Period** shall not exceed the aggregate limit of liability set forth in ITEM 4(B) of the Declarations, regardless of the number of **Claims**.
- (C) **Defence Costs** are part of and not in addition to the Limits of Liability set forth in ITEM 4 of the Declarations, and payment by the Company of **Defence Costs** shall reduce and may exhaust such Limits of Liability.

IX. RETENTION AMOUNT

The Company's liability under this Policy shall apply only to that part of covered **Loss** on account of each **Claim** and **Potential Claim** which is excess of the applicable Retention Amount set forth in ITEM 5 of the Declarations. Such Retention Amount shall be depleted only by **Loss** otherwise covered under this Policy and shall be borne by the **Insured** uninsured and at their own risk. In the event that any **Insured Person** is unwilling or unable to bear the Retention Amount it shall be the obligation of the **Firm** to bear such Retention Amount uninsured and at its own risk.

X. REPORTING

(A) Reporting of Claims and Wrongful Acts:

- (1) If a Claim is made against any Insured the Insured shall, as a condition precedent to exercising any right to coverage under this Policy, give to the Company written notice of such **Claims** as soon as practicable, but in no event later than the earliest of the following dates:
 - (a) if this Policy is either terminated or not renewed by the Firm, and if no Extended Reporting Period is purchased, thirty (30) days after the effective date of such expiration or termination;
 - (b) if the Extended Reporting Period is purchased, the expiration date of the Extended Reporting Period; or
 - (c) if the Company sends written notice to the **Firm** pursuant to Section XX (A)(3) Termination of Policy, prior to the effective date of such termination.
- (2) If during the **Policy Period** an **Insured** becomes aware of a **Wrongful Act** which may subsequently give rise to a **Claim** (a "**Potential Claim**"), and during the **Policy Period** the **Insured** gives the Company written notice of such **Wrongful Act**, including a description of the **Wrongful Act** in question, the identities of the potential claimants, the consequences that have resulted or may result from the **Wrongful Act**, the damages that may result from the **Wrongful Act** and the circumstances by which the **Insured** first became aware of the **Wrongful Act**;

then the Company will treat any such subsequently resulting **Claim** as if it had been made against the **Insured** during the **Policy Period**; provided that written notice of such **Claim** is then given to the Company in accordance with paragraph (A)(1) of this Section X.

- (3) All notices of **Claims** or **Potential Claims**, required under this Section X must be sent in writing to the address set forth in Section XI Notice.

XI NOTICE

- (A) All notices to the Company under this Policy of **Claims** and **Potential Claims** which could give rise to a **Claim** shall be given in writing addressed to:

Attn: Claims Department
Lexington Insurance Company
100 Summer Street
Boston MA 02110

- (B) All other notices to the Company under this Policy shall be given in writing addressed to:

Attn: Underwriting
Lexington Insurance Company
100 Summer Street
Boston MA 02110

- (C) Any notice given under XI(A) or XI(B) above shall be effective on the date of receipt by the Company at the address shown.

XII. DEFENSE AND SETTLEMENT

- (A) It shall be the duty of the **Insured** and not the duty of the Company to defend **Claims** and **Potential Claims** made against the **Insured** and to retain qualified counsel of its own choosing with the Company's prior written consent, such consent not to be unreasonably withheld.
- (B) With respect to any **Claim** and **Potential Claims** that appears reasonably likely to be covered in whole or in part under this Policy, the Company shall have the right and shall be given the opportunity to effectively associate with the **Insured**, and shall be consulted in advance by the **Insured** regarding the investigation, defense and settlement of such **Claim**, and **Potential Claims** including but not limited to selecting appropriate defense counsel and negotiating any settlement. It shall not be unreasonable for the Company to withhold its consent to the representation of any **Insured** by another **Insured** or, if more than one **Insured** is involved in a **Claim** or **Potential Claims**, to withhold its consent to separate counsel for one or more of such **Insureds**, unless there is a material actual or potential conflict of interest among such **Insureds**.

- (C) No **Insured** shall settle or offer to settle any **Claim**, incur any **Defense Costs**, or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the Company's prior written consent, which shall not be unreasonably withheld. The Company shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not given its prior written consent.
- (D) If any **Insured** withholds consent to any settlement acceptable to the claimant in accordance with the Company's recommendation (a "Proposed Settlement"), then the Company's liability for all **Loss**, including **Defense Costs**, from such **Claim** shall not exceed the amount of the Proposed Settlement plus **Defense Costs** incurred up to the date of the **insured's** refusal to consent to the Proposed Settlement of such **Claim**.
- (E) The Company shall have no obligation to pay **Loss**, including **Defense Costs**, or to defense or continue to defend any **Claim**, after the Company's applicable Limit of Liability with respect to such **Claim** has been exhausted by the payment of **Loss**. If the Company's Limit of Liability is exhausted by the payment of **Loss** prior to the expiration of this Policy, the Policy premium will be deemed fully earned.

The **Insured** agreed to provide the Company with all information, assistance and cooperation which the Company may reasonably require and agree they will do nothing that may prejudice the Company's position or its potential or actual rights of recovery.

The Company shall, upon written request, advance on a current basis **Defense Costs** owed under this Policy. As a condition of any payment of **Defense Costs** before the final disposition of a **Claim**, the Company may require a written undertaking on terms and conditions satisfactory to it guaranteeing the repayment of any **Defense Costs** paid on behalf of any **Insured** if it is finally determined that this Policy would not cover **Loss** incurred by such **Insured** in connection with such **Claim**.

XIII. CHANGES IN EXPOSURE

(A) Acquisition of Additional Attorneys

If, during the **Policy Period**, the total number of attorneys in the **Firm** increases by more than 10 attorneys as the result of the **Firm's** merger with or acquisition of any other law firm or any group of attorneys who practices together at another law firm, the **Firm** must promptly give the Company written notice thereof, and the Company will be entitled to impose such additional coverage terms and charge such additional premium in connection therewith as the Company, in its sole discretion, may require. Subject to the provisions of this paragraph, coverage shall only be provided for such acquired attorneys with respect to **Wrongful Acts** committed or allegedly committed after the date of such merger or acquisition.

(B) Conversion of Coverage under Certain Circumstances

If, during the **Policy Period**:

- (1) all or substantially all of the **Firm's** assets are acquired by another organization or person or group of organizations or persons acting in concert;
- (2) **Financial Impairment** occurs; or
- (3) the **Firm** merges or consolidates into or with another entity such that the **Firm** is not the surviving entity.

then coverage provided by this Policy shall continue until termination, but only with respect to **Claims** for **Wrongful Acts** committed or allegedly committed prior to such event.

The **Firm** shall give written notice of all events under this Section XIII to the Company as soon as practicable together with such other information as the Company may request. If **Financial Impairment** occurs, the entire premium for this Policy will be deemed fully earned as of the effective date of such **Financial Impairment**.

XIV. REPRESENTATIONS AND SEVERABILITY

In issuing this Policy the Company has relied upon the statements, representations and information in the **Application**. All of the **Insureds** acknowledge and agree that all such statements, representations and information (i) are true and accurate, (ii) were made or provided in order to induce the Company to issue this Policy, and (iii) are material to the Company's acceptance of the risk to which this Policy applies.

In the event that any of the statements, representations or information in the **Application** are not true and accurate, and which were (i) made with the actual intent to deceive or (ii) which materially affect the acceptance of the risk assumed by the company under this Policy, this Policy shall be void with respect to any **Insured** who knew as of the effective date of the **Application** the facts that were not truthfully and accurately disclosed (whether or not the **Insured** knew of such untruthful disclosure in the **Application**) or to whom knowledge of such facts is imputed. For purposes of the preceding sentence:

- (A) the knowledge of any **Insured Person** who is a past, present or future member of the management committee, executive committee or similar governing body of the **Firm** shall be imputed to the **Firm**;
- (B) the knowledge of the person(s) who signed the **Application** for this Policy shall be imputed to all of the **Insureds**; and
- (C) except as provided in (A) above, the knowledge of an **Insured Person** who did not sign the **Application** shall not be imputed to any other **Insured**.

XV. VALUATION AND FOREIGN CURRENCY

All premiums, limits, Retention Amounts, **Loss** and other amounts under this Policy are expressed and payable in the currency of the United States of America. If a judgment is rendered, a settlement is denominated or any element of **Loss** under this Policy is stated in a currency other than United States of America dollars, payment under this Policy shall be made in United States of America dollars at the rate of exchange published in The Wall Street Journal on the date the final judgment is reached, the amount of the settlement is agreed upon or the element of **Loss** is due, respectively.

XVI. SUBROGATION

In the event of any payment under this Policy, the Company shall be subrogated to the extent of such payment to all the **Insured's** rights of recovery therefore, and the **Insured** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Company effectively to bring suit or otherwise pursue subrogation rights in the name of any **Insured**, provided that the Company will not pursue an **Insured's** rights of recovery against any other **Insured**.

XVII. ACTION AGAINST THE COMPANY

No action may be taken against the Company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy. No person or entity shall have any right under this Policy to join the Company as a party to any action against any **Insured** to determine such **Insured's** liability nor shall the Company be impleaded by such **Insured** or legal representatives of such **Insured**.

XVIII. FIRM RIGHTS AND OBLIGATIONS

By acceptance of this Policy, the **Firm** acknowledges and agrees that it shall be considered the sole agent of and will act on behalf of each **Insured** with respect to: the payment of premiums and the receiving of any return premiums that may become due under this Policy; the negotiation, agreement to and acceptance of endorsements; the giving or receiving of any notice, including but not limited to giving notice of **Claim** or a notice of termination pursuant to Section XX Termination of Policy; and the receipt or enforcement of payment of a **Loss** (and the **Firm** shall be responsible for application of any such payment as provided for in this Policy). Each **Insured** acknowledges and agrees that the **Firm** shall act on its behalf with respect to all such matters.

XIX. ALTERATION AND ASSIGNMENT

No change in, modification or, or assignment of interest under this Policy shall be effective except when made by a written endorsement to this Policy which is signed by an authorized employee of Fireman's Fund Insurance Companies.

XX. TERMINATION OF POLICY

(A) This Policy shall terminate at the earliest of the following times:

- (1) upon receipt by the Company of written notice of termination from the **Firm**, provided that this Policy may not be terminated by the **Firm** after the effective date of any event described in Section XIII, Changes of Exposure (B)
- (2) upon expiration of the **Policy Period** as set forth in ITEM 3 of the Declarations or any applicable Extended Reporting Period.
- (3) twenty (20) days after receipt by the **Firm** of a written notice of termination from the Company based upon nonpayment of premium, unless the premium is paid within such twenty (20) day period; or
- (4) at such other time as may be agreed upon by the Company and the **Firm**.

(B) The Company shall refund the unearned premium computed at customary short rates if this Policy is terminated by the **Firm**. Under any other circumstances the refund shall be computed pro rata. Payment or tender of any unearned premium by the Company shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as practicable.

XXI. BANKRUPTCY

Except as provided in Section XIII. Changes in Exposure, bankruptcy or insolvency or any **Insured** shall not relieve the Company of its obligations nor deprive the Company of its rights or defenses under this Policy.

XXII. HEADINGS

The descriptions in the headings and sub-headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

XXIII. COMPLIANCE WITH APPLICABLE TRADE SANCTION LAWS

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit the Company from providing insurance.

ENDORSEMENT NO. 1
CLLAS COMPATIBLE AND ALLOCATION ENDORSEMENT

This Endorsement, effective at 12:01 a.m. on September, 2011, forms part of

Policy No.:	023462720
Issued to:	McCarthy Tétrault Registered Foreign Lawyers & Solicitors; McCarthy Tétrault (NY) LLP; McCarthy Tétrault LLP; and others as more fully described in the Policy.
Issued by:	Lexington Insurance Company

In consideration of the premium charged, it is agreed that:

- (1) Section II. DEFINITIONS is amended by adding **Canadian Insureds** to the definition of **Insured Person**.
- (2) No coverage will be available under this Policy for **Claims** against a **Canadian Insured** arising out of **Professional Services** provided by such **Canadian Insured** from an office or branch of the **Canadian Firm** located in Canada, its provinces or territories and that arise from the practice of laws of the jurisdiction of Canada, its provinces or territories, unless such **Professional Services** are incidental to the practice of the laws of a jurisdiction other than Canada, its provinces or territories.
- (3) For purposes of this endorsement:

Notwithstanding anything to the contrary in this Policy, no coverage will be available to a **Canadian Insured** under this Policy for Claims for which (a) the policy issued by the **Canadian Lawyers Liability Assurance Society scheduled below (the "CLLAS Policy")** or (b) the other policies scheduled below only if they provided coverage in respect of such Claim in excess of the **CLLAS Policy (together with the CLLAS Policy, the "Scheduled Policies")** would afford coverage regardless of: the limit(s) of liability of the Scheduled Policies; compliance, or lack thereof, with the notice and/or reporting requirements of the Scheduled Policies; and whether the Schedule Policies have been canceled:

SCHEDULED POLICIES

Canadian Lawyers Liability Assurance Society	Policy Number
GCAN Insurance Co. / Lombard Ins. Co.	22008
Travelers Guarantee Company of Canada	42260145EO04
ACE INA Insurance/Encon Group Inc.	50192953
Chubb Insurance Company/	SRX390071
Liberty International Underwriters	8169-7828
AIG Commercial Insurance Company of Canada	PLTO295070007
GCAN Insurance Company	34218833
Travelers Guarantee Company of Canada	42260145EO03
Liberty International Underwriters/ACE Insurance	50192952
	PLTO295061008

It is further understood and agreed and notwithstanding Clause V. "Other Insurance", that:

- (1) If **Loss** on account of a **Claim** covered or alleged to be covered by both this Policy and the Policies issued by CLLAS referred to in this Policy, **CLLAS** and the Company agree to use their best efforts to determine a fair and proper allocation of all amounts, including **Defense Costs**, that the Company shall be obligated to pay under this Policy in connection with such **Claim**. In making such determination, the parties shall take into account the contributory fault by the **Insured** and the **Canadian Insured** giving rise to the **Loss**. In the event that an allocation cannot be agreed to, then the Company agrees to follow the procedures and terms and conditions of the Letter Agreement between CLLAS and the Company (referred to in the Letter Agreement as the CLLAS International Insurers, dated July 21, 2008 and attached hereto.)
- (4) For the purposes of this Endorsement:
 - (a) the term "**Canadian Firm**" means McCarthy Tétrault LLP; and
 - (b) the term "**Canadian Insureds**" means collectively the **Canadian Firm** and each person who has a relationship to the Canadian Firm specified in Clauses (1) to (5) of the definition of **Insured Person** as if each reference to **Firm** was read as a reference to **Canadian Firm**.
- (5) This Policy, including but not limited to Section V, OTHER INSURANCE, shall be deemed amended to the extent necessary to effect the purpose and intent of this Endorsement.

The title and any heading in this endorsement/rider are solely for convenience and form no part of the terms and conditions of coverage.

All other terms, conditions and limitations of this Policy shall remain unchanged.



Authorized Representative

ENDORSEMENT NO. 2
EXTENSION OF POLICY PERIOD ENDORSEMENT

This Endorsement, effective at 12:01 a.m. on September 30, 2011, forms part of

Policy No.: 023462720
Issued to: McCarthy Tétrault Registered Foreign Lawyers & Solicitors;
McCarthy Tétrault (NY) LLP; McCarthy Tétrault LLP; and
others as more fully described in the Policy.
Issued by: Lexington Insurance Company

The premium for the Period of Insurance from September 30, 2011 – September 30, 2012, shall be \$152,361, exclusive of the Excess & Surplus lines taxes and fees, of which \$91,417 being 60.00% of 100.00% shall be payable to the Company.

It is hereby understood and agreed that this policy will, without notice, automatically renew for a further 12 months to expire on September 30, 2013, and it is further agreed that the premium for this extended **Policy Period** will be calculated based on the rate per attorney applicable to this policy multiplied by the number of attorneys declared hereunder at September 30, 2012, except, if during the period September 30, 2011 to July 30, 2012:

- (1) a **Claim** payment is made under this policy that is equal to or greater than \$5,000,000, or,
- (2) a **Claim** reserve or a combination of a payment and a reserve, under this policy or under any of the policies issued to those law firms insured by the Company otherwise known as CLLAS International member firms equal to or greater than 65% of the **LIMIT OF LIABILITY** is established or made by the Company or,
- (3) a **Claim** payment or an aggregate of **Claim** payments is made under this policy or under any of the policies issued to those law firms insured by the Company otherwise known as CLLAS International member firms that is equal to or greater than \$10,000,000, then,

each policy issued to each and every CLLAS International member firm shall lapse at its 2012 expiration date, being July 1, 2012, or September 30, 2012, with respect to this policy, and the Company may or may not offer renewal terms for the period commencing either July 1, 2012 to July 1, 2013, or September 30, 2012 to September 30, 2103, with respect to this policy, which may or may not be accepted by the CLLAS International member firms.

For the purpose of this endorsement, CLLAS International member firms and policies are listed below:

<u>CLLAS International Member Firm</u>	<u>Policy Number</u>
Blake, Cassels, & Graydon LLP	023462686
Davies Ward Phillips & Vineberg LLP	023462687
Fasken Martineau Stringer Saul LLP	023462688
McCarthy Tétrault Registered Foreign Lawyers & Solicitors	023462720
Osler Hoskin & Harcourt LLP	023462689
Torys LLP	023462690

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



Authorized Representative

ENDORSEMENT NO. 3
CARRIER RATING DOWNGRADE ENDORSEMENT

This Endorsement, effective at 12:01 a.m. on September 30, 2011, forms part of

Policy No.:	023462720
Issued to:	McCarthy Tétrault Registered Foreign Lawyers & Solicitors; McCarthy Tétrault (NY) LLP; McCarthy Tétrault LLP; and others as more fully described in the Policy.
Issued by:	Lexington Insurance Company

It is hereby understood and agreed that Item XX. Termination of Policy is amended to include Item C.

In the event that the Company:

- (a) ceases underwriting; or
- (b) is declared insolvent or placed under the protection of Chapter 11 or similar proceedings,
or
- (c) has its authority to carry on insurance business withdrawn; or
- (d) has its financial strength rating reduced by A.M. Best or Standard & Poor's or equivalent
rating agency to less than A-;

the Firm may terminate the policy by giving notice and the premium payable to the Firm shall be pro-rata of its proportion of premium to the time on risk.

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



Authorized Representative