

LAWYERS EXCESS PROFESSIONAL LIABILITY INSURANCE POLICY

This is a "Claims Made Policy" and applies only to Claims first made against the Insured during the Policy Period. Please read carefully.

In consideration of the undertaking of the Insured to pay, when due, the premium in the amounts stated in the Declarations and in reliance upon the statements in the application bearing the date stated in the Declarations, and subject to the Limit of Liability stated in the Declarations, and subject to all of the terms of this Policy, the CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY, hereinafter called the Insurer, agrees with the Insured as follows:

I. DEFINITIONS

1. "Aggregate Limit of Liability" means the amount set out in Item 6(b) of the Declarations.
2. "Attorney" means the Attorney for the Insurer set out in Item 4 of the Declarations.
3. "Claim" or "Claims" means:
 - (a) a written or oral demand for money or services including, without limitation, as a result of damage to a claimant's computer hardware or software, or the loss, damage, theft or disclosure of Confidential Information;
 - (b) a written or oral allegation of breach in the rendering or failure to render Professional Services; or
 - (c) a written or oral allegation of Personal Injury
received by the Insured resulting from a single or related act, error, omission or negligent act in the performance of or failure to perform Professional Services by the Insured or by any person for whose acts, errors, or omissions the Insured is legally responsible.
4. "Confidential Information" means proprietary or confidential information (including trade secrets) not in the public domain that came into the care, custody or control of the Insured in the course of the Insured rendering Professional Services.
5. "Consultant" means a person who is neither a partner nor an Employee of the Named Insured or a Service Company and who is either:
 - (a) a lawyer who provides Professional Services to or through the Named Insured as a lawyer; or
 - (b) a Non-Lawyer Consultant.
6. "Costs, Charges and Expenses" means all reasonable costs, charges, expenses and fees incurred by an Insured in connection with a Claim or circumstance reported by the Named Insured including, without limitation, those incurred in retaining outside lawyers, consultants, or other firms or persons by the Insured to investigate, defend or appeal such Claim or circumstance, whether such Claim or circumstance is ultimately settled or adjudicated, the cost of legal, administrative or alternative dispute resolution proceedings, the cost of appeal, attachment or similar bonds or other security required to be furnished in connection with the contesting of such Claim, reasonable expenses that any Insured incurs while investigating, defending or appealing

such **Claim** or circumstance and legal costs awarded against any **Insured** in a suit or proceeding relating to such **Claim** but excluding (i) loss of earnings suffered by an **Insured** and (ii) fines and penalties incurred by an **Insured**.

7. **"Damage(s)"** means damages that the **Insured** is legally obligated to pay arising out of a **Claim** and shall include pre-judgment and post-judgment interest, but shall exclude fines or penalties and fees for legal services rendered by an **Insured**.
8. **"Employee"** means an employee of the **Named Insured**, a **Service Company** or a **Professional Corporation** and shall include any person whom the **Named Insured** wishes to be regarded as an employee for the purpose of this Policy, even if such person is not actually an employee.
9. **"Insured"** means:
 - (a) the **Named Insured**;
 - (b) any partner of the **Named Insured**; any officer, director, shareholder or partner of a **Service Company** or a **Professional Corporation**; any **Employee**; any "counsel" or "of-counsel" of the **Named Insured**; or any **Consultant**; but, in the case of each of the foregoing, only in respect of those **Professional Services** rendered or that should have been rendered while such person or entity held such position with the **Named Insured**, a **Service Company** or a **Professional Corporation**, as applicable and, in the case of a **Consultant**, solely in respect of those **Professional Services** rendered or that should have been rendered to or through the **Named Insured** and in the case of any such person who holds such position with a **Professional Corporation**, such person is a lawyer or a **Non-Lawyer Consultant** who provides **Professional Services** exclusively to or through such **Professional Corporation**;
 - (c) any person or entity who was previously an **Insured** referred to in Clause (b) of this provision, but, in each case, only in respect of those **Professional Services** referred to in said Clause (b);
 - (d) as respects the liability of each **Insured** who is otherwise covered herein, the heirs, executors, administrators, assigns and legal representatives of such **Insured** in the event of death, incapacity or bankruptcy;
 - (e) **Service Companies**, but only in respect of **Professional Services** rendered or that should have been rendered by any other **Insured**; and
 - (f) **Professional Corporations**, but solely in respect of **Professional Services** rendered or that should have been rendered directly or indirectly to or through the **Named Insured**.
10. **"Insurer"** means Canadian Lawyers Liability Assurance Society.
11. **"International Partnership"** means a joint venture of two or more partnerships formed for the purposes of practising law outside of Canada.
12. **"Joint Partnership"** means a joint venture of two partnerships formed for the purposes of practising law in one or more provinces or territories of Canada.
13. **"Limit of Liability"** means, collectively, the **Per Claim Limit of Liability** and the **Aggregate Limit of Liability**.

14. **"Named Insured"** means the Named Insured as stated in the Declarations, or any predecessor firm(s).
15. **"Non-Lawyer Consultant"** means a person other than a lawyer who provides **Professional Services** to or through the **Named Insured**.
16. **"Per Claim Limit of Liability"** means the amount set out in Item 6(a) of the Declarations.
17. **"Personal Information"** means information not in the public domain that came into the care, custody or control of the **Insured** in the course of the **Insured** rendering **Professional Services** allowing the identification of an individual and which may include, without limitation, any one or more of the following:
- (a) social insurance number or its equivalent;
 - (b) medical or healthcare data or other protected healthcare data or information;
 - (c) a government issued driver's licence;
 - (d) financial information.
18. **"Personal Injury"** means:
- (a) false arrest, detention or imprisonment, wrongful entry or eviction or other invasion of private occupancy;
 - (b) the publication or utterance of a libel; or slander or other defamatory or disparaging material or a publication or an utterance in violation of an individual's rights of privacy whether through use of electronic media, the Internet or other means;
 - (c) loss, damage, theft or disclosure of **Personal Information** of an individual whether through use of electronic media, the Internet or other means.
19. **"Policy Period"** means the period of time between the inception date as set out in Item 5 of the Declarations and the effective date of termination, expiration or cancellation of this insurance and specifically excludes any extended reporting period hereunder.
20. **"Professional Corporation"** means a body corporate (i) authorized or permitted under the laws of Canada or any province or territory thereof to provide **Professional Services** including a professional corporation incorporated under the laws of any Province or Territory in Canada and (ii) which directly or indirectly provides **Professional Services** exclusively to or through the **Named Insured**.
21. **"Professional Services"** means services rendered in or ancillary to the practice of law whether through use of electronic media, the Internet or other means, including the holding, use and safeguarding of **Confidential Information** or **Personal Information**, and includes those services performed, or which ought to have been performed, by or on behalf of an **Insured** in such **Insured's** capacity as a lawyer, notary public or **Professional Corporation**, and further includes those services for which the **Insured** is responsible arising out of the **Insured's** activity as a trustee, administrator, executor or other fiduciary, or as an arbitrator, mediator, patent or trademark agent, conservator, custodian, title searcher, liquidator, committee for incompetent, receiver or guardian.

For greater certainty, services performed by the **Insured** in the **Insured's** capacity as a lawyer, notary public or **Professional Corporation** on behalf of clients shall be deemed, for the purposes of this insurance, to be the performance of **Professional Services**, although such services could be performed wholly or in part by non-lawyers.

For greater certainty, services rendered in or ancillary to the practice of law by an **Insured** who is not a lawyer shall be deemed, for the purposes of this insurance, to be **Professional Services**.

- 22. **"Retention"** means the amount referred to in Item 10(b) of the Declarations.
- 23. **"Service Company"** means a corporation or partnership (other than a **Professional Corporation**) including its officers, directors, partners and **Employees**, providing services exclusively to or through the **Named Insured**.
- 24. **"Underlying Insurance"** and **"Mandatory Underlying Insurance"** mean the underlying insurance identified in Item 10(a) of the Declarations.

II. INSURING AGREEMENTS

COVERAGE A – PROFESSIONAL LIABILITY

To pay, on behalf of the **Insured**, all **Damages** in excess of the amount determined in accordance with Conditions IV.2 and IV.3, and which the **Insured** shall become legally obligated to pay as a result of a **Claim** first made against the **Insured** during the **Policy Period**.

PROVIDED ALWAYS THAT the act, error, omission or negligent act which results in such a **Claim** happens:

- (a) during the **Policy Period**; or
- (b) prior to the **Policy Period**, provided that prior to the effective date of this Policy:
 - (i) the **Insured** had not given notice to any prior insurer or under any prior insurance of such act, error, omission or negligent act; and
 - (ii) the **Insured** had no reasonable expectation that such act, error, omission or negligent act was a breach of professional duty or might be the basis for a **Claim**; and
 - (iii) there is no prior policy or policies which provide insurance for the liability arising from such **Claim**. If coverage is otherwise afforded under this Policy and if the available limits of any prior policy or policies are insufficient to pay any **Claim** in full, this Policy will be excess over any such prior coverage.

COVERAGE B – COSTS, CHARGES AND EXPENSES

The **Insurer** agrees that it will pay all **Costs, Charges and Expenses** incurred in connection with the defence of any **Claim** covered hereunder and such costs shall be included within the **Limit of Liability**. However, such **Costs, Charges and Expenses** do not include any overhead costs of the **Insured** or the fees of any counsel personally retained by the **Insured** expended in preparation of the defence of a **Claim** covered by this Policy. With respect to any **Claim** for which there is only partial coverage under this Policy, **Costs, Charges and Expenses** relating to such **Claim** shall be allocated between those matters which are covered under the Policy and those which are not on an equitable and appropriate basis as agreed by the **Insurer** and the **Insured**, or failing such agreement within a reasonable period of

time, by arbitration pursuant to paragraph 1 of Part V (General Provisions).

The costs of any appeal, attachment or similar bonds required to be furnished in connection with the contesting of any **Claim** covered hereunder are included in the terms "**Costs, Charges and Expenses**", and the **Insured** shall not be required to give security for such bonds.

For greater certainty, any obligation of the **Insurer** to pay **Costs, Charges and Expenses** hereunder shall in no event take effect unless and until the limit of liability provided by the **Underlying Insurance** or **Retention**, applicable to the circumstances of a **Claim**, has in fact been exhausted.

III. EXCLUSIONS

This Policy excludes:

1. any **Claim** arising out of any **Insured** acting in a capacity as a director and/or officer of any company or organization, other than a **Service Company** or a **Professional Corporation**.
2. any **Claim** arising out of the fraud or dishonesty of any **Insured** provided that this exclusion shall not apply to any **Insured** who is neither the author of the said fraud or dishonesty nor an accomplice thereto but, in such circumstances, the **Insurer's** obligation to pay shall be over and above the limit of liability under any **Underlying Insurance** or **Retention** and over and above all assets or interests in the **Named Insured** to which the **Named Insured** may have claim of any **Insured** who is excluded from coverage by virtue of this Exclusion.
3. any **Claim** for bodily injury to, or sickness, disease or death of, any person, or injury to or destruction of any tangible property or loss of use resulting therefrom, except that this Exclusion does not apply to a **Claim** for **Personal Injury**.
4. any **Claim** arising out of **Professional Services** provided by the **Insured** arising from the practice of the laws of a jurisdiction other than Canada, its provinces and territories, except where such services are incidental to the practice of the laws of Canada, its provinces and territories.
5. any **Claim** arising out of **Professional Services** provided by the **Insured** from an office or branch of the **Named Insured** located in the United States of America.
6. any **Claim** arising out of the **Insured's** involvement in any partnership or association which is not an **Insured** under this Policy, except that this Exclusion does not apply to any liability which would have otherwise existed in the absence of such partnership or association. For the purposes of this Exclusion, any partnership or association shall include **International Partnerships, Joint Partnerships** and associations with other law firms formed for the purposes of marketing services, client referrals and/or staff development or education.
7. any **Claim** which was first made, or deemed pursuant to Condition IV.1.(c) to have been first made, prior to the **Policy Period**.
8. **Claims** excluded by the attached Nuclear Incident Exclusion.
9. **Claims** excluded by the attached War and Terrorism Exclusion.
10. **Claims** excluded by the attached Asbestos Exclusion.
11. **Claims** excluded by the attached Mould and Other Types of Fungi Exclusion.

12. **Claims** excluded by the attached Economic or Financial Sanctions Exclusion.
13. any portion of a **Claim** which would, in the absence of this Policy, be covered under any **Mandatory Underlying Insurance**.

IV. CONDITIONS

1. Limit of Liability

(a) (i) Per Claim Limit of Liability

Subject to Condition IV.1.(a)(ii), the most the **Insurer** will pay for **Damages** and for **Costs, Charges and Expenses** in connection with any single **Claim**, or in connection with any **Claims** deemed to be a single **Claim** pursuant to Condition IV.1.(b), is the **Per Claim Limit of Liability** less any applicable **Underlying Insurance** or **Retention**.

(ii) Aggregate Limit of Liability

The most the **Insurer** will pay under this Policy for **Damages** and for **Costs, Charges and Expenses** is the **Aggregate Limit of Liability**, regardless of the number of **Claims** and regardless of the number of clients, persons or organizations making a **Claim**.

- (b) All **Claims**, and all circumstances of an act, error, omission or negligent act which might give rise to a **Claim** or **Claims**, which arise from a single or related act, error, omission or negligent act shall be considered a single **Claim** regardless of:

- (i) the number of persons or organizations making a **Claim**;
- (ii) the time or times the single or related act, error, omission or negligent act took place.

- (c) Where multiple **Claims** or circumstances are deemed to be a single **Claim** pursuant to Condition IV.1.(b) above, that single **Claim** will be deemed to have been first made at the earliest of the following times:

- (i) the date the first such **Claim** was reported to the **Insurer**; and
- (ii) the date the first such circumstance was reported to the **Insurer**.

2. Underlying Insurance or Retention

- (a) Any **Claim**, the initial \$25,000 of which is not fully covered by **Underlying Insurance** for any reason (including by reason of there being no **Underlying Insurance**), shall be subject to the **Retention** less the amount of coverage available under any **Underlying Insurance**.
- (b) Only the amount of any **Claim**, including **Costs, Charges and Expenses**, which exceeds the **Underlying Insurance** or **Retention** shall contribute to the reduction of the **Limit of Liability**.

- (c) Where a **Claim** is made against one or more **Insureds** in his, her or its capacity as a **Professional Corporation** or a director, officer, shareholder or **Employee** of a **Professional Corporation** (each a "PC Insured") and coverage for a PC Insured in respect of such **Claim** under the applicable **Mandatory Underlying Insurance** is denied, in whole or in part, solely by reason of such **Insured** being a PC Insured (a "PC Exclusion"), then, notwithstanding Clause 2(a) above, such **Claim** shall be subject to a **Retention** equal to the Special Retention Amount. For the purposes of this Clause 2(c), "Special Retention Amount" means, in respect of any **Claim** to which this Clause 2(c) shall apply, an amount equal to (i) the minimum mandatory coverage that would have otherwise been provided to a PC Insured under the applicable **Mandatory Underlying Insurance** but for the PC Exclusion, less (ii) the amount of coverage, if any, actually available to the PC Insured under the **Mandatory Underlying Insurance**. This Clause 2(c) shall apply only once in respect of any single **Claim** or related **Claims** notwithstanding the number of PC Insureds against whom such **Claim** shall be made.

This Condition is not intended to increase the threshold for coverage under this Policy over that provided for in paragraph 2 of V. GENERAL PROVISIONS of this Policy.

3. **Excess**

In respect of any **Claim** covered hereunder, this Policy is only to pay amounts in excess of any recoveries under the **Underlying Insurance** or **Retention**.

4. **Premium and Currency**

This Policy is issued for an annual premium as stated in Item 7 of the Declarations based on the number, as of the inception date of this Policy, of lawyers and **Non-Lawyer Consultants** providing **Professional Services** and the annual rates in respect of each type of **Professional Service** rendered.

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

5. **Firm Changes**

Any change among the partners of the **Named Insured** 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 **Named Insured** 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 **Named Insured** shall pay to the **Insurer** such additional premium as the **Insurer** may require. (With respect to any affiliation, see paragraph 6 of III. EXCLUSIONS of this Policy.)

6. **Cancellation Clause**

This Policy may not be cancelled by the **Insured**. This Policy may be cancelled by or on behalf of the **Insurer** by delivering to the **Insured**, or by mailing to the **Insured** by registered mail at the **Insured's** address as stated in Item 3 of the Declarations, written notice stating on what date (being not less than sixty (60) days thereafter) cancellation shall be effective. Delivery of such written notice or the mailing thereof by registered mail shall be sufficient proof of notice and the insurance under this Policy shall terminate on the effective date stated in the notice.

If this insurance shall be cancelled by the **Insurer**, the **Insurer** shall be entitled to retain the pro rata proportion of the premium hereon for the period this Policy has been in force.

7. **Extended Reporting Period**

If the **Insurer** shall cancel or refuse to renew this Policy, the **Insured** shall have the right, in consideration of an additional premium equal to one hundred percent (100%) of the annual premium 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 **Professional Services** rendered prior to the expiry date or effective cancellation date. To exercise this right, the **Insured** must 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 **Insured** to give such notice, the **Insured** shall not, at a later date, be entitled to give such notice. The mailing of notice by the **Insured** by registered mail to the **Insurer** at the address stated in Item 4 of the Declarations shall be sufficient proof of notice. For the purpose of establishing the 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 6 of the Declarations, which limit shall apply to the **Policy Period** and the extended reporting period taken together.

8. **Claims Procedure**

- (a) If, during the **Policy Period**, or any extended reporting period, if purchased, the **Insured** first becomes aware of any circumstance which any reasonable person would expect to subsequently give rise to a **Claim**, such **Insured** shall give prompt notice thereof or cause notice to be given to:

Canadian Lawyers Liability Assurance Society
36 Toronto Street, Suite 510
Toronto, Ontario M5C 2C5

Tel. No. 1-866-426-1666
Fax No. 1-855-529-9462

After giving notice, on request, the **Insured** shall furnish promptly thereafter to the **Insurer** all information relating to the circumstance reported which is in the **Insured's** possession or knowledge and within the **Insured's** power to give.

If the **Insured** shall, during the **Policy Period** or any extended reporting period, give written notice to the **Insurer** of any such circumstance as set out above, any **Claim** which may subsequently arise therefrom shall, for the purpose of this Policy, but subject to Condition IV.1.(c), be treated as a **Claim** made on the date on which such notice was given to the **Insurer**.

- (b) If a **Claim** is brought against the **Insured**, the **Insured** shall give prompt notice thereof in the manner set out above and furnish promptly to the **Insurer** every written demand, notice, summons or other process received by the **Insured**, and, if requested, all information relevant to the **Claim** which is in the **Insured's** possession or knowledge and within the **Insured's** power to give.

For the purposes of this Policy, but subject to Condition IV.1.(c), the date upon which notice of such **Claim** is given to the **Insurer** shall be determinative of the date on which such **Claim** attaches to this Policy.

- (c) The **Insurer** shall not settle any **Claim** without the **Insured's** consent. If the **Insurer** deems it advisable to effect a particular settlement and if the **Insured** refuses to consent to such settlement, it is understood that the **Insurer** will continue to contest the **Claim** only on the express condition that if the eventual judgment or settlement is of a higher amount than that for which the **Claim** could have been so settled by the **Insurer**, then the **Insured** shall be responsible for the payment of all **Damages** over and above such amount including additional **Costs, Charges and Expenses** relating thereto.
- (d) In the event of the termination or expiry of this Policy or any applicable extended reporting period, the **Insured** shall have thirty (30) days from said termination or expiration date to give notice to the **Insurer**, in accordance with the provisions of 8(a) or 8(b) above, of **Claims** or circumstances likely to give rise to **Claims** of which the **Insured** was aware prior to said termination or expiration date. Notice of any such **Claims** or circumstances likely to give rise to **Claims** shall be deemed to have been given on the last day of the **Policy Period** or extended reporting period.
- (e) Whenever coverage under any provision of this Policy would be excluded, suspended or lost because of non-compliance with this Condition, the **Insurer** agrees that such coverage as would otherwise be afforded under this Policy shall apply if any **Insured** complies with such Condition promptly after obtaining knowledge of the failure of any other **Insured** to comply therewith.

9. **Assistance and Co-operation of the Insured**

The **Insured** shall not voluntarily assume any liability or settle any **Claim** except at the **Insured's** own cost. The **Insured** shall not interfere in any negotiations for settlement or in any legal proceeding, but whenever requested by the **Insurer** shall aid in securing information and evidence and the attendance of any witness, and shall cooperate with the **Insurer** in the defence of any suit or proceeding or in the prosecution of an appeal. The **Insured** shall also cooperate with the **Insurer** in enforcing any right of contribution or indemnity against any person or organization other than an **Employee** of the **Named Insured** or a **Service Company** or a **Professional Corporation** who may be liable to the **Insured** because of any **Claim** with respect to which insurance is afforded under this Policy.

In the event that any **Insured** shall refuse to comply with the terms of this Condition, the **Named Insured** may, at its option, take the place of the **Insured** to ensure such compliance; provided that any act of the **Named Insured** in complying on behalf of an **Insured** with the requirements of this Condition in respect of any one **Claim** shall not affect the rights of the **Insurer** to rely upon a breach of this Condition by such **Insured**, nor require the **Named Insured** to perform such substitute compliance in respect of any other **Claim**.

10. **Subrogation**

No rights of subrogation shall accrue hereunder against any **Insured** until the **Insured** has been found by a judge, arbitrator or any disciplinary board or tribunal to have committed fraud or dishonesty in relation to the matters which are the subject of a **Claim**.

11. **Maintenance of Mandatory Underlying Insurance**

It is a condition of this Policy that the **Mandatory Underlying Insurance** shall be maintained in full effect during the **Policy Period** and any extended reporting period. Failure to comply with the foregoing shall not invalidate this Policy but in the event of such failure, it is understood that the **Mandatory Underlying Insurance** will be deemed to be carried by the **Insured**.

12. **Partnership Dissolution Extension**

In the event of the dissolution of the **Named Insured** hereunder during the **Policy Period**, the **Insurer** hereby agrees, in consideration of the payment of an additional premium of eighty-five percent (85%) of the annual premium paid for this Policy, to extend coverage granted by this Policy, subject to its terms, conditions, exclusions and limitations, to any **Claim** first made against the **Named Insured** during the period of twelve (12) calendar months after the date of dissolution but only when such **Claim** arises out of **Professional Services** rendered prior to the date of dissolution. This right is conditional upon the **Named Insured** giving notice in writing not later than thirty (30) days after such date of dissolution (together with payment of the additional premium). In the event of failure by the **Named Insured** to give such notice prior to such date, the **Named Insured** shall not, at a later date, be entitled to invoke this extension. The mailing by the **Named Insured** by registered mail of notice to the **Insurer** at the address stated in Item 4 of the Declarations shall be sufficient proof of notice. For the purposes 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, which limit shall apply to the **Policy Period** and the extended reporting period taken together.

V. **GENERAL PROVISIONS**

1. **Arbitration**

In the event of any dispute between the **Insured** and the **Insurer** respecting any matter arising from or in relation to this Policy, such dispute shall be referred to arbitration before a single arbitrator as mutually agreed upon by the **Insured** and the **Insurer** and the arbitration shall be conducted pursuant to the *Arbitration Act, RSA 2000, cA-43*, as amended. The **Insured** and the **Insurer** further agree that the procedure to be followed in every arbitration under this Condition shall be set and determined by the arbitrator appointed by the **Insured** and the **Insurer**.

2. **Other Insurance**

If the **Insured** has other insurance respecting a **Claim** covered by this Policy, except insurance specifically arranged to apply as excess over the insurance provided by this Policy, the insurance hereunder shall be excess over any other valid and collectible insurance and shall not be called upon in contribution.

3. **Foreign Claims**

If direct payment of a **Claim** to or on behalf of an **Insured** is not permitted due to any applicable non-Canadian regulatory restrictions, then such **Claim** shall be paid to the **Named Insured** provided the **Named Insured** is legally permitted and agrees to indemnify such **Insured** or has a vicarious liability for the actions of such **Insured**.

4. **Service of Suit Clause**

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 address as stated in Item 4 of the Declarations.

5. **Choice of Law**

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

6. **Conformity**

Where the terms of this Policy and forms attached hereto are in conflict with the statutes of the province in which coverage is provided, such terms are amended to conform to such statutes.

7. **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.

8. **Statements**

The statements, agreements and representations made in the application for insurance are declared by the signatory to be true to the best of his knowledge and the **Insured** acknowledges that this insurance is issued by the **Insurer** in consideration of such statements, agreements and representations and that the application shall form part of this Policy. However, the **Insurer** will not exercise its right to avoid the coverage afforded by this insurance where it is alleged that there has been non-disclosure or misrepresentation of facts or any untrue statement in the application, if it is established that such alleged non-disclosure, misrepresentation or untrue statement was innocent and free of any fraudulent conduct or intent to deceive.

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

NUCLEAR INCIDENT EXCLUSION
LIABILITY-DIRECT (BROAD) – CANADA
(For use with all Public Liability Policies except Personal, Farmers' and Storekeepers')

It is agreed that this Policy does not apply:

- (a) to liability imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof; nor
- (b) to bodily injury or property damage 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; nor
- (c) to bodily injury or property damage resulting directly or indirectly from the nuclear energy hazard arising from:
 - (i) the ownership, maintenance, operation or use of a nuclear facility by or on behalf of an Insured;
 - (ii) the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; and
 - (iii) the possession, consumption, use, handling, disposal or transportation of fissionable substances, or of other radioactive material (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 or pursuant to any law, act or statute, or 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.
- 5. With respect to property, loss of use of such property shall be deemed to be property damage.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this Clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

WAR AND TERRORISM EXCLUSION

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto, it is agreed that this Policy excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from, or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

- (a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- (b) any act of terrorism.

For the purpose of this endorsement, an act of terrorism means an act, including, but not limited to, the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (a) and/or (b) above.

If the Insurer alleges that, by reason of this exclusion, any loss, damage, cost or expense is not covered by this Policy, the burden of proving the contrary shall be upon the Insured.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

However, Item (b) of this exclusion shall not apply to the extent that any claim or claims made against the Insured result from an act, error, omission or negligent act in the performance of or failure to perform Professional Services as defined in this Policy.

ASBESTOS EXCLUSION

In consideration of the premium charged for this Policy, it is hereby understood and agreed that this Policy shall not apply to and does not cover any actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly arising out of, resulting from, or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity EXCEPT to the extent that such claim or claims made against the Insured result from an act, error, omission or negligent act in the performance of or failure to perform Professional Services as defined in this Policy.

MOULD AND OTHER TYPES OF FUNGI EXCLUSION

Notwithstanding any other provision in this Policy, this Policy does not apply to:

Any loss, cost or expense, directly or indirectly arising out of, resulting from, or in any manner related to "Fungi", whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss.

"Fungi" as utilized herein shall mean any fungus or mycota or any by-product or type of infestation produced by such fungus or mycota, but not limited to mould, mildew, mycotoxins, spores or any biogenic aerosols.

However, this exclusion does not apply to any claim or claims made against the Insured resulting from an act, error, omission or negligent act in the performance of or failure to perform Professional Services as defined in this Policy.

ECONOMIC OR FINANCIAL SANCTIONS EXCLUSION

The Insurer shall not knowingly provide cover or be liable to pay any claim or provide benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the Insurer to any sanction, prohibition or restriction under any economic or financial sanctions legislation applicable to the Insurer.