

# **CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY**

## **DISCLOSURE STATEMENT**

(Date)

(Name of Defendant Firm)

(the “CLLAS Member”)

(Name of Firm to be Retained)

(the “Retained Firm”)

(Name of Claimant)

(the “Claimant”)

The following information is provided by the Retained Firm in accordance with the provisions of Section 3 of the Conflict of Interest Policy of the Canadian Lawyers Liability Assurance Society (“CLLAS”) in connection with the Claimant’s proposal to retain the Retained Firm to represent its interests in pursuing a professional liability claim against the CLLAS Member:

1. CLLAS is a reciprocal insurance exchange licensed in Alberta and certain other Canadian jurisdictions. It commenced operations on July 1, 1987 to provide professional liability protection to its member firms in excess of the primary coverage (\$1,000,000 outside of Quebec and, as of July 1, 2003, \$10,000,000 in Quebec) provided by the compulsory insurance programs of the Law Societies.
2. A reciprocal insurance exchange is not an incorporated entity and differs from a typical insurance company in several important respects:
  - (a) It is a contractual arrangement among the member firms and the insurance risk is assumed by such member firms. In essence, reciprocal insurance exchange is a self-insurance arrangement among the member firms.
  - (b) The member firms must accept one another as risks and it is important that each member firm has good credit worthiness and represents a preferred insurance risk.
  - (c) A reciprocal is a non-profit organization.
  - (d) A reciprocal requires little capital and is founded on the mutual agreement of all member firms to contribute to the losses incurred by any of them.

3. CLLAS operates under five-year “Underwriting Periods” and during the current five-year period, membership in CLLAS consists of the following law firms:

Member Firm

Borden Ladner Gervais LLP  
Cassels Brock & Blackwell 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

4. Like conventional insurance companies that offer insurance to the public, CLLAS charges a premium to the member firms for the professional liability insurance coverage provided. The coverage provided by CLLAS, which is subject to comprehensive reinsurance (see paragraphs 5 and 6), is described below:
  - (a) CLLAS provides coverage to each member firm of \$50,000,000 each claim and in the annual aggregate including the primary law society coverage.
  - (b) Beyond the coverage described in (a), member firms purchase not less than \$15,000,000 of excess insurance in the commercial markets. CLLAS also provides optional excess layers of coverage.
  - (c) Finally, CLLAS provides a shared “umbrella” layer to the member firms collectively. This layer is excess of all other professional liability insurance coverage arranged by each member firm.
5. CLLAS retains some risk which is shared among the CLLAS member firms. CLLAS reinsures a significant portion of the risk in the commercial reinsurance markets of the insurance coverage provided by CLLAS in respect of each claim, with CLLAS retaining \$975,000 of the insurance coverage between \$1,000,000 and \$25,000 in the event that coverage “drops down” as a result of the coverage being provided by the compulsory insurance program of the Law Societies being narrower in scope than the CLLAS policy.
6. Aggregate reinsurance protection is provided to CLLAS by Colchester Reinsurance Limited (“Colchester”) which is owned by the member firms of CLLAS or their affiliates.
7. If CLLAS were required to pay any claim involving any of the member firms, such claim would be paid first out of CLLAS’ resources, including its rights against reinsurers. If any such claim exhausted such resources, the member firms of CLLAS would be required to make up the difference. The member firms of CLLAS, therefore, also retain the security risk that a reinsurer will be unable or unwilling to pay a claim.

8. Each of the member firms in CLLAS and Colchester has a financial interest in the outcome of any professional liability claim which is brought against a member firm and which is covered by CLLAS. More specifically, if the claim of the Claimant against the CLLAS Member results in a judgment in excess of the applicable primary law society coverage (or \$25,000 in the case of the “drop down” coverage), the partners of the Retained Firm may have personal liability, along with the partners of the other member firms of CLLAS, for payment of part of the excess amount, as outlined in paragraphs 5 to 7 above.