

MEMBER'S MANUAL

The Law Society
of British Columbia



AMENDMENT PAGES

2017: No. 3 December

Highlights

Law Society Rules 2015:* Students who enrol in the admission program after January 1, 2018 are required to take the practice management course, formerly called the small firm practice course (Rule 1 definition of “practice management course” and Rules 2-76, 3-26 and 3-28 heading and (1): pp. 15, 79 and 115); a minor amendment reflects the current in-house nature of the Equity Ombudsperson program (Rule 1 definition of “Ombudsperson”: p. 15); temporary articulated students are restricted from making certain appearances in Supreme Court, but not Provincial Court (Rule 2-71(2): p. 80); former judges and masters of any province returning to practice in BC are bound by similar restrictions, regardless of whether the return to practice is by reinstatement, transfer or first-time application for admission in BC (Rule 2-87 heading, (1) and (7): p. 87); minor text and style changes are made for consistency (Rule 3-64(8): p. 134); when using the electronic filing system of the land title office, a lawyer must not disclose the lawyer’s password or permit any other person, including an employee, to use the password or affix the lawyer’s e-signature (Rule 3-96.1: p. 150); fees are updated for 2018 (Schedules 1, 2 and 3 pp. 217 to 221).

**Historical notes are published only in the website version of the Rules.*

Insurance Policies: Insurance Policy No. LPL 18-01-01 replaces Policy No. LPL 17-01-01. Refer to the Spring 2018 *Insurance Issues: Program Report* for details of the policy revisions.

Filing: File the amended pages in your *Member’s Manual* as follows:

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Insurance Policies	Policy No. LPL 17-01-01 (1 – 28)	Policy No. LPL 18-01-01 (1 – 28)

After filing, insert this sheet at the front of the *Manual* for reference.

Updates: This amendment package updates the *Member’s Manual* to **November 3, 2017**. The previous amendment package was 2017: No. 2 June.

To check that your copy of the *Manual* is up to date, consult the contents checklist on the reverse of this filing page. If you have further questions about updating your *Manual*, contact the Communications department: telephone 604.697.5838 or toll-free 1.800.903.5300 or email communications@lsbc.org.

Website: The *Legal Profession Act*, *Law Society Rules* and *Code of Professional Conduct for British Columbia* can be accessed in the Support & Resources for Lawyers section of the Law Society website at www.lawsociety.bc.ca in both HTML (for online use) and PDF (for printout, including printout of *Member’s Manual* replacement pages).

Refer to the Law Society website for the most current versions of the Act, Rules and Code.

MEMBER'S MANUAL CONTENTS CHECKLIST

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- “**officer**” means the Executive Director, a Deputy Executive Director or other person appointed as an officer by the Benchers;
- “**Ombudsperson**” means a person appointed by the Executive Director to provide confidential dispute resolution and mediation assistance to lawyers, articulated students, law students and support staff of legal employers, regarding allegations of harassment or discrimination by lawyers on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, marital or family status, disability or age, and includes anyone employed to assist the Ombudsperson in that capacity;
- “**panel**” means a panel established in accordance with Part 5 [*Hearings and Appeals*];
- “**practice management course**” means a course of study designated as such and administered by the Society or its agents and includes any assignment, examination or remedial work taken during or after the course of study;
- “**practice review**” means an investigation into a lawyer’s competence to practise law ordered under Rule 3-17 (3) (d) [*Consideration of complaints*] or 3-18 (1) [*Practice review*];
- “**practice year**” means the period beginning on January 1 and ending on December 31 in a year;
- “**practitioner of foreign law**” means a person qualified to practise law in a foreign jurisdiction who provides foreign legal services in British Columbia respecting the laws of that foreign jurisdiction;
- “**principal**” means a lawyer who is qualified to employ and employs an articulated student;
- “**pro bono legal services**” means the practice of law not performed for or in the expectation of a fee, gain or reward;
- “**professional conduct record**” means a record of all or some of the following information respecting a lawyer:
- (a) an order under Rule 2-57 (5) [*Principals*], prohibiting the lawyer from acting as a principal for an articulated student;
 - (b) any conditions or limitations of practice or articles accepted or imposed under the Act or these rules;
 - (c) a decision by a panel or a review board to reject an application for enrolment, call and admission or reinstatement;
 - (d) a decision by the Credentials Committee to reject an application for an inter-jurisdictional practice permit;
 - (e) any suspension or disbarment under the Act or these rules;
 - (f) recommendations made by the Practice Standards Committee under Rule 3-19 [*Action by Practice Standards Committee*];
 - (g) an admission accepted by the Discipline Committee under Rule 4-29 [*Conditional admissions*];

- (h) an admission and consent to disciplinary action accepted by a hearing panel under Rule 4-30 [*Conditional admission and consent to disciplinary action*];
- (i) any Conduct Review Subcommittee report delivered to the Discipline Committee under Rule 4-13 [*Conduct Review Subcommittee report*], and any written dispute of that report considered by the Committee;
- (j) a decision made under section 38 (4) (b) [*Discipline hearings*];
- (k) an action taken under section 38 (5), (6) or (7);
- (l) an action taken by a review board under section 47 [*Review on the record*];
- (m) a payment made under section 31 on account of misappropriation or wrongful conversion by the lawyer;
- (n) an order for costs made against the lawyer under Part 5 [*Hearings and Appeals*];
- (o) any failure to pay any fine, costs or penalty imposed under the Act or these rules by the time that it is to be paid.
- (p) the outcome of an application made by the lawyer under the *Judicial Review Procedure Act* concerning a decision taken under the Act or these rules, including a predecessor of either;
- (q) the outcome of an appeal under section 48 [*Appeal*];
- (r) any disciplinary or remedial action taken by a governing body or body regulating the legal profession in any other jurisdiction;
- (s) a decision of or action taken by the Benchers on a review of a decision of a hearing panel;

“professional corporation” includes a law corporation and means a corporation that is a company, as defined in the *Business Corporations Act*, and that is in good standing under that Act or that is registered under Part 10 of the *Business Corporations Act*, through which a member of a profession, trade or occupation is authorized under a statute governing the profession, trade or occupation to carry on the business of providing services to the public;

“Protocol” means the Inter-Jurisdictional Practice Protocol signed on behalf of the Society on February 18, 1994, as amended from time to time;

“provide foreign legal services” means give legal advice in British Columbia respecting the laws of a foreign jurisdiction in which the person giving the advice is qualified;

“qualification examination” means an examination set by the Executive Director for the purposes of Rule 2-89 [*Returning to practice after an absence*];

- (4) The Executive Director may only grant temporary articles under subrule (2) (a) that are subject to a definite termination date.
- (5) The Executive Director must not grant temporary articles under subrule (2) (b) effective more than 6 weeks before the beginning of the person's articling term.
- (6) The Executive Director must not grant temporary articles under subrule (2) (c) for a period exceeding 3 months.
- (7) Time spent in temporary articles is not part of the articling term.
- (8) Except as otherwise specified in these rules, a person enrolled in temporary articles has the rights, privileges and responsibilities of an articulated student.
- (9) The Credentials Committee may revoke temporary articles at any time for any reason without giving notice to the temporary articulated student and without holding a hearing.

Court and tribunal appearances by temporary articulated students

- 2-71** (1) Despite Rule 2-60 [*Legal services by articulated students*], a person enrolled in temporary articles must not appear as counsel before a court or tribunal without the student's principal or another practising lawyer in attendance and directly supervising the student except
- (a) in the Supreme Court of British Columbia in Chambers on any
 - (i) uncontested matter, or
 - (ii) contested application for
 - (A) time to plead,
 - (B) leave to amend pleadings, or
 - (C) discovery and production of documents, or
 - (iii) other procedural application relating to the conduct of a cause or matter,
 - (b) before a registrar or other officer exercising the power of a registrar of the Supreme Court of British Columbia or Court of Appeal for British Columbia,
 - (c) in the Provincial Court of British Columbia
 - (i) on any summary conviction proceeding,
 - (ii) on any matter that is within the absolute jurisdiction of a provincial court judge,
 - (iii) on any matter in the Family Division or the Small Claims Division, or
 - (iv) when the Crown is proceeding by indictment or under the *Youth Criminal Justice Act* (Canada) in respect of an indictable offence, only on
 - (A) an application for an adjournment,
 - (B) setting a date for preliminary inquiry or trial,

- (C) an application for judicial interim release,
 - (D) an application to vacate a release or detention order and to make a different order, or
 - (E) an election or entry of a plea of Not Guilty on a date before the trial date,
- (d) on an examination of a debtor,
 - (e) on an examination for discovery in aid of execution, or
 - (f) before an administrative tribunal.
- (2) A person enrolled in temporary articles is not permitted under any circumstances to do any of the following in a Supreme Court proceeding:
- (a) conduct an examination for discovery;
 - (b) represent a party who is being examined for discovery;
 - (c) represent a party at a case planning conference, trial management conference or settlement conference.

Training course

- 2-72** (1) The Executive Director may set the dates on which sessions of the training course will begin.
- (2) The Credentials Committee may direct that an articled student be given priority in selection of the training course session that the student wishes to attend if the student is or will be
- (a) articling outside the Lower Mainland,
 - (b) articling as the only student in a firm, or
 - (c) employed as a law clerk.
- (3) Before registering in the training course, an articled student or applicant must make application for enrolment under Rule 2-54 (1) [*Enrolment in the admission program*].
- (4) To register in a training course session, an articled student or applicant must
- (a) pay to the Society the fee for the training course specified in Schedule 1, and
 - (b) deliver to the Executive Director
 - (i) an application for registration, and
 - (ii) the principal's consent to the training course session chosen.
- (5) The Executive Director must deliver to each student who was registered in a training course session and to each student's principal, a transcript stating whether the student passed or failed the training course.

- (6) If a student fails part of the training course, the Executive Director may allow the student one further attempt to pass the examinations, assignments or assessments concerned.
- (7) An articulated student may apply in writing to the Credentials Committee for exemption from all or a portion of the training course, and the Committee may, in its discretion, grant all or part of the exemption applied for with or without conditions, if the student has
 - (a) successfully completed a bar admission course in another Canadian jurisdiction, or
 - (b) engaged in the active practice of law in a common law jurisdiction outside Canada for at least 5 full years.

Tutorial program

- 2-73** (1) The Executive Director may establish a tutorial program to assist students participating in the training course.
- (2) Priority for access to tutorial assistance must be as follows:
 - (a) first priority to students of aboriginal heritage;
 - (b) second priority to all other students.

Review by Credentials Committee

- 2-74** (1) Subject to subrule (2), an articulated student who has failed the training course may apply in writing to the Credentials Committee, not more than 21 days after the date on which the Executive Director issued the transcript, for a review of his or her failed standing.
- (2) An articulated student may not apply to the Credentials Committee under subrule (1) if the student has failed in 3 attempts to pass the training course, including any of the following:
 - (a) the original attempt;
 - (b) a further attempt to pass examinations, assignments or assessments under Rule 2-72 (6) [*Training course*];
 - (c) any attempt to meet a requirement under subrule (7).
- (3) The Credentials Committee may, in its discretion, consider an application for review received after the period specified in subrule (1).

- (4) An articulated student applying for a review under this rule must state the following in the application:
 - (a) any compassionate grounds, supported by medical or other evidence, that relate to the student's performance in the training course;
 - (b) any grounds, based on the student's past performance, that would justify the Credentials Committee granting opportunities for further remedial work;
 - (c) the relief that the student seeks under subrule (7).
- (5) The Credentials Committee may
 - (a) deliver a copy of the student's application for review to the Executive Director,
 - (b) consider any written submission made by the Executive Director, the student, the principal or other person who, in the Committee's opinion, could provide information relevant to the grounds for review, or
 - (c) invite one or more of the student, the principal or the Executive Director, to make any further written submissions, or to meet informally with the Committee.
- (6) Subject to the Act and these rules, the Credentials Committee may determine the practice and procedure to be followed at a review under this rule.
- (7) After considering the submissions made under subrules (4) and (5), the Credentials Committee may do one or more of the following:
 - (a) confirm the standing, including any failed standing, stated in the transcript delivered by the Executive Director;
 - (b) grant the student an adjudicated pass in a training course examination, assignment or assessment, with or without conditions;
 - (c) require the student to complete further examinations, assignments or assessments, and to pass them at a standard set by the Committee;
 - (d) require the student to complete or repeat and pass all, or a portion of, the training course;
 - (e) require the student to complete a specified program of training at an educational institution or under the supervision of a practising lawyer, or both.
- (8) A student who is required to do anything under subrule (7) must pay the fee for the training course, or for each examination, assignment or assessment as specified in Schedule 1.
- (9) The Executive Director must deliver a transcript stating the student's standing and the extent to which any standards or conditions set by the Credentials Committee have been met to
 - (a) each student whom the Committee has required to do anything under subrule (7), and
 - (b) each such student's principal.

Termination of enrolment

- 2-75** (1) An articled student is no longer enrolled in the admission program if the principal or the student has terminated the student's articles for any reason and no assignment of the student's articles is approved within 30 days.
- (2) The 30-day period referred to in subrule (1) does not run while the student is registered in and attending the training course.
- (3) A person whose enrolment has ceased under subrule (1) may apply for enrolment under Rule 2-54 (1) [*Enrolment in the admission program*].

Call and admission

Call and admission

- 2-76** (1) To qualify for call and admission, an articled student must complete the following satisfactorily:
- (a) the articling term;
 - (b) the training course;
 - (b.1) the practice management course;
 - (c) any other requirements of the Act or these rules imposed by the Credentials Committee or the Benchers.
- (2) Subrule (1) (b.1) applies to articled students enrolled in the admission program on or after January 1, 2018.

First call and admission

- 2-77** (1) An articled student who applies for call and admission must deliver to the Executive Director
- (a) the following in the form approved by the Credentials Committee:
 - (i) a petition for call and admission;
 - (ii) a declaration of the principal;
 - (iii) a declaration of the applicant;
 - (iv) a joint report of the principal and the applicant certifying completion of their obligations under the articling agreement;
 - (v) a completed questionnaire;
 - (vi) written consent for the release of relevant information to the Society,
 - (b) a professional liability insurance application or exemption form,

- (c) the following fees:
 - (i) the call and admission fees specified in Schedule 1;
 - (ii) the prorated practice fee specified in Schedule 2;
 - (iii) the prorated annual insurance fee specified in Schedule 2, unless exempt under Rule 3-43 [*Exemption from professional liability insurance*], and
 - (d) any other information and documents required by the Act or these rules that the Credentials Committee or the Benchers may request.
- (2) An articled student may apply under this rule at any time.
 - (3) If an articled student fails to meet the requirements of this rule, including the delivery of all documents specified, the Executive Director must summarily
 - (a) reject the application for call and admission, and
 - (b) terminate the student's enrolment.
 - (4) When the Credentials Committee has initiated a review under Rule 5-19 [*Initiating a review*] of a hearing panel's decision to enrol an articled student, the articled student is not eligible for call and admission until the review board has issued a final decision on the review or the Committee withdraws the review.

Law school faculty

- 2-78** (1) A full-time lecturer in a faculty of law of a university in Canada who has the academic qualifications required under Rule 2-54 [*Enrolment in the admission program*] may apply for call and admission without completing the admission program.
- (2) On an application under this rule, the Credentials Committee may approve the application subject to the condition specified in subrule (3).
- (3) A lawyer called and admitted under this rule who ceases to be a full-time lecturer in a faculty of law of a university in Canada must complete the admission program unless the Credentials Committee otherwise orders.
- (4) The Benchers may require a lawyer who fails to comply with subrule (3) to resign from the Society.

Transfer from another Canadian jurisdiction

- 2-79** (1) An applicant for call and admission on transfer from another jurisdiction in Canada must deliver the following to the Executive Director:
 - (a) an application for call and admission on transfer in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society;
 - (b) a certificate of character;
 - (c) a certificate of standing from each body regulating the legal profession in any jurisdiction in which the applicant is or has been a member of the legal profession;

Former judge or master

Former judge or master

- 2-87** (1) Subject to subrules (2) and (3), a lawyer who was a judge or a master must restrict his or her practice of law as follows:
- (a) a former judge of a federally-appointed court must not appear as counsel in any court in British Columbia without first obtaining the approval of the Credentials Committee;
 - (b) a former judge of a provincial or territorial court in Canada must not appear as counsel in the Provincial Court of British Columbia for 3 years after ceasing to be a judge;
 - (c) a former master of the Supreme Court of British Columbia must not appear as counsel before a master, a registrar, a district registrar or a deputy district registrar of the Supreme Court of British Columbia for 3 years after ceasing to be a master.
- (2) The Credentials Committee may impose conditions or limitations respecting the practice of a former judge when giving approval for that lawyer to appear as counsel under subrule (1) (a).
- (3) The Credentials Committee may at any time relieve a lawyer of a practice restriction referred to in subrule (1) and may impose conditions or limitations respecting the practice of the lawyer concerned.
- (4) A lawyer who has served as a judge or master in any court must not use any judicial title or otherwise allude to the lawyer's former status in any marketing activity.
- (5) Subrule (4) does not preclude a lawyer who has served as a judge or master from referring to the lawyer's former status in
- (a) a public announcement that the lawyer has resumed the practice of law or joined a law firm,
 - (b) a public speaking engagement or publication that does not promote the lawyer's practice or firm,
 - (c) seeking employment, partnership or appointment other than the promotion of the lawyer's practice or firm, or
 - (d) informal conversation or correspondence.
- (6) For the purpose of this rule, it is not the promotion of a lawyer's practice or firm to provide, on request, a curriculum vitae or other statement of experience that refers to the lawyer's former status as a judge or master.
- (7) This rule applies to a lawyer who has served as a master or the equivalent officer of a superior court in Canada as it does to a former master of the Supreme Court of British Columbia.

Returning to practice

Definition and application

- 2-88** (1) In Rules 2-88 to 2-90, unless the context indicates otherwise, “**relevant period**” is the shortest of the following periods of time in the immediate past:
- (a) 5 years;
 - (b) the time since the lawyer’s first call and admission in any jurisdiction;
 - (c) the time since the lawyer last passed the qualification examination.
- (2) For the purpose of paragraph (b) of the definition of “relevant period” in subrule (1), a lawyer is deemed to have been called and admitted as of the date that a practising certificate was issued under Rule 2-84 (4) [*Barristers and solicitors’ roll and oath*].
- (3) Rules 2-88 to 2-90 apply to a former lawyer and an applicant.

Returning to practice after an absence

- 2-89** (1) If, for a total of 3 years or more in the relevant period, a lawyer has not engaged in the practice of law, the lawyer must not practise law without first doing one of the following:
- (a) passing the qualification examination;
 - (b) obtaining the permission of the Credentials Committee under subrule (3).
- (2) Subrule (1) applies
- (a) despite any other rule, and
 - (b) whether or not the lawyer holds or is entitled to hold a practising certificate.
- (3) A lawyer may apply in writing to the Credentials Committee for permission to practise law without passing the qualification examination.
- (4) On an application under subrule (3), the Credentials Committee may approve the application if, in its judgement
- (a) the lawyer has engaged in activities that have kept the lawyer current with substantive law and practice skills, or
 - (b) the public interest does not require the lawyer to pass the qualification examination.
- (5) Before approving an application under subrule (4), the Credentials Committee may require the lawyer to enter into a written undertaking to do any of the things set out in Rule 2-90 (5) (b) [*Conditions on returning to practice*].
- (6) A lawyer who is required to write the qualification examination under subrule (1) must pay, at least 30 days before writing the first examination, the fee specified in Schedule 1.

“small firm” includes

- (a) a firm in which not more than 4 lawyers practise law together, and
- (b) a lawyer in an arrangement to share expenses with other lawyers who otherwise practises as an independent practitioner, except when the lawyer relies on a firm that is not a small firm to maintain trust accounting and other financial records on the lawyer’s behalf,

but does not include

- (c) a public body such as government or a Crown corporation, or
- (d) a corporation other than a law corporation, or other private body.

Application

3-27 Rule 3-28 [*Practice management course*] applies to a lawyer when

- (a) the lawyer begins practice in a small firm or, while practising in a small firm, becomes a signatory on a trust account, unless the lawyer has done both of the following in a Canadian jurisdiction for a total of 2 years or more in the preceding 5 years:
 - (i) engaged in the practice of law in a small firm;
 - (ii) been a signatory on a trust account, or
- (b) the Practice Standards Committee, by resolution, so orders.

Practice management course

- 3-28** (1) Within 6 months after and not more than 12 months before the date on which this Rule applies to a lawyer, the lawyer must
- (a) successfully complete the practice management course, and
 - (b) certify to the Executive Director in a form approved by the Executive Director that the lawyer has successfully completed the practice management course.
- (2) A lawyer who is in breach of subrule (1) has failed to meet a minimum standard of practice, and the Executive Director may refer the matter to the Discipline Committee or the chair of the Discipline Committee.

Professional development

- 3-29** (1) The Benchers may determine by resolution the minimum number of hours of continuing education that is required of a practising lawyer in each calendar year.
- (2) The Benchers may prescribe circumstances in which a class of practising lawyer may be excused from completing all or part of the required professional development.

- (3) In each calendar year, a practising lawyer must
 - (a) complete the required professional development, and
 - (b) certify to the Executive Director in a form approved by the Executive Director that the lawyer has completed the required professional development.
- (4) Despite subrule (3), a practising lawyer need not complete the required professional development in a calendar year in which the lawyer has successfully completed the admission program or the equivalent in another Canadian jurisdiction.
- (5) On written application by a practising lawyer who has refrained from the practice of law for a minimum of 60 consecutive days in a calendar year, the Executive Director may reduce the required professional development for that lawyer.
- (6) The Executive Director must not reduce the amount of required professional development under subrule (5)
 - (a) by an amount greater than that proportionate to the part of the calendar year in which the lawyer refrained from the practice of law
 - (b) by any amount if the lawyer refrained from the practice of law as a result of suspension, disbarment or other disciplinary proceedings.
- (7) A lawyer who ceases to be a practising lawyer without completing all required professional development must complete the uncompleted portion in the next calendar year in which the lawyer is a practising lawyer, in addition to the required professional development for that calendar year.
- (8) A practising lawyer who is in breach of this Rule has failed to meet a minimum standard of practice, and the Executive Director may refer the matter to the Discipline Committee or the chair of the Discipline Committee.

Mentoring

- 3-30** (1) The Benchers may allow credit as a mentor, subject to any conditions or limitations that the Benchers consider appropriate.
- (2) To qualify to receive credit as a mentor, a lawyer must
 - (a) have engaged in the active practice of law in Canada for 7 of the 10 years immediately preceding the calendar year, and
 - (b) not be the subject of an order of the Credentials Committee under subrule (4) (c).

- (2) The Executive Director may authorize a lawyer to withdraw trust funds for a purpose not specified in subrule (1).
- (3) No payment from trust funds may be made unless
 - (a) trust accounting records are current, and
 - (b) there are sufficient funds held to the credit of the client on whose behalf the funds are to be paid.
- (4) A lawyer must not make or authorize the withdrawal of funds from a pooled or separate trust account, except
 - (a) by cheque as permitted by subrule (5) or (6),
 - (b) by electronic transfer as permitted by subrule (7) or (8),
 - (c) by instruction to a savings institution as permitted by subrule (9), or
 - (d) in cash if required under Rule 3-59 (5) or (6) [*Cash transactions*].
- (5) A lawyer who makes or authorizes the withdrawal of funds from a pooled or separate trust account by cheque must
 - (a) withdraw the funds with a cheque marked “Trust,”
 - (b) not make the cheque payable to “Cash” or “Bearer,” and
 - (c) ensure that the cheque is signed by a practising lawyer.
- (6) A lawyer who withdraws or authorizes the withdrawal of trust funds for the payment of fees must withdraw the funds with a cheque payable to the lawyer’s general account.
- (7) A lawyer may make or authorize the withdrawal of funds from a pooled or separate trust account by electronic transfer, provided all of the following conditions are met:
 - (a) the transfer system is one that will produce, not later than the next banking day, a confirmation form from the financial institution confirming the details of the transfer, which should include the following:
 - (i) the date of the transfer;
 - (ii) source trust account information, including account name, financial institution and account number;
 - (iii) destination account information, including account name, financial institution, financial institution address and account number;
 - (iv) the name of the person authorizing the transfer;
 - (v) amount of the transfer;

- (b) the lawyer must
 - (i) complete and personally sign a requisition for the transfer in a form approved by the Discipline Committee,
 - (ii) submit the original requisition to the appropriate financial institution,
 - (iii) retain a copy of the requisition in the lawyer's records,
 - (iv) obtain the confirmation referred to in paragraph (a) from the financial institution,
 - (v) retain a hard copy of the confirmation in the lawyer's records, and
 - (vi) immediately on receipt of the confirmation, verify that the money was drawn from the trust account as specified in the requisition.
- (8) A lawyer may make or authorize the withdrawal of funds from a pooled or separate trust account by electronic transfer using the electronic filing system of the land title office for the purpose of the payment of property transfer tax on behalf of a client, provided that the lawyer
 - (a) retains in the lawyer's records a copy of
 - (i) all electronic payment authorization forms submitted to the electronic filing system,
 - (ii) the property transfer tax return, and
 - (iii) the transaction receipt provided by the electronic filing system,
 - (b) digitally signs the property transfer tax return in accordance with the requirements of the electronic filing system, and
 - (c) verifies that the money was drawn from the trust account as specified in the property transfer tax return.
- (9) A lawyer may instruct a savings institution to pay to the Foundation under Rule 3-60 [*Pooled trust account*] the net interest earned on a pooled trust account.
- (10) A transfer of funds from a pooled trust account to a separate trust account must be authorized by the client and approved in writing signed by a lawyer.

Payment of fees from trust

- 3-65** (1) In this rule, “fees” means fees for services performed by a lawyer or a non-lawyer member of the lawyer's MDP, and taxes on those fees.
- (2) A lawyer who withdraws or authorizes the withdrawal of trust funds under Rule 3-64 [*Withdrawal from trust*] in payment for the lawyer's fees must first prepare a bill for those fees and immediately deliver the bill to the client.

Calculation of interest

- 3-92** (1) In calculating the interest owing to a claimant under Rule 3-91 [*Adjudication of claims*], the Executive Committee must allow interest, for each 3-month period, at 2% below the prime lending rate of the Society’s banker on March 31, June 30, September 30 and December 31 respectively, in each year, with interest to be compounded on June 30 and December 31 in each year.
- (2) Interest calculated under subrule (1) is payable from the first day of the month following receipt of the unclaimed money by the Society, until the last day of the month before payment out by the Society.

Efforts to locate the owner of funds

- 3-93** From time to time, the Executive Director must conduct or authorize efforts to locate the owner of money held under this Part.

Payment to the Law Foundation

- 3-94** Before paying the principal amount received under Rule 3-89 [*Payment of unclaimed trust money to the Society*] to the Foundation under section 34 [*Unclaimed trust money*], the Executive Director must be satisfied that the owner of the money cannot be located following efforts to locate the owner.

Division 9 – Real Estate Practice

Definitions

- 3-95** In this division,
- “**closing date**” means the date upon which the documents to effect a transaction are filed as a pending application in the appropriate land title office;
- “**discharge of mortgage**” means any discharge of mortgage that releases any portion of the land or interest in land charged by the mortgage;
- “**mortgage**” means one of the following registered in a land title office in British Columbia:
- (a) a mortgage of land or an interest in land;
 - (b) a debenture or trust deed containing a fixed charge on land or an interest in land;
- “**mortgagee**” includes the holder of a fixed charge under a debenture or trust deed that is a mortgage;
- “**notary**” means a member of the Society of Notaries Public of British Columbia.

Report of failure to cancel mortgage

- 3-96** A lawyer must deliver to the Executive Director within 5 business days a report in a form approved by the Executive Committee when
- (a) the lawyer delivers funds to
 - (i) a mortgagee to obtain a registrable discharge of mortgage, or
 - (ii) another lawyer or a notary on the undertaking of the other lawyer or notary to obtain and register a discharge of mortgage, and
 - (b) 60 days after the closing date of the transaction giving rise to the delivery of such funds, the lawyer has not received
 - (i) a registrable discharge of mortgage from the mortgagee, or
 - (ii) satisfactory evidence of the filing of a registrable discharge of mortgage as a pending application in the appropriate land title office from the other lawyer or notary.

Electronic submission of documents

- 3-96.1** A lawyer authorized to access and use the electronic filing system of the land title office for the electronic submission or registration of documents must not
- (a) disclose the lawyer's password associated with an electronic signature to another person, or
 - (b) permit another person, including a non-lawyer employee
 - (i) to use the lawyer's password to gain such access, or
 - (ii) to affix an electronic signature to any document or gain access to the electronic filing system unless otherwise authorized to do so.

Division 10 – Criminal Charges

Reporting criminal charges

- 3-97** (1) This rule applies to lawyers, articulated students, practitioners of foreign law and applicants.
- (2) Subject to subrule (4), a person who is charged with an offence under a federal or provincial statute, or an equivalent offence in another jurisdiction, must immediately provide to the Executive Director written notice of the charge.
- (3) [rescinded]
- (4) No notification is required under subrule (2) if a person is issued or served with a ticket as defined in the *Contraventions Act* (Canada) or a violation ticket as defined in the *Offence Act*.

SCHEDULE 1 – 2018 LAW SOCIETY FEES AND ASSESSMENTS

A. Annual fee	\$
1. Practice fee (Rule 2-105 [<i>Annual practising fees</i>])	2,139.72
2. Liability insurance base assessment (which may be increased or decreased in individual cases in accordance with Rule 3-40 (1) [<i>Annual insurance fee</i>]):	
(a) full-time practice	1,800.00
(b) part-time practice	900.00
3. Liability insurance surcharge (Rule 3-44 (2) [<i>Deductible, surcharge and reimbursement</i>])	1,000.00
4. Late payment fee for practising lawyers (Rule 2-108 (3) [<i>Late payment</i>])	100.00
5. Retired member fee (Rule 2-4 (3) [<i>Retired members</i>])	75.00
6. Late payment fee for retired members (Rule 2-108 (4))	nil
7. Non-practising member fee (Rule 2-3 (2) [<i>Non-practising members</i>])	300.00
8. Late payment fee for non-practising members (Rule 2-108 (5))	25.00
9. Administration fee (R. 2-116 (3) [<i>Refund on exemption during practice year</i>])	50.00
 B. Trust administration fee	
1. Each client matter subject to fee (Rule 2-110 (1) [<i>Trust administration fee</i>]) ..	15.00
 C. Special assessments	
 D. Articled student fees	
1. Application fee for enrolment in admission program (Rules 2-54 (1) (e) [<i>Enrolment in the admission program</i>] and 2-62 (1) (b) [<i>Part-time articles</i>]) ..	250.00
2. Application fee for temporary articles (R. 2-70 (1) (c) [<i>Temporary articles</i>]) ..	125.00
3. Application fee for temporary articles (legal clinic) (Rule 2-70 (1) (c))	25.00
4. Training course registration (Rule 2-72 (4) (a) [<i>Training course</i>])	
until April 30, 2018	2,500.00
effective May 1, 2018	2,600.00
5. Remedial work (Rule 2-74 (8) [<i>Review by Credentials Committee</i>]):	
(a) for each piece of work	50.00
(b) for repeating the training course	
until April 30, 2018	3,900.00
effective May 1, 2018	4,000.00
 E. Transfer fees	
1. Application fee for transfer from another Canadian province or territory – investigation fee (Rule 2-79 (1) (f) [<i>Transfer from another Canadian jurisdiction</i>])	1,125.00
2. Transfer or qualification examination (Rules 2-79 (6) and 2-89 (6) [<i>Returning to practice after an absence</i>])	300.00

F. Call and admission fees	\$
1. After enrolment in admission program (Rule 2-77 (1) (c) [<i>First call and admission</i>])	200.00
2. After transfer from another Canadian province or territory (Rule 2-79 (1) (f) [<i>Transfer from another Canadian jurisdiction</i>])	200.00
 G. Reinstatement fees	
1. Application fee following disbarment, resignation or other cessation of membership as a result of disciplinary proceedings (Rule 2-85 (1)(b) [<i>Reinstatement of former lawyer</i>])	600.00
2. Application fee following 3 years or more as a former member (Rule 2-85 (1) (b))	500.00
3. Application fee in all other cases (Rule 2-85 (1) (b))	415.00
 H. Change of status fees	
1. Application fee to become retired member (Rule 2-4 (2) (b) [<i>Retired members</i>])	30.00
2. Application fee to become non-practising member (Rule 2-3 (1) (b) [<i>Non-practising members</i>])	60.00
3. Application fee for non-practising or retired member applying for practising certificate (Rule 2-5 (1) (b))	60.00
 I. Inter-jurisdictional practice fees	
1. Application fee (Rule 2-19 (3) (b) [<i>Inter-jurisdictional practice permit</i>])	500.00
2. Renewal of permit (Rule 2-19 (3) (b))	100.00
 J. Corporation and limited liability partnership fees	
1. Permit fee for law corporation (Rule 9-4 (c) [<i>Law corporation permit</i>])	300.00
2. New permit on change of name fee (Rule 9-6 (4) (c) [<i>Change of corporate name</i>])	75.00
3. LLP registration fee (Rule 9-15 (1) [<i>Notice of application for registration</i>])	300.00
 K. Practitioners of foreign law	
1. Application fee for practitioners of foreign law (Rule 2-29 (1) (b) [<i>Practitioners of foreign law</i>])	600.00
2. Permit renewal fee for practitioners of foreign law (Rules 2-29 (1) (b) and 2-34 (2) (c) [<i>Renewal of permit</i>])	125.00
3. Late payment fee (Rule 2-34 (6))	100.00
 L. Late fees	
1. Trust report late filing fee (Rule 3-80 (2) (b) [<i>Late filing of trust report</i>])	200.00
2. Professional development late completion fee (Rule 3-31 (1) (c) [<i>Late completion of professional development</i>])	500.00
3. Professional development late reporting fee (Rule 3-31 (3) (b))	200.00

M. Multi-disciplinary practice fees		\$
1. Application fee (Rule 2-40 (1) (b) [<i>Application to practise law in MDP</i>]).....		300.00
2. Application fee per proposed non-lawyer member of MDP (Rules 2-40 (1) (c) and 2-42 (2) [<i>Changes in MDP</i>])		1,125.00

Note: The federal goods and services tax applies to Law Society fees and assessments.

**SCHEDULE 2 – 2018 PRORATED FEES AND ASSESSMENTS
FOR PRACTISING LAWYERS**

[Rules 2-77 (1) [*First call and admission*], 2-79 (1) [*Transfer from another Canadian jurisdiction*], 2-85 (4) [*Reinstatement of former lawyer*], and 3-45 (1) and (2) [*Application for insurance coverage*]]

	Law Society fee	Liability insurance assessment	
		Payable prior to call	Payable by June 30
Full-time insurance			
January	2,139.72	900.00	900.00
February	1,959.14	750.00	900.00
March	1,783.10	600.00	900.00
April	1,602.50	450.00	900.00
May	1,426.50	300.00	900.00
June	1,245.87	150.00	900.00
July	1,069.87	900.00	0.00
August	889.29	750.00	0.00
September	713.23	600.00	0.00
October	532.65	450.00	0.00
November	356.63	300.00	0.00
December	176.02	150.00	0.00
Part-time insurance			
January	2,139.72	450.00	450.00
February	1,959.14	375.00	450.00
March	1,783.10	300.00	450.00
April	1,602.50	225.00	450.00
May	1,426.50	150.00	450.00
June	1,245.87	100.00	450.00
July	1,069.87	450.00	0.00
August	889.29	375.00	0.00
September	713.23	300.00	0.00
October	532.65	225.00	0.00
November	356.63	150.00	0.00
December	176.02	100.00	0.00

Note: The federal goods and services tax applies to Law Society fees and assessments.

**SCHEDULE 3 – 2018 PRORATED FEES
FOR NON-PRACTISING AND RETIRED MEMBERS**

[Rules 2-3 (1) *[Non-practising members]*, 2-4 (2) *[Retired members]*
and 2-85 (5) *[Reinstatement of former lawyer]*]

	Non-practising members fee	Retired members fee
January	300.00	75.00
February	275.00	68.75
March	250.00	62.50
April	225.00	56.25
May	200.00	50.00
June	175.00	43.75
July	150.00	37.50
August	125.00	31.25
September	100.00	25.00
October	75.00	18.75
November	50.00	12.50
December	25.00	6.25

Note: The federal goods and services tax applies to Law Society fees and assessments.

SCHEDULE 4 – TARIFF FOR HEARING AND REVIEW COSTS

[Rule 5-11 [*Costs of hearings*]]

Item no.	Description	Number of units
Citation hearing		
1.	Preparation/amendment of citation, correspondence, conferences, instructions, investigations or negotiations after the authorization of the citation to the completion of the discipline hearing, for which provision is not made elsewhere	Minimum 1 Maximum 10
2.	Proceeding under s. 26.01 [<i>Suspension during investigation</i>], 26.02 [<i>Medical examination</i>] or 39 [<i>Suspension</i>] and any application to rescind or vary an order under the Rules, for each day of hearing	30
3.	Disclosure under Rule 4-34 [<i>Demand for disclosure of evidence</i>]	Minimum 5 Maximum 20
4.	Application for particulars/preparation of particulars under Rule 4-35 [<i>Application for details of the circumstances</i>]	Minimum 1 Maximum 5
5.	Application to adjourn under Rule 4-40 [<i>Adjournment</i>] <ul style="list-style-type: none"> • if made more than 14 days prior to the scheduled hearing date • if made less than 14 days prior to the scheduled hearing date 	1 3
6.	Pre-hearing conference	Minimum 1 Maximum 5
7.	Preparation of agreed statement of facts <ul style="list-style-type: none"> • if signed more than 21 days prior to hearing date • if signed less than 21 days prior to hearing date • delivered to Respondent and not signed 	Min. 5 to max. 15 Min. 10 to max. 20 Min. 10 to max. 20
8.	Preparation of affidavits	Minimum 5 Maximum 20
9.	Preparation of Notice to Admit	Minimum 5 Maximum 20
10.	Preparation of response to Notice to Admit	Minimum 5 Maximum 20
11.	All process and correspondence associated with retaining and consulting an expert for the purpose of obtaining opinion(s) for use in the proceeding	Minimum 2 Maximum 10
12.	All process and communication associated with contacting, interviewing and issuing summons to all witnesses	Minimum 2 Maximum 10
13.	Interlocutory or preliminary motion for which provision is not made elsewhere, for each day of hearing	10
14.	Preparation for interlocutory or preliminary motion, per day of hearing	20

**2018 BC LAWYERS' COMPULSORY PROFESSIONAL
LIABILITY INSURANCE
POLICY NUMBER: LPL 18-01-01**

INSURER:

THE LSBC CAPTIVE INSURANCE COMPANY LTD.
(the "Company")

Administrative Offices, 8th Floor, 845 Cambie Street
Vancouver, BC V6B 4Z9

ADMINISTRATOR:

THE LAW SOCIETY OF BRITISH COLUMBIA
(the "Law Society")

INSURANCE CONSULTANT:

JARDINE LLOYD THOMPSON CANADA INC.

DECLARATIONS

- | | | |
|----|---------------------------|---|
| 1. | Individual Insured | As defined in this policy. |
| 2. | Policy Period | From January 1, 2018 to January 1, 2019 (12:01 a.m. standard time). |
| 3. | Limits of Liability | PART A: Professional Liability (for negligence) |
| | (a) | \$1,000,000 All claims arising out of an error for damages and all related claims expenses and deductibles. |
| | (b) | \$2,000,000 Annual Aggregate Limit for damages, claims expenses and deductibles, including any payments under Part C. |
| | | PART B: Trust Protection (for dishonest appropriation) |
| | (c) | \$300,000 All claims for damages by a claimant arising out of an error or related errors |

INSURANCE POLICIES

except for inter-jurisdictional practice as provided in Conditions 1.4.3 and 1.6.

- (d) \$17,500,000 Profession-Wide Annual Aggregate Limit for all **claims** for **damages** and **claims expenses**.

PART C: Trust Shortage Liability (for reliance on fraudulent certified cheques or misrepresentations)

- (e) \$500,000 All **claims** arising out of an **error** for **damages** and all related **claims expenses** and deductibles.

- (f) \$500,000 Annual Aggregate Limit for **damages**, **claims expenses** and deductibles.

- (g) \$500,000 **Law Firm** Annual Aggregate Limit for all **claims** for **damages**, **claims expenses** and deductibles.

- (h) \$2,000,000 Profession-Wide Annual Aggregate Limit for all **claims** for **damages**, **claims expenses** and deductibles.

4. Deductibles

Applicable to PARTS A and C only

Part A: Professional Liability (for negligence)

- (a) \$5,000 Each **error** resulting in the payment of **damages**, except an **error** arising out of your performance of **sanctioned services** or a **protocol error**.

- (b) \$10,000 Each additional **error** reported within a three year period resulting in the payment of **damages**, except an **error** arising out of your performance of **sanctioned services** or a **protocol error**.

PART C: Trust Shortage Liability (for reliance on fraudulent certified cheques or misrepresentations)

35% of the total amount of **damages** paid under this policy, subject to Condition 2.2.

5. Insurance Fee

As agreed between the **Company** and the **Law Society**.

INSURANCE POLICIES

This policy governs claims and potential claims reported in 2018 — read carefully. 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*.

INSURANCE POLICIES

DEFINITIONS

For convenience, all defined words are in bold print. We, us or our refers to the **Company**. You, your or the **Insured** refers in Parts A and C to the **Individual Insured** or the **Additional Insured**, and in Part B to the **Individual Insured** or the **Innocent Insured**. Unless otherwise indicated, all specific statutory references are to statutes of British Columbia. In this policy:

Additional Insured means:

- (a) each **law firm** in which the **Individual Insured** is or was a partner, employee or associate counsel or that is or was liable for the **Individual Insured**;
- (b) each **law corporation**, law office management corporation and law office management limited partnership, which is or was owned wholly or partly, directly or indirectly, by the **Individual Insured** or his or her spouse, and each present or former officer, director, shareholder or limited partner thereof;
- (c) each present or former **member** who, at the time of the **error**, was insured by us and was the **Individual Insured's** partner or liable for the **Individual Insured**;
- (d) each present or former employee of the **Individual Insured**, or of any **law firm, law corporation, law office management corporation and law office management limited partnership** described in (a) or (b) above, provided such employee was acting within the scope of his or her duties and acting under the supervision of, in a supporting role to and not independent of the **Individual Insured**; and
- (e) each present or former **MDP partner** who, at the time of the **error**, was insured by us and a partner in a **multi-disciplinary practice** in which all of the members were in compliance with **Law Society Rules 2-38 through 2-49**.

Apparent partnership means: an expense sharing or other arrangement in which two or more **members** or **law corporations**, or a combination thereof, are or were held out to the public as partners whether or not the partnership in fact exists or existed.

Canadian legal advisor means: a member admitted as a Canadian legal advisor by the **Law Society**.

Certificate means: a certificate issued by the **Law Society** to a **member** as evidence of insurance under any previous plan of professional liability insurance for **members** of the **Law Society**.

Claim means: a demand for money, an action, a claim or institution of proceedings against you.

Claimant means:

- (a) under Part A or C: a person or **organization** who has made or may make a **claim**; or
- (b) under Part B: a person who has or alleges to have suffered a monetary loss, and who provides a statutory declaration relating to that loss in a form satisfactory to us.

INSURANCE POLICIES

Claims expenses means:

- (a) fees and disbursements charged by defence counsel appointed by us; and
- (b) all other fees, costs and expenses incurred by us, or by you with our written consent, resulting from the investigation, adjustment, defence and appeal of a **claim** or potential **claim**, including all sums payable under Insuring Agreements A 2, B 2 and C 2. **Claims expenses** does not include salaries of our officers, directors and employees, or those of the **Law Society**.

Common-law spouse means: a person not married to the **Individual Insured**, who has lived with the **Individual Insured** in a marriage-like relationship, including a similar relationship between persons of the same gender, for a period of not less than one year.

Compensation program means: those statutory compensation programs as provided for by any current or former legislative act, including but not limited to: funds established to compensate victims of lawyer defalcation; the “Assurance Fund” as provided under the *Land Title Act*; similar funds as established for general public protection against loss consequent on the unlawful acts of third parties under other legislation as may now or subsequently be established; and any substantially similar or equivalent compensation programs established by any government.

Confidentiality Protocol means: the **Law Society’s** protocol for the preservation of confidentiality of professional liability insurance claims information, as amended from time to time.

Damages means:

- (a) under Part A: any compensatory damages award including any related pre-judgment or post-judgment interest or costs, settlement, or **repair costs**, relating to covered allegations. **Damages** does not include:
 - (i) an order of set-off or any order for the return or reimbursement of, or accounting for or disgorgement of, any property, benefit, legal fees or disbursements that you received, even if claimed as general damages;
 - (ii) any order for punitive, exemplary or aggravated damages;
 - (iii) any fine, sanction or penalty; or
 - (iv) any order for costs or indemnification for costs made against you in litigation in which you are not a party, or any order for special costs;
- (b) under Part B: any monetary award including any related pre-judgment or post-judgment interest or costs, or settlement, for the direct loss only of no more than the value of money or the **deemed value** of other property dishonestly appropriated. **Damages** does not include:
 - (i) any amount for which the **claimant** or **Insured**:
 - a. is entitled to claim indemnity under any other policy or form of insurance (including title insurance); or

INSURANCE POLICIES

- b. has recourse through any **compensation program** or other source of recovery including set-offs whether legal or equitable;

that would cover such loss in whole or in part in the absence of this policy as this coverage is intended to be last-resort insurance; or

- (ii) any order for costs or indemnification for costs made against you in litigation in which you are not a party, or any order for special costs; or
- (c) under Part C: any monetary award including any related pre-judgment or post-judgment interest or costs, or settlement, for the direct loss only of no more than the amount by which the **trust account** is short.

Deemed individual coverage period means: any period after January 1, 2002, 12:01 a.m. standard time during which the **Individual Insured** was a **member** and was performing **sanctioned services**.

Deemed value means: the equivalent of the property's actual cash value or, if the property is not convertible into money, the actual cash value of the property at the time of dishonest appropriation.

Error means:

- (a) under Part A: an actual or alleged negligent act, negligent error or negligent omission, including a **protocol error**, or a **personal injury**. Where actual or alleged errors are related, they will be deemed to be one **error**. Errors are related when they:
 - (i) are logically or causally connected;
 - (ii) cause a single loss to one or more **claimants**;
 - (iii) occur in the course of the **Insured(s)** acting as an administrator, executor, guardian, trustee or committee; or
 - (iv) occur in relation to the same or similar underlying facts, events, transactions, activities or undertakings, which, without limiting the generality of the foregoing, include accidents, investment programs or schemes, loan agreements, offerings of ownership interest or debt, corporate reorganizations, tax plans, estates, real estate developments, leases, licences, commercial ventures and litigation matters;

regardless of whether they are made by more than one **Insured** or by **Insured(s)** acting in more than one capacity, occur at different times or in the course of more than one professional service, retainer or client matter, or give rise to **claims** by more than one **claimant**;

- (b) under Part B: a dishonest appropriation of money or other property, whether to the use of the **Individual Insured** or a third party, which was entrusted to and received by the **Individual Insured** in his or her capacity as a barrister and solicitor and in relation to the provision of **professional services** to others; or

INSURANCE POLICIES

- (c) under Part C: a payment to a third party that creates an unintended shortage in trust funds that are held in a **trust account** in connection with the performance of **professional services** for others, provided that such payment is either:
- (i) the result of the deposit into that **trust account** of what purports and appears and the **Individual Insured** believes to be a genuine certified cheque, bank draft, credit union official cheque, **law firm** trust cheque or money order that ultimately proves to be counterfeit, forged or materially altered; or
 - (ii) made only because the **Individual Insured** believes that the payment is legitimate and duly authorized, and provided further that:
 - a. the **Individual Insured's** belief is the result of a fraudulent or dishonest act; and
 - b. the payment does not relate in any way to the **Individual Insured's** mistaken belief that funds have been deposited into trust.

Family means: spouse (including **common-law spouse**), children, parents or siblings.

Individual coverage period means: any period prior to January 1, 1971, 12:01 a.m. standard time during which the **Individual Insured** was a **member**, any period between January 1, 1971, 12:01 a.m. standard time and January 1, 1998, 12:01 a.m. standard time during which the **Individual Insured** was a **member** and held a **certificate**, and any period after January 1, 1998, 12:01 a.m. standard time for which the **Individual Insured** has paid the annual insurance fee.

Individual Insured means: each **member** or former **member** who made or allegedly made the **error** or, for the purposes of Part A of this policy only, each **MDP partner** or former **MDP partner** who made or allegedly made the **error**, provided that all of the members of the **multi-disciplinary practice** were in compliance with **Law Society** Rules 2-38 through 2-49 at the time of the **error**.

Ineligible portion means: that portion that equals the proportionate beneficial ownership of the **organization** held individually or collectively, directly or indirectly, at the time of the **error** by the persons listed in subparagraphs 6.2.1, 6.2.2 and 6.2.3 of Exclusion 6.2 of this policy.

Innocent Insured means: each present or former **member** who:

- (a) is or may be liable for the **Individual Insured**;
- (b) did not personally commit, participate in committing, or acquiesce in the **error**; and
- (c) was insured by us at the time of the **error**.

Insured means:

- (a) under Part A or Part C: an **Individual Insured** or **Additional Insured**; or
- (b) under Part B: an **Individual Insured** or **Innocent Insured**.

Law corporation means: a law corporation as defined in the *Legal Profession Act*.

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Law firm means: a sole proprietorship owned by a **member**, a **law corporation**, a partnership of **members** or **law corporations** or a combination thereof, a **multi-disciplinary practice** or an **apparent partnership**.

MDP partner means: a non-lawyer partner in a **multi-disciplinary practice** in which permission to practise law was granted under Rule 2-41 of the **Law Society** Rules.

Member means: a member, other than a **Canadian legal advisor**, in good standing shown on the records of the **Law Society**.

Multi-disciplinary practice means: a multi-disciplinary practice as defined in the **Law Society** Rules.

Organization means: any business, business venture, joint venture, proprietorship, partnership, limited partnership, cooperative, society, syndicate, corporation, association or any legal or commercial entity.

Personal injury means: malicious prosecution, libel or slander, or a publication or utterance in violation of an individual's right of privacy.

Policy period means: the period stated in Declaration 2.

Professional services means:

- (a) the practice of law as defined in the *Legal Profession Act*;
- (b) *pro bono* legal services;
- (c) acting as an Official Administrator, a custodian under Part 6 of the *Legal Profession Act*, an arbitrator, mediator or conciliator, by a **member**;
- (d) acting as:
 - (i) an administrator, executor, guardian, trustee or committee or in any similar fiduciary capacity;
 - (ii) a patent or trademark agent; or
 - (iii) agent for any record keeping or filing duty imposed by any provincial or federal statute;provided that such services, and the related appointment or retainer, are connected with and incidental to the **Individual Insured's** practice of law and, for the purposes of Part B of this policy only, the **Individual Insured** is also providing legal services;
- (e) performing any other activity deemed to be the practice of law by the **Law Society**; or
- (f) acting as an **MDP partner**, provided that such services support or supplement the practice of law by the **law firm** and are provided under the supervision of a **member**.

Professional services does not include:

- (a) the mere receipt and/or distribution of funds, from trust or otherwise; or

INSURANCE POLICIES

- (b) acting merely as a bailee.

Protocol error means: a building location defect that is not disclosed as a result of an opinion given in compliance with and pursuant to the terms and conditions of the Western Law Societies Conveyancing Protocol (British Columbia) issued by the **Law Society**, Version 2, February 2, 2001 as amended from time to time.

Reciprocal Jurisdiction means: the province, but not the territory, of a reciprocating governing body as defined in the **Law Society** Rules, other than the Barreau du Québec.

Related claimants in Part B means: **claimants** are related if the money or other property dishonestly appropriated was jointly provided or jointly owned by the **claimants**.

Related errors in Part B means: **errors** are related if the money or other property dishonestly appropriated was received in relation to the provision of the same **professional services**, retainer or client matter.

Repair costs means: any costs, other than **claims expenses**, approved or paid by us, incurred attempting to avoid or mitigate a loss arising out of an **error**.

Sanctioned services means: *pro bono* legal services provided to an individual known to you only as a result of performing these services through a *pro bono* legal services program, provided that both the services and the program are approved for the purposes of this policy by the **Law Society**, and that the services are provided solely through the program.

Trust account means: a trust account operated pursuant to and in accordance with Part 3, Division 7, Trust Accounts and Other Client Property, of the **Law Society** Rules.

Unauthorized practice means: the practice of law by an **Individual Insured**:

- (a) in breach of an undertaking given to the **Law Society** or in contravention of a condition or limitation of practice imposed or agreed to under the **Law Society** Rules, for the purposes of Condition 3.3;
or
- (b) in contravention of the rules of any other law society or bar, for the purposes of Exclusion 9.

INSURANCE POLICIES

This policy is a contract between each **Insured** and the **Company**.

In consideration of the payment of the insurance fee and subject to the terms of this policy, we agree with you that:

INSURING AGREEMENTS

PART A: PROFESSIONAL LIABILITY (FOR NEGLIGENCE)

1. INSURING AGREEMENT A 1

We shall pay on your behalf all sums which you become legally obligated to pay as **damages** because of any **claim** first made against you and reported to us during the **policy period** arising out of an **error** by you in performing or failing to perform **professional services** for others.

2. INSURING AGREEMENT A 2

2.1 With respect to any **claim** first made or suit first brought within Canada or the United States of America seeking **damages** for which you are entitled to indemnity under Part A of this policy, we shall have the right:

2.1.1 and the duty to defend any suit against you, even if any of the allegations of the suit are groundless, false or fraudulent; and

2.1.2 to select and instruct defence counsel and to investigate and settle any **claim** including the right to elicit, or instruct defence counsel to elicit, offers of settlement. If you object to any settlement recommended by us, we may:

(a) settle the **claim** without your consent and you will remain liable to pay the deductible stated in Declaration 4; or

(b) give you the right to negotiate or defend the **claim** or suit if you provide security for any **damages** for which you may be liable. The amount and form of security required will be determined by us, in our sole discretion. If we give you the right to negotiate or defend the **claim** or suit, any duty we may have had to defend the **claim** ceases and the **damages** and **claims expenses** in excess of the amount for which we could have settled will not be recoverable under this policy.

2.2 With respect to any **claim** that is made or suit that is brought elsewhere than within Canada or the United States of America seeking **damages** for which you are entitled to indemnity under Part A of this policy:

2.2.1 we shall have the right, but not the duty, to investigate, settle, defend or pay **claims expenses** in accordance with Insuring Agreement A 2.1.2; and

INSURANCE POLICIES

- 2.2.2 if we elect not to investigate, settle or defend a **claim** or suit, you will, under our supervision, investigate and defend as is reasonably necessary and, if we deem prudent you will settle such **claim** or suit. Subject to Insuring Agreement A 2.3, we shall reimburse you for the reasonable cost of such investigation, settlement or defence.
- 2.3 For any part of a **claim** for which you are not entitled to coverage under Part A of this policy, you agree that you are responsible for:
- 2.3.1 any **claims expenses** that are solely or substantially attributable to that part; and
- 2.3.2 an equal or, if we agree, less than equal share of any **claims expenses** that are attributable both to that part, and any other part of the **claim** for which you are entitled to coverage under Part A.
- 2.4 The allocation of **claims expenses** under Insuring Agreement A 2.3 shall be determined following final determination of the **claim**.
- 2.5 Notwithstanding Insuring Agreement A 2.4 we may, at any time prior to final determination of a **claim**, require that you contribute, on an interim basis, to **claims expenses** in any proportion or amount that we determine is reasonable having regard to Insuring Agreement A 2.3. Any such payment, demand or failure to make a demand by us shall be without prejudice to our respective rights under Insuring Agreement A 2.4.
- 2.6 Any allocation or advancement of **claims expenses** shall not apply to or create any presumption with respect to the allocation between covered and uncovered loss.
- 2.7 Notwithstanding Exclusion 2, we shall have the right and the duty to defend, in accordance with Insuring Agreement A 2.1.2, any **claim** first made against you and reported to us during the **policy period** arising out of a **personal injury** while you were performing or failing to perform **professional services** for others.
- 2.8 Notwithstanding our obligations pursuant to Insuring Agreements A 2.1, A 2.2 and A 2.7, we may decline, at any time, to defend, continue to defend, investigate or pay **claims expenses** where we determine on reasonable grounds that a **claim** does not arise out of an **error** by you in performing or failing to perform **professional services** for others, or that you are not entitled to coverage for a **claim** because of any exclusion, breach of a condition or any other term of this policy. If you disagree with our decision you agree that, at the arbitration of the dispute, each of us may introduce evidence relating to the issues of coverage and your activities and that such evidence shall be considered by the arbitrator in making his or her determination of our respective obligations.

3. INSURING AGREEMENT A 3

- 3.1 Part A of this policy applies only to **claims** arising out of **errors** that occurred either during the **individual coverage period** or in relation to **sanctioned services** performed during the **deemed individual coverage period**, and provided that:

INSURANCE POLICIES

- 3.1.1 the **claim** or potential **claim** is first made against you during the **policy period** and reported to us in writing during the **policy period**; and
- 3.1.2 you had no knowledge, prior to January 1, 1989 of the **claim** or of an **error** or circumstances occurring prior to January 1, 1986 which you knew or could have reasonably foreseen might be the basis of a **claim**.
- 3.2 A **claim** is first made against you during the **policy period** if during the **policy period**:
 - 3.2.1 you become aware of an **error** or any circumstance which could reasonably be expected to be the basis of a **claim**, however unmeritorious; or
 - 3.2.2 a **claim** is made against you seeking **damages** for which you are entitled to indemnity under this policy.
- 3.3 If Part A of this policy replaces, without interruption of coverage, a policy issued previously by us then a **claim** which was first made against you after January 1, 1989, and reported to us within the **policy period**, will be deemed to be first made against you within the **policy period** of this policy.
- 3.4 Except as provided in Condition 6, if you are not entitled to indemnity or a defence for a **claim**, Part A of this policy will not provide indemnity or a defence for such or similar **claim** to any other **Insured**.
- 3.5 Where the closest and most real connection to a **claim** or potential **claim** is with a **Reciprocal Jurisdiction**, and the scope of coverage provided by the **Reciprocal Jurisdiction's** compulsory lawyers professional liability insurance (the "**Reciprocal Jurisdiction's** policy") is broader than that provided by Part A of this policy, then we shall provide the same scope of coverage as that of the **Reciprocal Jurisdiction's** policy. For clarity, however, all **claims** and potential **claims** reported under Part A of this policy shall remain subject to the limits of liability stated in Condition 1 and the Declarations of this policy.

The determination of whether a **Reciprocal Jurisdiction** has the closest and most real connection to a **claim** or potential **claim** will be made by us, exercising our discretion reasonably, and considering whether at the time you were performing the **professional services** giving rise to the **claim**:

- (a) you were practicing the law of a **Reciprocal Jurisdiction**;
- (b) you were performing the **professional services** in a **Reciprocal Jurisdiction**;
- (c) your client was in a **Reciprocal Jurisdiction**; and
- (d) the subject matter of the **professional services** was located in or emanated from a **Reciprocal Jurisdiction**.

We will also consider where the proceedings, if any, to advance the **claim** are or are likely to be brought.

INSURANCE POLICIES

This Insuring Agreement applies only if, at the time the **Individual Insured** was performing the **professional services** giving rise to a **claim**, the **Individual Insured** was practicing law either in accordance with the inter-jurisdictional practice provisions of the Rules of the **Law Society** and the **Reciprocal Jurisdiction's** law society or as a Canadian legal advisor member of the Barreau du Québec. This Insuring Agreement does not apply if coverage under Part A of this policy would be excluded or limited in any way by the application of Exclusion 7 or 11 to a **claim** or potential **claim**.

PART B: TRUST PROTECTION (FOR DISHONEST APPROPRIATION)

1. INSURING AGREEMENT B 1

Notwithstanding Exclusions 1 and 2 of this policy, we shall pay on your behalf all sums which you become legally obligated to pay to a **claimant** as **damages** because of any **claim** first made against you and reported to us during the **policy period** arising out of an **error** by the **Individual Insured**, provided that the **error** is the sole cause of the **damages**.

2. INSURING AGREEMENT B 2

2.1 With respect to any **claim** first made or suit first brought seeking **damages** that are covered under Part B of this policy:

2.1.1 we shall have the right, but not the duty, to defend any suit against you;

2.1.2 if we elect to defend you, we shall have the right to:

(a) select and instruct defence counsel; and

(b) withdraw from the defence of the suit, without seeking or obtaining your consent, at any time that we, in our sole discretion, deem appropriate;

2.1.3 we shall have the right to investigate any **claim** or potential **claim**; and

2.1.4 we shall have the right to settle any **claim** without seeking or obtaining your consent, on such terms and conditions and at such time as we, in our sole discretion, deem appropriate.

Coverage under this Part B shall only apply to:

1. **Claims** arising out of **errors** that occurred while the **Individual Insured** was a **member**, and provided that the **claim** is first made against you during the **policy period** and reported to us during the **policy period**. A **claim** is first made against you during the **policy period** if during the **policy period**:

1.1 an **Innocent Insured** becomes aware of an **error** or any circumstance which could reasonably be expected to be the basis of a **claim**, however unmeritorious, or a **claim** is made against an **Innocent Insured** seeking **damages** that are covered under Part B of this policy;

INSURANCE POLICIES

- 1.2 a **claim** is made against an **Individual Insured** seeking **damages** that are covered under Part B of this policy, and we deem notice of the **claim** given to us by a third party to be notice given by the **Individual Insured**; or
 - 1.3 the **Law Society** gives notice of a **claim** or potential **claim** against an **Individual Insured**, and we deem such notice to be notice given by the **Individual Insured**.
2. A **claim** seeking **damages** that are covered under Part B of this policy that is first made against you and of which written notice is given to us by the **claimant** within:
 - 2.1 six (6) months of the **claimant** becoming sufficiently aware of the facts underlying the occurrence of an **error** such that the **claimant** had the means of knowing that an **error** had occurred; and
 - 2.2 in any event, no more than ten (10) years of the time of the **error**.

We may, in our sole discretion, agree to extend the time limits set out in 2.1 and 2.2.

PART C: TRUST SHORTAGE LIABILITY (FOR RELIANCE ON FRAUDULENT CERTIFIED CHEQUES OR MISREPRESENTATIONS)

1. INSURING AGREEMENT C 1

We shall pay on your behalf all sums which you become legally obligated to pay as **damages** because of any **claim** first made against you and reported to us during the **policy period** arising out of an **error** by you.

2. INSURING AGREEMENT C 2

- 2.1 With respect to any **claim** first made or suit first brought seeking **damages** that are covered under Part C of this policy:
 - 2.1.1 we shall have the right, but not the duty, to defend any suit against you;
 - 2.1.2 if we elect to defend you, we shall have the right to select and instruct defence counsel;
 - 2.1.3 we shall have the right to investigate any **claim** or potential **claim**; and
 - 2.1.4 we shall have the right to settle any **claim** including the right to elicit, or instruct defence counsel to elicit, offers of settlement. If you object to any settlement recommended by us, we may:
 - (a) settle the **claim** without your consent and you will remain liable to pay the deductible stated in Declaration 4; or
 - (b) give you the right to negotiate or, if we are defending, defend the **claim** or suit. In this event, the **damages** and **claims expenses** in excess of the

INSURANCE POLICIES

amount for which we could have settled will not be recoverable under this policy.

3. INSURING AGREEMENT C 3

- 3.1 Part C of this policy applies only to **claims** arising out of **errors** that occurred during the **individual coverage period**, and provided that the **claim** or potential **claim** is first made against you during the **policy period** and reported to us in writing during the **policy period**.
- 3.2 A **claim** is first made against you during the **policy period** if during the **policy period**:
- 3.2.1 you first become aware of an **error** or any circumstance which could reasonably be expected to be the basis of a **claim**, however unmeritorious; or
- 3.2.2 a **claim** is made against you seeking **damages** for which you are entitled to indemnity under this policy.
- 3.3 If Part C of this policy replaces, without interruption of coverage, a policy issued previously by us then a **claim** which was first made against you after January 1, 2012, and reported to us within the **policy period**, will be deemed to be first made against you within the **policy period** of this policy.
- 3.4 Except as provided in Condition 6, if you are not entitled to indemnity or a defence for a **claim**, Part C of this policy will not provide indemnity or a defence for such or similar **claim** to any other **Insured**.

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EXCLUSIONS

This policy does not apply to:

1. a **claim** arising out of or in any way connected to your actual or alleged criminal act;
 2. a **claim** arising out of or in any way connected to your actual or alleged dishonest, fraudulent or malicious act;
 3. a **claim** arising out of or in any way connected to any injury to, physical contact with, sickness, disease or death of any person or injury to or destruction of any tangible property, including the loss of use thereof;
 4. a **claim** arising out of or in any way connected to your activity as a fiduciary with respect to an employee benefit plan or pension plan;
 5. a **claim** arising out of or in any way connected to your activities as an officer or director except your activities as an officer or director of a **law corporation** or law office management corporation;
 6. a **claim**:
 - 6.1 arising out of an **error** of an **Individual Insured**, the payment of which would benefit, in whole or in part, directly or indirectly, the **Individual Insured** or the **Individual Insured's family** or **law firm**, provided that this Exclusion 6.1 does not apply to any benefit derived solely from the ownership of an **organization**; or
 - 6.2 by or in any way connected to any **organization** in which:
 - 6.2.1 the **Individual Insured**;
 - 6.2.2 the **Individual Insured's family**; or
 - 6.2.3 the partners, associates or associate counsel of the **Individual Insured** or of the **Individual Insured's law firm**;

individually or collectively, directly or indirectly, had at the time of the **error** or thereafter, effective management or control of the **organization** or beneficial ownership of the **organization** in an amount greater than ten per cent (10%), provided that with respect to any payment resulting from a **claim** that falls within Part B of this policy, this Exclusion 6.2 applies only to exclude the **ineligible portion** of such payment.

 - 6.3 If a **claim** arises out of an **error** which occurred before January 1, 1991, **family** shall be read without the words “(including **common-law spouse**)” and “parents or siblings”.
7. a **claim** arising out of or in any way connected to your activity as an employee, dependent contractor or partner of any **organization** other than:

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- 7.1 a **law firm**; or
- 7.2 a trade union, society or not-for-profit **organization** that provides *pro bono* legal services to the public, provided that:
 - 7.2.1 the **claim** arises out of an **error** that occurred during the **individual coverage period**; and
 - 7.2.2 the **claim** is not brought against you by or on behalf of such trade union, society or not-for-profit **organization**;

except a **claim** that falls within Part B of this policy and is not brought against you by or on behalf of such **organization**; or

- 8. a **claim** against you where the **Individual Insured** is a member of any other jurisdiction's law society or bar, except a law society of another province or territory of Canada, arising out of or in any way connected to that **Individual Insured's** permanent practice in the other jurisdiction. For the purposes of Part B of this policy, this Exclusion 8 shall be read with the words "the Barreau du Québec" substituted for the words "a law society of another province or territory of Canada" and without the word "permanent".

With respect to Part A: Professional Liability (for negligence) only, the following additional exclusions apply.

Part A of the policy does not apply to:

- 9. a **claim** against you where the **Individual Insured** is engaged in **unauthorized practice**, arising out of or in any way connected to that **unauthorized practice**;
- 10. a **claim** arising out of or in any way connected to your provision of investment advice or investment services unless as a direct consequence of the performance of **professional services**;
- 11. a **claim** arising out of or in any way connected to the dishonest appropriation of money or other property;
- 12. a **claim** arising out of or in any way connected to any shortage of trust funds held in a **trust account** if that shortage is caused by or in any way connected to a dishonest or fraudulent act by any person, including but not limited to an **error** under Part C of this policy; or
- 13. a **claim** arising out of or in any way connected to the collection, use and/or disclosure of any information by a third party, or the receipt by or transmission to a third party of malware or malicious code.

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With respect to Part B: Trust Protection (for dishonest appropriation) only, the following additional exclusions apply.

Part B of this policy does not apply to:

14. a **claim** arising out of or in any way connected to the wrongful or unlawful conduct, fault or neglect of the **claimant** or the **claimant's** spouse (including **common-law spouse**);
15. a **claim** by an **organization** arising out of or in any way connected to the wrongful or unlawful conduct, fault or neglect of an officer, director, employee or agent of the **organization** or an individual who had, directly or indirectly, effective management or control of the **organization** or beneficial ownership of the **organization** in an amount greater than ten per cent (10%);
16. a **claim** where the money or property that was dishonestly appropriated had been unlawfully obtained by the **claimant**;
17. a **claim** brought by a **claimant** who:
 - 17.1 knew prior to the time of the **error** of any dishonest act by the **Individual Insured**; or
 - 17.2 committed, participated in committing, consented to expressly or impliedly, acquiesced in or was reckless or wilfully blind to the **error**; or
18. a **claim** arising out of or in any way connected to an investment, a purported investment or a Ponzi scheme.

With respect to Part C: Trust Shortage Liability (for reliance on fraudulent certified cheques or misrepresentations) only, the following additional exclusions apply.

Part C of this policy does not apply to:

19. a **claim** arising out of or in any way connected to the wrongful or unlawful conduct of a present or former employee of the **law firm** or contractor for the **law firm**;
20. a **claim** arising out of circumstances in which you were required but failed to comply with the client identification and verification procedures set out in Part 3, Division 11, Client Identification and Verification, of the **Law Society** Rules; or
21. **errors** that occurred prior to January 1, 2012.

CONDITIONS

1. LIMITS OF LIABILITY

1.1 LIMIT OF LIABILITY PART A — EACH ERROR

1.1.1 The limit of liability stated in Declaration 3(a) shall be the maximum amount payable under Part A of this policy for all **damages, claims expenses** and deductibles for all **claims** arising out of an **error**.

1.1.2 If a **claim** or potential **claim** is reported to us by or on behalf of any **Insured** during the **policy period**, all additional **claims** or potential **claims** reported subsequently that arise out of the same **error** shall be:

- (a) part of the **claim** or potential **claim** first made and reported to us; and
- (b) deemed to be reported within this **policy period**;

and all such **claims** or potential **claims** shall be subject to the terms of this policy and to the one limit of liability applicable to the **claim** or potential **claim** first reported.

1.2 LIMIT OF LIABILITY PART A — ANNUAL AGGREGATE LIMIT

1.2.1 The limit of liability stated in Declaration 3(b) is the maximum amount payable under Part A of this policy on behalf of each **Individual Insured**, including all related **Additional Insureds**, for all **damages, claims expenses** and deductibles arising out of all **claims** and potential **claims** first reported during the **policy period**.

1.2.2 All payments of **damages, claims expenses** and deductibles reduce the limits of our liability stated in Declarations 3(b) and 3(f).

1.3 MULTIPLE INSUREDS, CLAIMS OR CLAIMANTS — PART A

Notwithstanding any other provision of this policy, one or more **claims** resulting from an **error** shall be subject to one limit of liability and shall not increase our limits of liability regardless of whether the **error** is made by more than one **Insured** or by **Insured(s)** acting in more than one capacity and regardless of whether the **claims** are made against more than one **Insured** or made by more than one **claimant**.

1.4 LIMIT OF LIABILITY PART B — EACH ERROR

1.4.1 The limit of liability stated in Declaration 3(c) or, if Condition 1.4.3 applies, then as stated there, shall be the maximum amount payable under Part B of this policy for all **damages** for all **claims** by a **claimant** arising out of an **error** or **related errors**.

INSURANCE POLICIES

1.4.2 If a **claim** or potential **claim** is reported to us by or on behalf of any **Insured** during the **policy period**, all additional **claims** or potential **claims** reported subsequently that arise out of the same **error** or **related errors** shall be:

- (a) part of the **claim** or potential **claim** first made and reported to us; and
- (b) deemed to be reported within this **policy period**;

and all such **claims** or potential **claims** shall be subject to the terms of this policy and to the limit of liability stated in Declaration 3(c) or, if Condition 1.4.3 applies, then as stated there, applicable to the **claim** or potential **claim** first reported.

1.4.3 If the **error** or **related errors** arise out of either your temporary practice in or with respect to the law of a **Reciprocal Jurisdiction** of which you are not a member, or your practice as a Canadian legal advisor member of the Barreau du Québec, the limit of liability stated in Declaration 3(c) shall be \$250,000, and Conditions 1.4.1, 1.4.2 and 1.5 shall be read as if the amount in Declaration 3(c) was \$250,000.

1.5 MULTIPLE INSUREDS, CLAIMS, CLAIMANTS OR ERRORS — PART B

One or more **claims**, resulting from an **error** or **related errors** made by one or more **Insureds**, made against one or more **Insureds** by a **claimant** or by **related claimants**, shall be subject to the one limit of liability stated in Declaration 3(c) or, if Condition 1.4.3 applies, then as stated there. In no case will the limit of coverage for an **error** or **related errors** exceed the limit set out in Declaration 3(c).

1.6 LIMIT OF LIABILITY PART B — INTER-JURISDICTIONAL PRACTICE ANNUAL AGGREGATE LIMIT

The limit of liability that is the maximum amount payable under Part B of this policy on behalf of each **Individual Insured**, including all related **Additional Insureds**, for all **damages** arising out of all **claims** and potential **claims** first reported during the **policy period** arising out of either your temporary practice in or with respect to the law of a **Reciprocal Jurisdiction** of which you are not a member, or your practice as a Canadian legal advisor member of the Barreau du Québec, is \$2,000,000. This limit shall be included within the limit set out in Declaration 3(d).

1.7 LIMIT OF LIABILITY PART B — PROFESSION-WIDE ANNUAL AGGREGATE LIMIT

1.7.1 The limit of liability stated in Declaration 3(d) is the maximum amount payable under this policy for the **policy period** on an aggregate basis for all **Insureds** covered by Part B of this policy. For clarity, all **Insureds** covered by Part B of this policy means all present and former **members** of the **Law Society**. All payments by us of **damages** and **claims expenses** arising out of all **claims** and potential **claims** first reported during the **policy period** reduce the Profession-Wide Aggregate Limit for that **policy period** in the amount of the payments.

INSURANCE POLICIES

1.7.2 The **Individual Insureds** and **Innocent Insureds** agree that we may make payments of **damages** and **claims expenses** in reduction of the Profession-Wide Aggregate Limit, even though such payments will reduce or eliminate the limit otherwise available to **Individual Insureds** or **Innocent Insureds** for the **policy period**.

1.8 LIMIT OF LIABILITY PART C — EACH **ERROR**

1.8.1 The limit of liability stated in Declaration 3(e) shall be the maximum amount payable under Part C of this policy for all **damages, claims expenses** and deductibles for all **claims** arising out of an **error**.

1.8.2 If a **claim** or potential **claim** is reported to us by or on behalf of any **Insured** during the **policy period**, all additional **claims** or potential **claims** reported subsequently that arise out of the same **error** shall be:

- (a) part of the **claim** or potential **claim** first made and reported to us; and
- (b) deemed to be reported within this **policy period**;

and all such **claims** or potential **claims** shall be subject to the terms of this policy and to the one limit of liability applicable to the **claim** or potential **claim** first reported.

1.9 LIMIT OF LIABILITY PART C — ANNUAL AGGREGATE LIMIT

1.9.1 The limit of liability stated in Declaration 3(f) is the maximum amount payable under Part C of this policy on behalf of each **Individual Insured**, including all related **Additional Insureds**, for all **damages, claims expenses** and deductibles arising out of all **claims** and potential **claims** first reported during the **policy period**.

1.9.2 All payments of **damages, claims expenses** and deductibles reduce the limits of our liability stated in Declarations 3(b) and 3(f).

1.10 LIMIT OF LIABILITY PART C — **LAW FIRM** ANNUAL AGGREGATE LIMIT

The limit of liability stated in Declaration 3(g) is the maximum amount payable under this Part C of this policy for the **policy period** on an aggregate basis for all **Insureds** who, at the time of the **error**, were at the same **law firm**, for all **damages, claims expenses** and deductibles arising out of all **claims** and potential **claims** first reported during the **policy period**.

1.11 MULTIPLE **INSUREDS, CLAIMS** OR **CLAIMANTS** — PART C

Notwithstanding any other provision of this policy, one or more **claims** resulting from an **error** shall be subject to one limit of liability and shall not increase our limits of liability regardless of whether the **error** is made by more than one **Insured** or by **Insured(s)** acting in more than one capacity and regardless of whether the **claims** are made against more than one **Insured** or made by more than one **claimant**.

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1.12 LIMIT OF LIABILITY PART C — PROFESSION-WIDE ANNUAL AGGREGATE LIMIT

1.12.1 The limit of liability stated in Declaration 3(h) is the maximum amount payable under this policy for the **policy period** on an aggregate basis for all **Insureds** covered by Part C of this policy. For clarity, all **Insureds** covered by Part C of this policy means all present and former **members** of the **Law Society**. All payments by us of **damages** and **claims expenses** arising out of all **claims** and potential **claims** first reported during the **policy period** reduce the Profession-Wide Aggregate Limit for that **policy period** in the amount of the payments.

1.12.2 The **Individual Insureds** and **Additional Insureds** agree that we may make payments of **damages** and **claims expenses** in reduction of the Profession-Wide Aggregate Limit, even though such payments will reduce or eliminate the limit otherwise available to **Individual Insureds** or **Additional Insureds** for the **policy period**.

1.13 OBLIGATION TO PAY PART C

We shall not be obliged to pay any **damages** or **claims expenses**, or to undertake or continue the defence of any proceeding until you have complied with your obligation to eliminate a trust shortage under Rule 3-74 (1) of the **Law Society** Rules.

1.14 PRIORITY OF PAYMENTS

All **claims expenses** will be subtracted first from the applicable limit of our liability, with the remainder being the amount available to pay **damages**.

1.15 EXHAUSTION OF LIMITS

We shall not be obliged to pay any **damages** or **claims expenses**, or to undertake or continue the defence of any proceeding after the applicable limit of our liability has been exhausted by payment of **damages**, **claims expenses** and deductibles or after deposit of the balance of the applicable limit of our liability in a court of competent jurisdiction. In such a case, we shall have the right to withdraw from the further defence by tendering control of the defence to you.

1.16 NO STACKING OF LIMITS

A **claim** coming under Part A, Part B or Part C of this policy, respectively, is subject only to the limits of coverage applicable to that part. The total amount of insurance available under this policy will not exceed the applicable limits.

2. DEDUCTIBLES

2.1 If **damages** are payable pursuant to Part A of this policy, you will pay the deductible stated in Declaration 4.

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- 2.2 If **damages** are payable pursuant to Part C of this policy, you will pay the deductible stated in Declaration 4, reduced by the amount you are legally obligated to pay and have paid a savings institution to satisfy any overdraft created in the **trust account**.
- 2.3 Our obligation to pay **damages** applies only to **damages** in excess of the deductible and we shall be liable only for the difference between the deductible and the limit of liability.
- 2.4 When one or more **claims** arising out of an **error** are made jointly or severally against two or more **law firms** or **Individual Insureds** at separate **law firms**, the deductible will apply separately to each **law firm**.
- 2.5 All the terms and conditions of this policy apply notwithstanding that the amount of the **claim**, potential **claim** or **damages** may be less than the deductible stated in Declaration 4.
- 2.6 If we request, you will make direct payments for **claims** or potential **claims** within the deductible to us or to other parties.
- 2.7 There is no deductible payable by you if **damages** or **claims expenses** are paid pursuant to Part B of this policy.

3. REIMBURSEMENT

- 3.1 **Damages** or **claims expenses** may be paid in excess of the limit of liability or within the deductible and you will repay such amounts to us on demand.
- 3.2 If you are not entitled to coverage for a **claim** or any part of a **claim** because of any exclusion, breach of a condition, or any other term of this policy and **damages** or **claims expenses** are paid on behalf of you or any other **Insured** pursuant to this policy, you will reimburse us for all such amounts on demand.
- 3.3 If you are engaged in **unauthorized practice** and a **claim** or any part of a **claim** that falls within Part A or C of this policy relates to the **unauthorized practice**, and **damages** or **claims expenses** are paid on behalf of you or any other **Insured** pursuant to this policy, the **Individual Insured** will reimburse us for all such amounts on demand.
- 3.4 If **damages** or **claims expenses** are paid on behalf of you or any other **Insured** pursuant to Part B of this policy:
 - 3.4.1 the **Individual Insured** will reimburse us for all such amounts on demand; and
 - 3.4.2 if any other **Insured** received a benefit from the **error**, that **Insured** will reimburse us on demand for the portion of the **damages** paid that is commensurate with the amount of the benefit.
- 3.5 In relation to Conditions 3.1, 3.2, 3.3 and 3.4:
 - 3.5.1 if payments are made on behalf of two or more of you, your liability to us will be joint and several; and

INSURANCE POLICIES

3.5.2 the timing of any demand made shall be in our sole discretion.

4. NOTICE OF CLAIM OR SUIT

4.1 If you become aware of an **error** or any circumstance which could reasonably be expected to be the basis of a **claim**, however unmeritorious, you will give written notice immediately, along with the fullest information obtainable, during the **policy period** to:

Lawyers Insurance Fund
8th Floor, 845 Cambie Street
Vancouver, BC V6B 4Z9
Attention: Claims Manager
Fax: 604-682-5842

Such notice is necessary to settle, or defend, any **claim** or anticipated **claim** against you which may be covered under this policy.

4.2 If a **claim** is made or suit is brought against you, you will forward immediately to us every demand, notice of civil claim or other process with the fullest information obtainable.

4.3 We may deem notice of an **error**, **claim** or potential **claim** given by a third party to be notice given by you.

5. ASSISTANCE AND COOPERATION

5.1 You will cooperate with us and with any counsel we retain and assist us in investigating coverage for and the facts and circumstances of **claims** and potential **claims**, in efforts to repair **errors**, in making settlements and in the conduct of suits. Upon request, you will also:

5.1.1 give written statements, information and documents to and meet with us or any counsel we retain for the purpose of determining or reviewing coverage;

5.1.2 provide information and documents as necessary to investigate and defend any **claim** or potential **claim**;

5.1.3 submit to examination and interview by us or any counsel we retain, under oath if we request;

5.1.4 attend hearings, examinations for discovery and trial;

5.1.5 assist in securing and giving evidence, including obtaining the attendance of witnesses in the conduct of suits; and

5.1.6 assist in effecting all rights of indemnity, contribution or apportionment available to you or us;

all without cost to us.

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- 5.2 You will notify us immediately of any settlement offer made on any **claim** or potential **claim**.
- 5.3 You will not, except at your own cost, admit liability, make any payment, settle a **claim** or potential **claim**, assume any obligation, directly or indirectly assist in making or proving a **claim** against you, take any other action that might prejudice our ability to avoid or minimize any **damages**, agree to arbitration or any similar means of resolution of any dispute, waive any rights or incur any expenses without our prior written consent.
- 5.4 We shall keep any information that you provide us confidential in accordance with the **Confidentiality Protocol**. You consent to any permitted disclosure, and agree that such disclosure does not constitute a waiver of privilege with respect to any third parties or, if it does, constitutes a limited waiver of privilege only for the purpose for which it is disclosed.

6. INNOCENT ADDITIONAL INSURED

- 6.1 Whenever coverage under Part A of this policy would be excluded, suspended or lost because of:

6.1.1 the application of Exclusion 1 or 2 to you; or

6.1.2 the failure to give timely notice in accordance with Condition 4;

we shall cover each **Additional Insured** who did not personally commit, participate in committing, acquiesce in or remain passive after having personal knowledge of the act or **error** which is the subject of the Exclusion or the breach of Condition 4 and provided that those **Additional Insureds** who are entitled to the benefit of this Condition comply with all conditions promptly and were **members** or **MDP partners** at the time of the act or **error**.

- 6.2 Condition 6.1 does not apply if the act or **error** which is the subject of Exclusion 1 or 2 is an **error** for the purposes of Part B of this policy.

- 6.3 Where Exclusion 6.2 applies to a **claim** because, individually or collectively, directly or indirectly, the acquisition by you or your **family** of effective management or control or beneficial ownership greater than 10% of an **organization**:

6.3.1 occurred after the time of the **error**; and

6.3.2 was not related in any way to the legal services giving rise to the **error**;

then, pursuant to the terms of this policy, we shall cover your partners who were **members** at the time of the **error**, or the **law firm** employing you (excluding any **law corporation** wholly owned by you or your **family**) at the time of the **error**.

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7. CONFLICTS

Any duty that we may have to defend or indemnify you shall not give rise to an obligation on our part to pay any cost you may incur in relation to:

- 7.1 a dispute arising out of or in connection with this policy or the breach thereof; or
- 7.2 any other actual or potential conflict between us.

You agree that you are solely responsible for any such cost without recourse to us.

8. ARBITRATION OR MEDIATION

We shall be entitled to exercise all your rights in the choice of arbitrators or mediators and in the conduct of any arbitration or mediation proceeding involving a **claim** covered by this policy.

9. OTHER INSURANCE OR RECOURSE

- 9.1 This insurance is excess over any other valid and collectible insurance, or right of indemnity, whether primary, contributing, contingent or otherwise, and we will not pay any loss or **claim** until such insurance or recourse is exhausted.
- 9.2 Condition 9.1 does not apply to insurance that is specifically arranged to pay amounts in excess of the limits of liability provided by this policy.
- 9.3 If you, any lawyer or any non-lawyer partner practising in your law firm has lawyers professional liability insurance (other than insurance specifically arranged to pay amounts in excess of the limits of liability provided by this or any other Canadian jurisdiction's policy) under another Canadian jurisdiction's policy (or Canadian jurisdictions' policies) that applies to a **claim** covered by this policy, the total amount of insurance provided under these policies, together, will not exceed the total value of the **claim** or the most that is available under either (any one) of these policies alone, whichever is less. The decision as to which of these policies shall respond, or as to any allocation between (or amongst) the policies, shall be made by us together with the other Canadian jurisdiction, and you agree to be bound by the decision. For clarity, a **Reciprocal Jurisdiction** is also a Canadian jurisdiction.
- 9.4 To further clarify the intent and effect of the definition of **damages** under Part B, if the **Insured, claimant** or any other party at interest in any loss covered by Part B of this policy has any bond, right of indemnity, insurance or recourse to any other source of recovery including set-offs whether legal or equitable, which would cover such loss in whole or in part in the absence of this policy, this policy shall be null and void to the extent of the amount of such other bond, right of indemnity, insurance or recourse to any other source of recovery including set-offs whether legal or equitable; but this policy shall cover such loss, subject to its exclusions, conditions and other terms, only to the extent of the amount of such loss in excess of the amount of such other bond, right of indemnity, insurance or recourse to any other source of recovery including set-offs whether legal or equitable.

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10. PROCEEDINGS AGAINST US

10.1 No proceeding will lie against us unless, as a condition precedent, you have complied with all the terms of this policy, and until the amount of your obligation to pay has been finally determined either by judgment against you after actual trial or by binding arbitration ruling or by written agreement between you, the **claimant** and us. Neither you nor any other person shall have any right to join us in any proceeding against you.

10.2 All disputes arising out of or in connection with this policy or the breach thereof, except in relation to reimbursement as provided in Condition 3, and the allocation of **claims expenses** under Insuring Agreement A 2.4 shall be determined by arbitration in Vancouver, British Columbia, before a single arbitrator. You agree to keep all communications, meetings, evidence, materials and hearings relating to the arbitration, and any reasons or award arising from the arbitration, strictly confidential unless we agree otherwise or disclosure is required by law.

11. INSOLVENCY, BANKRUPTCY, INCAPACITY OR DEATH

Your insolvency, bankruptcy, incapacity or death will not relieve us or you or your estate of any of our respective obligations under this policy.

12. SUBROGATION

In the event of any payment under this policy, we shall be subrogated to all your rights of recovery against any person or **organization** and you will do whatever is necessary to secure such rights. You will do nothing after loss to prejudice such rights, and shall reasonably cooperate with us.

13. CHANGES

Nothing will effect a waiver or a change in any part of this policy or estop us from asserting any right under this policy, nor will the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy, signed by our authorized officer.

14. ASSIGNMENT

Your interest in this policy is not assignable.

15. RELEASE OF COVERAGE

We may, in our sole discretion, agree to allow you to assume all of our responsibilities and obligations under this policy and in so doing you shall release us from all such responsibilities and obligations.

16. INSURANCE FEE ADJUSTMENT

16.1 If you become insured during the **policy period**, the insurance fee payable will be determined by the **Law Society** and us on a *pro rata* basis.

INSURANCE POLICIES

16.2 If, during the **policy period**, you cease to be a **member** or you are exempted from this compulsory professional liability insurance plan, the insurance fee will be adjusted by the **Law Society** and us on a short-rate basis.

16.3 If you are suspended or disbarred, the insurance fee will be deemed to be fully earned and will not be the subject of adjustment.

17. CANCELLATION OF POLICY

17.1 This policy may be cancelled by the **Law Society** on your behalf by giving us written notice stating when after the notice the cancellation shall be effective.

17.2 This policy may be cancelled by us by giving the **Law Society** not less than 30 days written notice of such cancellation.

17.3 If we cancel this policy, earned insurance fees will be computed on a *pro rata* basis.

18. APPLICABLE LAW

This policy, and any dispute arising out of or in connection with it or the breach thereof, will be exclusively governed by and interpreted in accordance with the laws of British Columbia and any applicable federal laws of Canada and, in the event any dispute is not governed by Condition 10.2 of this policy, it shall be submitted to and be subject to the exclusive jurisdiction of the Courts of British Columbia in Vancouver, British Columbia.

19. CURRENCY

The deductibles and limits are expressed in Canadian currency.

20. TERRITORY

This policy applies to **errors** occurring anywhere in the world.

IN WITNESS WHEREOF, we have caused this policy to be executed.

LSBC Captive Insurance Company Ltd.



Susan I. Forbes, QC, Secretary