

**ALBERTA LAWYERS' PROFESSIONAL LIABILITY AND MISAPPROPRIATION  
INDEMNITY GROUP POLICY**

**DECLARATIONS**

NOTICE: THIS POLICY PROVIDES COVERAGE ON A CLAIMS MADE AND REPORTED BASIS. THERE IS NO COVERAGE FOR ANY **CLAIMS** WHICH ARE NOT FIRST MADE AGAINST THE **SUBSCRIBER** DURING THE **POLICY PERIOD**, AND REPORTED TO **ALIA** IN ACCORDANCE WITH THE TERMS OF THIS POLICY.

1. POLICY NO.: 2021-2022
2. ALIA: Alberta Lawyers Indemnity Association
3. LOCAL ADMINISTRATIVE OFFICE AND ADDRESS FOR SERVICE: Alberta Lawyers Indemnity Association  
700, 333 – 11th Avenue SW  
Calgary, Alberta T2R 1L9
4. PART A - PROFESSIONAL LIABILITY INDEMNITY
  - (a) SUBSCRIBERS:
    - (i) Members of the Law Society of Alberta ("**Law Society**") who are required by the **Rules** of the **Law Society** to pay the professional liability assessment for indemnity under this Part A and who have paid such assessment prior to the **Error** for which coverage is being sought
    - (ii) others identified as **Subscribers** in the policy
  - (b) POLICY PERIOD: July 1, 2021 to June 30, 2022
  - (c) LIMITS OF LIABILITY: **Occurrence Limit** - \$1,000,000, subject to any sublimit expressly provided for in Part A  
**Aggregate Limit** - \$2,000,000
  - (d) INDIVIDUAL DEDUCTIBLE: \$5,000 per **Occurrence**
  - (f) PREMIUM: As determined by the **ALIA** Board.

5. PART B - MISAPPROPRIATION INDEMNITY

- (a) SUBSCRIBERS
- (i) Members of the **Law Society** who are required by the **Rules** of the **Law Society** to pay the misappropriation assessment for indemnity under this Part B and who have paid such assessment
- (ii) others identified as **Subscribers** in the policy
- (b) POLICY PERIOD: July 1, 2021 to June 30, 2022
- (c) LIMITS OF LIABILITY: **Misappropriation Limit** - \$5,000,000  
**Profession-wide Annual Aggregate Limit** -\$25,000,000
- (d) PREMIUM: As determined by the **ALIA** Board.

## **PART A - PROFESSIONAL LIABILITY INDEMNITY**

### **I. DEFINITIONS**

In this Part A:

**Additional Subscriber** means, with respect to a particular **Individual Subscriber**:

- (a) a present or former partner of the **Individual Subscriber**;
- (b) any **Law Firm** through which the **Individual Subscriber** has practised law, whether as partner, associate, employee, counsel, contract lawyer or otherwise; and
- (c) a present or former partner of any **Law Firm** through which the **Individual Subscriber** has practised law,

provided, however, **Additional Subscriber** does not include a **Subscriber** who committed or is alleged to have committed an **Error** that is the same as, or which is **Related** to, the **Error** committed by the **Individual Subscriber**.

**Administrative Costs** means:

- (a) **Costs** incurred by **ALIA** in managing a **Claim**, including, without limiting the foregoing, **Costs** of coverage determinations, recovery and subrogation, and adjuster's fees incurred in managing a **Claim**;
- (b) post-judgement interest on that portion of Damages (or any part thereof) for which **ALIA** is responsible under this Part A; and
- (c) out-of-pocket **Costs** of a **Subscriber** in connection with a **Claim** to the extent authorized for reimbursement by **ALIA** in writing in advance, including, without limiting the foregoing, reasonable travel **Costs** to attend trial to the extent so authorized.

**Adult Interdependent Partner** has the same meaning as in the *Adult Interdependent Relations Act*, SA 2002, c. A-4.5.

**Aggregate Limit** has the meaning given by clause 2.5(c).

**ALIA** means the Alberta Lawyers Indemnity Association, a company incorporated under Part 9 of the *Companies Act*, RSA 2000, c. C-21.

**Ancillary Activities** means activities of a quasi-legal or non-legal nature (including, without limiting the foregoing, financial, investment, accounting and brokerage advice or services; and the carrying on of any business or undertaking that is not the provision of **Professional Services** including, without limiting the foregoing, real estate development and appraisal) that are ancillary to or independent of the provision of legal services normally provided or supervised by a lawyer within the scope of a usual lawyer-client relationship and are provided by a **Subscriber**, regardless of whether such activities are for compensation, personal benefit, or otherwise.

**Approved Law** means any legal services that are expressly identified as an **Approved Law** in an endorsement to this policy.

**Circumstance** means:

- (a) any circumstance which could reasonably be expected to give rise to a **Claim**, however unmeritorious; or
- (b) any circumstance which could reasonably be expected to constitute an **Occurrence**;

**Claim** means:

- (a) a written or oral allegation of an **Occurrence**; or
- (b) a written or oral demand for money, property or services arising out of an actual or alleged **Occurrence**;

including the threat or institution of a suit or other legal proceeding that is made against one or more **Subscribers**.

For greater certainty, all **Claims** arising out of the same **Occurrence** are subject to a single **Occurrence Limit**, regardless of the fact that such **Claims** may have been made in different policy periods. Nothing in this clause relieves the **Subscriber** from the obligation to report such **Claims** in accordance with the requirements of Conditions 4.1 and 4.2 of this policy.

**Claimant** means a **Person** who has made or may make a **Claim**.

**Costs** includes fees, costs, charges, disbursements and expenses.

**Counterfeit Certified Cheque or Counterfeit Bank Draft** means a fraudulent instrument purported to be drawn upon a Canadian financial institution that resembles a certified cheque or bank draft to such an extent that it is reasonably capable of passing for a certified cheque or bank draft, but not a certified cheque or bank draft that has merely been altered or for which a signature of endorsement forged.

**Damages** means:

- (a) compensatory damages;
- (b) **Repair Costs**;
- (c) pre-judgement interest on that portion of **Damages** (or any part thereof) for which **ALIA** is responsible under this Part A (other than Damages under this paragraph (c)); and
- (d) **Costs** of a **Claimant** that are taxed or fixed by a court;

but does not include:

- (i) fines or penalties;
- (ii) aggravated, punitive or exemplary damages (whether or not such damages are compensatory damages);

- (iii) billed or unbilled legal fees and disbursements, whether paid or not, even if claimed as special or general damages;
- (iv) any profit, remuneration or any other gain which the **Subscriber** has directly or indirectly received; or
- (v) the cost of complying with declaratory, injunctive or other non-monetary relief.

**Defence Costs** means **Costs** incurred by **ALIA** in defending or settling a **Claim**, including, without limiting the foregoing, legal fees and disbursements of counsel appointed by **ALIA** (other than **Repair Counsel**); notional legal fees and disbursements incurred by in-house defence counsel of **ALIA**, if any, as determined by **ALIA**; the fees and disbursements incurred for investigators, experts, appraisers and witnesses; **Costs** of alternative dispute resolution; and adjuster's fees incurred on the instructions of counsel in defending or settling a **Claim**.

**Dishonest** means conduct which a reasonable person would consider to be, in the context of the expected conduct of a lawyer:

- (a) deceptive and morally reprehensible;
- (b) untruthful and morally reprehensible; or
- (c) lacking in candour and integrity;

even in the absence of an actual dishonest purpose, motive or intent.

**Enterprise** means any proprietorship, partnership, limited partnership, co-operative, society, business, association, joint venture, syndicate, company, corporation, firm, trust, municipality, government, governmental or regulatory authority, university, court or other legal or commercial entity.

**Error** means an actual or alleged inadvertent error by act or omission.

**Finding** means a finding by the trier of fact in the case against the **Subscriber**, after the exhaustion of all appeals or, if no such appeals have been commenced, after the time for commencing such appeals has expired.

**Incidental Services** means services that are connected with and incidental to legal services normally provided or supervised by a lawyer within the scope of a usual lawyer-client relationship, including, without limiting the foregoing, those services for which the **Subscriber** is responsible as a **Member** and which arise out of such **Subscriber**'s activity as an executor, administrator, trustee, personal representative, committee, guardian, or patent or trademark agent.

**Individual Deductible** has the meaning given by clause 2.5(a).

**Individual Subscriber** means a **Member** who has caused or is alleged to have caused an **Occurrence** and who is one of the following:

- (a) a **Member** who is required by the **Rules** to pay the professional liability assessment for indemnity under this Part A and who has paid such assessment; or

- (b) a **Member** or former **Member** who was previously, but is no longer, insured or indemnified by the indemnity program mandated by the *Legal Profession Act* (Alberta), but only with respect to **Occurrences** that took place or are alleged to have taken place:
  - (i) while that **Member** was insured by mandatory insurance; or
  - (ii) before the date of commencement of mandatory insurance.

In this definition, "mandatory insurance" means professional liability insurance or indemnity for errors and omissions required by legislation or the **Rules** to insure or indemnify **Members**, in the form that was required at the relevant time; and "**Individual Subscriber**" includes a **Professional Corporation** through which the **Individual Subscriber** was practising law at the time of the Occurrence.

**Ineligible Costs** means:

- (a) **Costs** incurred and earnings lost by an **Individual Subscriber** or **Additional Subscriber** in connection with an attempt to correct an **Error** in the rendering of **Professional Services**, to prevent the threat, institution or advancement of a **Claim**, or to reduce or avoid any liability, damages or loss arising out of an **Error**, or in the defence or settlement of a **Claim**, including, without limiting the foregoing, those associated with:
  - (i) photocopying documents;
  - (ii) expending time and effort;
  - (iii) preparing for and attending questioning or cross-examinations, or interlocutory proceedings;
  - (iv) preparing for and attending alternate dispute resolution;
  - (v) preparing for court and testifying; and
  - (vi) otherwise cooperating with **ALIA** in the repair, defence or settlement of a **Claim**;
- (b) out-of-pocket **Costs** of an **Individual Subscriber** or **Additional Subscriber** that are not authorized for reimbursement by **ALIA** in advance, including, without limiting the foregoing, **Costs** of independent or personal counsel retained by the **Subscriber** (except in the circumstances set out in Exclusions 3.7, 3.9 and 3.10) and **Costs** of disputing issues relating to coverage, deductibles or apportionment of liability (subject to an award otherwise by a court or arbitrator); and
- (c) **Costs** awarded personally against a **Subscriber** as a result of the **Subscriber's** conduct in litigation, whether or not connected with an **Occurrence**.

**Law Firm** means:

- (a) a sole proprietorship through which an **Individual Subscriber** practises law; or
- (b) two or more **Individual Subscribers** who are, or appear to be, holding themselves out to the public as practising law together, whether or not a partnership exists in fact and

regardless of the form or forms of business organization through which the practice is conducted.

**Law Society** means the Law Society of Alberta.

**law society** means a law society, barristers' society, bar association, or a similar regulatory organization of a jurisdiction other than Alberta.

**Legal Services Organization Lawyer** means a **Member** who is an employee of, or who is exempted from the requirement to pay a professional liability assessment pursuant to the **Rules** but who is otherwise acting within the scope of their duties in providing pro bono legal services as a volunteer through, an organization which has been designated by the Executive Director of the **Law Society** under the **Rules** as an approved legal services provider of pro bono services and such designation is in full force and effect at the time of the Occurrence or which is a legal clinic, or any organization, in whatever form, providing legal services to members of the public or other organizations as authorized by the **Rules** and approved by the President and Chief Executive Officer of ALIA.

**Limits of Liability** means the **Occurrence Limit** and **Aggregate Limit** set out in Item 4(c) of the Declarations.

**Member** means a lawyer who, at the date of the **Occurrence**, was enrolled with the **Law Society** pursuant to the *Legal Profession Act* (Alberta).

**Misappropriation** means, for the purposes of this Part A, a theft, wrongful taking, or wrongful conversion and may include multiple thefts, wrongful takings, or wrongful conversions concurrently, or over time, of **Money, Securities or Property**, whether to the use of a **Subscriber** or a third party, which was entrusted to or received by an **Individual Subscriber** or **Additional Subscriber** in their capacity as a barrister or solicitor or such other capacity as the **Law Society** may designate, regardless of the form or forms of business organization through which the practice as a barrister or solicitor is conducted.

**Mobility Rules** means those rules of a Canadian **law society** that govern the ability of members of other Canadian **law societies** to provide **Professional Services** in that jurisdiction on a temporary or permanent basis.

**Money, Securities or Property** means:

- (a) money including currency, coins, and bank notes having a face value and in current use;
- (b) securities including all negotiable and non-negotiable instruments or contracts representing money, debt, an equity interest or an interest in property and includes revenue and other stamps, tokens and tickets in current use; and
- (c) personal property including trust money, in cash or on deposit, and chattels, which have been entrusted.

**Non-qualifying Services** means advice or services provided or supervised by a **Subscriber** in relation to one or more **Ancillary Activities** conducted by that **Subscriber**.

**Occurrence** means an **Error** in the rendering of **Professional Services** to others, provided in either case that:

- (a) a sole **Error** shall be considered one **Occurrence** regardless of:
  - (i) the number of **Claimants** or **Claims** arising out of the **Error**;
  - (ii) the number of **Subscribers** against whom **Claims** are made in connection with the **Error**; or
  - (iii) the fact that **Claims** arising out of the **Error** were made at different times or in different policy periods; and
  
- (b) two or more **Errors** that are the same or that are **Related** shall be considered a single **Occurrence**, regardless of:
  - (i) the number of **Claimants** or **Claims** arising out of the **Errors**;
  - (ii) the number of **Subscribers** against whom **Claims** are made in connection with the **Errors**;
  - (iii) the fact that the **Errors** occurred in the same or different retainers for the same or different clients; or
  - (iv) the fact that the **Errors** took place, or that **Claims** arising out of the **Errors** were made, at different times or in different policy periods.

**Occurrence Limit** has the meaning given by clause 2.5(b), subject to clause 2.52.5(f).

**Overdraft** means a negative balance in the **Subscriber's** trust account, whether or not related to or caused by a **Counterfeit Certified Cheque or Counterfeit Bank Draft**.

**Person** includes an individual and an **Enterprise**.

**Policy Period** is that indicated in Item 4(b) of the Declarations.

**Professional Corporation** means a corporation to which a permit has been issued pursuant to subsection 131(3) of the *Legal Profession Act* (Alberta).

**Professional Services** means services normally provided or supervised by a lawyer within the scope of a usual lawyer-client relationship which are with respect to:

- (a) the law of Canada, of Alberta, or of any other province or territory located within Canada;
- (b) an **Approved Law**; or
- (c) a combination of the laws referred to in clauses (a) and (b) above;

and includes:

- (d) services rendered as an arbitrator or a mediator of legal disputes, or in an equivalent role with respect to such disputes; and



- (e) **Incidental Services** that are substantially **Related** to the services described in paragraphs (a), (b) and (c);

but does not include:

- (f) **Ancillary Activities**;
- (g) the mere receipt and distribution of funds by a **Subscriber**, whether through that **Subscriber's** trust account or otherwise; or
- (h) **Unauthorized Practice**.

**Reciprocal Jurisdiction** means a Canadian jurisdiction the **law society** of which has adopted **Mobility Rules** that are not substantially more restrictive than the **Mobility Rules** of the **Law Society**.

**Related** includes factual relationships, logical relationships, causal relationships and any other relationship.

**Related Party** means, with respect to a particular **Individual Subscriber**:

- (a) a present or former partner of the **Individual Subscriber**;
- (b) any **Law Firm** through which the **Individual Subscriber** was practising at the time of the Occurrence, whether as partner, associate, employee, counsel, contract lawyer or otherwise;
- (c) a present or former partner of any **Law Firm** through which the **Individual Subscriber** has practised law; and
- (d) a **Spouse, Adult Interdependent Partner**, parent, child, sibling or other relative of the **Individual Subscriber** or any other individual set forth in the foregoing paragraphs (a) through (c).

**Repair Costs** means **Costs** incurred by **ALIA** in an attempt to:

- (a) correct an **Error** in the rendering of **Professional Services**;
- (b) prevent the threat or institution of a **Claim** or legal proceeding against one or more **Subscribers** arising out of an **Error** in the rendering of **Professional Services**; or
- (c) reduce or avoid any liability, damages or loss, including taxed costs and interest, arising out of an **Error** in the rendering of **Professional Services**.

**Repair Counsel** means counsel retained by **ALIA** pursuant to clause 2.4(a).

**Rules** means the Rules of the **Law Society**, as amended.

**Social Engineering Fraud** includes the intentional misleading of:

- (a) a **Subscriber** or a **Law Firm**;
- (b) a client of a **Subscriber** or a **Law Firm**;
- (c) a partner, associate, employee, counsel, contract lawyer or other agent or representative of a **Law Firm**; or
- (d) a bank or other financial institution of any **Person** listed in clauses (a) to (c) above,

into sending or paying money based on fraudulent information that is provided to any such **Person** in a written or verbal communication.

**Spouse** means the husband or wife of a married individual.

**Subscriber** means:

- (a) an **Individual Subscriber**;
- (b) an **Additional Subscriber**; or
- (c) a **Legal Services Organization Lawyer**.

**Unauthorized Practice** means legal services normally provided or supervised by a lawyer within the scope of a usual lawyer-client relationship by a **Subscriber** in contravention of the rules of a **law society**. Notwithstanding any other term of this policy, the onus is on the **Subscriber** to prove that the **Subscriber** has not engaged in **Unauthorized Practice**.

## II. INDEMNITY AGREEMENTS

In consideration of payment of the premium when due, and subject to the **Limits of Liability**, deductibles, exclusions, conditions and all other terms of this Part A, **ALIA** agrees with each **Subscriber** as follows:

### 2.1 **Damages**

Subject to Conditions 4.1, 4.2 and 4.4 of this Part A, which are conditions precedent to coverage, and subject also to all other provisions of this Part A, **ALIA** will pay on behalf of each **Subscriber** the **Damages** that the **Subscriber** becomes legally obligated to pay arising out of an **Occurrence**.

### 2.2 **Defence of Claims and Payment of Costs**

In respect of the indemnity coverage given by this Part A, **ALIA** will:

- (a) defend that portion of any **Claim** against a **Subscriber** alleging an **Occurrence** and seeking **Damages** that would fall within the coverage provided by this Part A. As part of this obligation to defend such a **Claim**, **ALIA** shall have complete and exclusive control

over the conduct of the defence of a **Claim**, including the appointment and instruction of counsel;

- (b) pay all **Administrative Costs** incurred by **ALIA** in connection with the **Claim**, it being understood that the payment of **Administrative Costs** by **ALIA** will not erode the **Limits of Liability** provided in this Part A;
- (c) pay all **Defence Costs** and **Repair Costs**, incurred by **ALIA**, in connection with that part of the **Claim** that falls within the coverage provided by this Part A, it being understood that the payment of **Defence Costs** and **Repair Costs** by **ALIA** will erode the **Limits of Liability** provided in this Part A; and
- (d) pay all premiums on appeal bonds and on bonds to release attachments, for bond amounts not exceeding the applicable **Limit of Liability** (as such **Limit of Liability** may be eroded in accordance with this policy from time to time), in connection with the **Claim** that have been authorized in advance by **ALIA**, it being understood that the payment of such premiums will erode the **Limits of Liability** provided in this Part A and that **ALIA** will have no obligation to furnish, apply for or give security for any such bonds.

### 2.3 **Limits on Defence and Payment of Costs**

- (a) *Uncovered Claim.* **ALIA** has no duty to defend, and has no duty to pay any defence **Costs**, **Repair Costs**, **Administrative Costs** or other amounts, regarding a **Claim** or a part of a **Claim** that falls within an Exclusion of this Part A or that otherwise is not covered by this Part A.
- (b) *Ineligible Costs.* **ALIA** is not responsible for and will not pay any **Ineligible Costs**.
- (c) *Uncovered portion of defence or damages:* **ALIA** has no obligation to pay any defence **Costs** or other amounts with respect to parties, allegations, or **Damages** that are not covered by this Part A, and such defence **Costs** or other amounts are the sole responsibility of the **Subscriber**. If there are uncovered parties, allegations or **Damages** in the **Claim**, the following shall apply:

*With respect to payment of Defence Costs and Repair Costs:*

- (i) **ALIA** and **Subscriber** will use reasonable efforts to agree upon an allocation of the **Defence Costs** and the **Repair Costs** attributable to the covered and uncovered parties, allegations or **Damages**. If **ALIA** and **Subscriber** cannot reach such an agreement, then **ALIA** is entitled to decide the appropriate percentage, acting reasonably, for the **Defence Costs** and the **Repair Costs** attributable to the covered parties, allegations or **Damages** and shall be entitled to pay only that percentage;
- (ii) any determination of such a percentage allocation shall apply only to **Defence Costs** or **Repair Costs** and shall not apply to or be considered with respect to allocation of **Damages** (other than **Repair Costs**);
- (iii) if **ALIA** pays **Defence Costs** or other amounts that would be allocated to a **Subscriber** hereunder, the **Subscriber** shall pay such amounts to **ALIA** on demand;

*With respect to payment of Damages:*

- (iv) the allocation between covered and uncovered **Damages** (other than **Repair Costs**) may proceed after judgment in, or settlement of, the **Claim** and will be based on the relative legal and relative factual exposure of **ALIA** and the **Subscriber** with respect to the covered and uncovered **Damages**.

## 2.4 **Repair of Errors**

**ALIA** may determine, in its sole discretion, whether an attempt should be made to repair an **Error** in the rendering of **Professional Services**; however, **ALIA** has no obligation or duty to attempt to repair an **Error**. If **ALIA** determines that an attempt should be made to repair an **Error**, then as between **ALIA** and the **Subscriber**, **ALIA** shall be entitled to have complete and exclusive control over the repair. Such exclusive control includes, without limiting the foregoing, **ALIA's** ability to:

- (a) retain counsel to act on behalf of **ALIA**, which retainer may provide that such counsel may be exclusively instructed by **ALIA** and may contain such other terms and conditions (including that it may be a joint retainer) as **ALIA** may determine in its sole discretion;
- (b) incur **Repair Costs**;
- (c) take such steps as **ALIA** decides are appropriate to prevent the threat or institution of a **Claim** or legal proceeding against one or more **Subscribers** arising out of an **Error** in the rendering of **Professional Services**; and
- (d) take such steps as **ALIA** deems appropriate to reduce or avoid any liability, loss or damages arising out of an **Error** in the rendering of **Professional Services**.

## 2.5 **Deductibles and Limits of Liability**

- (a) **Individual Deductible.**
  - (i) Each **Subscriber** against whom one or more **Claims** are made in respect of an **Occurrence** shall be liable for **Defence Costs** and **Damages** (including **Repair Costs**) for that **Occurrence** up to a maximum amount of \$5,000.00 in the aggregate (the **Individual Deductible**).
  - (ii) **ALIA** does not have any obligation to pay to a **Claimant** an amount attributable to an **Individual Deductible** although **ALIA** may pay all or part of the **Individual Deductible** amount to a **Claimant** to effect settlement of a claim, or to pay **Repair Costs** or **Defence Costs**. If **ALIA** pays any part or all of the **Individual Deductible** amount to a **Claimant** to effect settlement of a claim or to pay **Repair Costs** or **Defence Costs**, the **Subscriber** shall promptly reimburse **ALIA** the amount paid.
  - (iii) If a **Claim** is made against more than one **Subscriber** from the same **Law Firm** in respect of the same **Occurrence**, only one **Individual Deductible** will be

charged for that **Occurrence**. **ALIA** has the sole discretion to decide which of such **Subscribers** is responsible for paying the **Individual Deductible**.

- (b) **Occurrence Limit.** Subject to clause 2.5(f) of this Part A, for each **Occurrence**, the maximum amount payable by **ALIA** collectively for **Damages, Repair Costs, Defence Costs** and any other amounts combined is \$1,000,000.00 (the **Occurrence Limit**) less the applicable **Individual Deductible**.
- (c) **Aggregate Limit.** The maximum amount payable by **ALIA** collectively for **Damages, Repair Costs, Defence Costs** and any other amounts combined on behalf of any **Individual Subscriber**, including all **Additional Subscribers**, for all **Claims** made during the **Policy Period**, regardless of the number of **Occurrences**, is \$2,000,000.00 (the **Aggregate Limit**) less the applicable **Individual Deductibles**.

The **Aggregate Limit** applicable to an **Individual Subscriber** shall not be eroded by **Claims** made against that **Individual Subscriber** in their role as an **Additional Subscriber** in respect of the same **Occurrence**.

- (d) **Application of Occurrence Limit and Aggregate Limit to Multiple Claims, Claimants, Subscribers and policy periods.** The maximum liability of **ALIA** for each **Occurrence** and for **Claims** made during the entire **Policy Period** is as set forth in clauses 2.5(b) and 2.5(c) above, regardless of: the number of **Claims** or **Claimants** arising out of a particular **Occurrence**; the number of **Subscribers** against whom **Claims** are made in connection with the **Occurrence**; the fact that the **Occurrence** occurred in the same or different retainers for the same or different clients; or the fact that the **Occurrence** took place, or that **Claims** arising out of the **Occurrence** were made, at different times or in different policy periods. Multiple **Claims, Claimants, Subscribers**, retainers, or policy periods involved in a single **Occurrence** will not increase or cumulate the **Occurrence Limit** or the **Aggregate Limit**.

However, if one or more **Claims** arising out of the same **Occurrence** are made jointly, severally, or jointly and severally, against two or more **Law Firms**, then the **Individual Deductible** and the **Occurrence Limit** and **Aggregate Limit** shall apply separately to each **Law Firm** unless the involvement of more than one **Law Firm** is attributable solely to the fact that an **Individual Subscriber** causing the **Occurrence** has relocated from one **Law Firm** to another.

- (e) **Exhaustion of Limits of Liability.** **ALIA** shall not be obligated to pay any **Damages, Repair Costs, Defence Costs**, or any other amounts, or to undertake or continue the repair of any **Error** or the defence of any proceeding, after the respective **Limits of Liability** have been exhausted, or after deposit of the applicable **Limits of Liability** into a court of competent jurisdiction. In such a case, **ALIA** shall have the right to withdraw from further defence or repair by tendering control of the defence or repair to the **Subscriber**.
- (f) **Applicable Sublimits.** Notwithstanding any other term of this policy, there is a \$250,000 **Occurrence Limit**, less the applicable **Individual Deductible**, for each **Claim** that is against a **Subscriber** or an **Additional Subscriber** alleging an **Occurrence** and seeking **Damages** that would fall within the coverage provided by this Part A and that is brought in a jurisdiction other than Canada or any of its provinces or territories.

### III. EXCLUSIONS

The indemnity coverage given by this Part A does not apply to a **Claim** arising out of or from:

- 3.1 *[Intentionally deleted]*;
- 3.2 **Professional Services** provided in a **Subscriber's** capacity as a member of a non-Canadian **law society**;
- 3.3 **Non-qualifying Services**;
- 3.4 the mere receipt and distribution of funds by a **Subscriber**, whether through that **Subscriber's** trust account or otherwise;
- 3.5 the theft or **Misappropriation** of trust funds or property or in any way **Related** to such theft or **Misappropriation**;
- 3.6 a **Dishonest**, fraudulent or criminal act or omission that does not fall within Exclusion 3.5;
- 3.7 a malicious act or omission, except that **ALIA** will reimburse to a **Subscriber** reasonable legal fees and disbursements incurred by independent counsel retained by the **Subscriber** in the defence of allegations of an allegedly malicious act or omission, if there is a **Finding** that the **Subscriber** did not commit the malicious act or omission. However, such legal fees and disbursements will only be reimbursed if the **Claim** against the **Subscriber** otherwise would have been covered under this Part A, but for the existence of this exclusion. In addition, such reimbursement is subject to allocation between covered and uncovered amounts in accordance with clause 2.3(c);
- 3.8 any loss due to **Misappropriation** which is covered under Part B of this policy, or which would have been covered under Part B but for:
  - (a) the exhaustion of the limits set out in clauses 2.4(a) or 2.4(b) of Part B; or
  - (b) the failure of any **Subscriber** to comply with any term of Part B including, without limiting the generality of the foregoing, the Conditions set out in Section IV of Part B;
- 3.9 a penalty assessed against a **Subscriber** under section 163.2 of the *Income Tax Act*, except that **ALIA** will reimburse to the **Subscriber** reasonable legal fees and disbursements incurred by independent counsel retained by the **Subscriber** in the successful appeal of such penalty, if there is a **Finding** that the **Subscriber** did not commit the acts or omissions which gave rise to the potential penalty. However, such legal fees and disbursements will only be reimbursed if the **Claim** against the **Subscriber** seeks **Damages** against the **Subscriber** as a result of the same or **Related** conduct of the **Subscriber** which gives rise to the **Subscriber's** potential liability under s. 163.2 of the *Income Tax Act* and such **Damages** would otherwise would have been covered under this Part A.

In addition, such reimbursement is subject to allocation between covered and uncovered amounts in accordance with clause 2.3(c);
- 3.10 a fine or penalty assessed against a **Subscriber** under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, except that **ALIA** will reimburse to the **Subscriber** reasonable legal

fees and disbursements incurred by independent counsel retained by the **Subscriber** in the defence of a prosecution of an offence under such *Act*, if there is a **Finding** that the **Subscriber** did not commit the acts or omissions which gave rise to the potential fine or penalty. However, such legal fees and disbursements will only be reimbursed if the **Claim** against the **Subscriber** seeks **Damages** against the **Subscriber** as a result of the same or **Related** conduct of the **Subscriber** which gives rise to the **Subscriber's** potential liability under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and such **Damages** otherwise would have been covered under this Part A.

In addition, such reimbursement is subject to allocation between covered and uncovered amounts in accordance with clause 2.3(c);

- 3.11 the bodily injury, sickness, disease or death of any **Person** (other than mental illness, emotional distress, or humiliation of a claimant that is the direct result of an **Occurrence**);
- 3.12 physical damage to tangible property, including, without limiting the foregoing, physical damage that results in the loss of use of the property, unless such damage is the direct result of an **Occurrence**;
- 3.13 a **Subscriber's** acting in the capacity of director or officer of any **Enterprise**; or
- 3.14 damage to or loss of use of tangible or intangible property, alteration or loss of data, disclosure of confidential information, theft or other loss of money or property, or any other loss which arises, directly or indirectly, from:
  - (a) the receipt or transmission of a computer virus or other program via the internet or in any other electronic manner;
  - (b) the failure or violation of the security of computer, telecommunication or other devices, systems, or networks;
  - (c) computer code or programming, including but not limited to a computer virus, that does or which is intended to:
    - (i) delete, distort, corrupt, manipulate, or prevent access to: internet connections or systems; computer programming; computer, telecommunication or other devices, systems or networks; or electronic data;
    - (ii) impair the performance of computer, telecommunication or other devices, systems or networks;
    - (iii) obtain or disclose electronic data without the consent or authority of the **Subscriber**; or
    - (iv) gain remote control of or access to computer, telecommunication or other devices, systems or networks for uses other than those intended for authorized users of such devices, systems or networks; or
  - (d) **Social Engineering Fraud.**

In addition, the coverage given by this Part A does not apply to:

- 3.15 a **Claim** made against a **Member** who is an employee of, or who contracts with, a government, municipality, university, **Person** or **Enterprise**, other than a **Law Firm**, and who practises law solely within the scope of that employment or contract. This exclusion applies whether the **Member** is employed, or contracts to provide services, individually or through a **Professional Corporation**, and whether or not the **Member's** employment agreement or contract permits the **Member** to provide **Professional Services** outside of the scope of the **Member's** employment or contract. This exclusion does not apply to a **Member** who is a **Legal Services Organization Lawyer**;
- 3.16 a **Claim** made against a **Member** who is an employee of, or who contracts with, a government, municipality, university, **Person** or **Enterprise**, other than a **Law Firm**, except to the extent such **Claim** arises from **Professional Services** provided outside the scope of such employment or contract;
- 3.17 any **Claim** in any way relating to or arising out of the **Subscriber's** assumption of responsibility for the **Subscriber's** own or another's performance of:
- (a) an undertaking;
  - (b) an agreement; or
  - (c) a promise;
- to pay a debt, including but not limited to an **Overdraft**.
- 3.18 a **Claim** against a **Subscriber** made by the **Subscriber's** employer at the time the **Claim** was made or the **Occurrence** happened;
- 3.19 a **Claim** against a **Subscriber** made by the **Subscriber's Law Firm** at the time the **Claim** was made or the **Occurrence** happened;
- 3.20 a **Claim** against an **Individual Subscriber** by an **Additional Subscriber**;
- 3.21 a **Claim** for which proper notice has not been given in accordance with Conditions 4.1 and 4.2, or which was reported to **ALIA** after the **Policy Period**;
- 3.22 a **Claim** made, or deemed to have been made, prior to or after the **Policy Period**;
- 3.23 a **Claim** excluded under *Nuclear Incident Exclusion Clause* (attached); or
- 3.24 a **Claim** made by or in any way **Related** to an **Enterprise** in which the **Individual Subscriber** or **Related Parties** of the **Individual Subscriber**, or any combination thereof, held, directly or indirectly, at the time of the **Occurrence** or at any time thereafter, beneficial ownership in an amount greater than ten per cent (10%), to the extent that the damages the **Individual Subscriber** is legally obligated to pay represent the share of ownership in such Enterprise held by the **Individual Subscriber** or **Related Parties** of the **Individual Subscriber** or any combination thereof.



#### IV. CONDITIONS

The coverage afforded by this Part A is subject to the following Conditions:

##### 4.1 **Claims First Made and Reported**

- (a) This Part A gives the described coverage to a **Subscriber** for an **Occurrence** only if the **Claim** is first made against the **Subscriber** during the **Policy Period**, and is reported in writing to **ALIA** in accordance with Condition 4.2 of this Section IV.
- (b) A **Claim** is first made against the **Subscriber** during the **Policy Period**:
- (i) If a **Subscriber** first becomes aware during the **Policy Period** of a **Claim** or a **Circumstance**; or
- (ii) a **Claim** is first made during the **Policy Period** against a **Subscriber** for **Damages** that are or might be covered under Part A of this policy;
- whichever is earlier, provided, in either case, that the **Subscriber** had no knowledge before the commencement of the **Policy Period** of the **Claim** or **Circumstance** and could not reasonably have foreseen before the commencement of the **Policy Period** that a **Claim** might arise; and provided further, that where a **Claim** is first made against an **Individual Subscriber** but has not, at that time, been made against their **Additional Subscribers**, the **Claim** shall be deemed to have been first made against the **Additional Subscribers** at the same time that the **Claim** was first made against the **Individual Subscriber**.
- (c) When the **Policy Period** expires, **ALIA** shall be free of liability for **Occurrences** except for those in respect of which a **Claim** has been both first made during the policy period and which has been reported to **ALIA** in accordance with Condition 4.2(a) or 4.2(b).

##### 4.2 **Notice Requirements**

- (a) *Written notice.* Each **Subscriber** shall, as soon as practicable after becoming aware of a **Claim** or **Circumstance**, give written notice thereof, during the **Policy Period**, to **ALIA** at the local address for service shown in the Declarations.
- (b) *Late notice.* Notwithstanding the requirement in clause 4.2(a) that the written report of the **Claim** or **Circumstance** be reported to **ALIA** as soon as practical and during the **Policy Period**, a **Subscriber** may provide such notice at a later time if the **Subscriber** proves that such late notice has caused no prejudice to **ALIA**. If late notice of the **Claim** or **Circumstance** is provided to **ALIA** for the first time, pursuant to this paragraph 4.2(b), then:
- (i) There shall be no coverage for any **Subscriber** if **ALIA** has been prejudiced by the late notice;
- (ii) Subject to clause 4.2(b)(iii), the policy terms and conditions (including the **Limits of Liability**) applicable to the **Claim** or **Circumstance** for all **Subscribers** are deemed to be those in effect at the time when the **Claim** was first reported to **ALIA**;

- (iii) The amount of the applicable **Aggregate Limit of Liability** for the **Individual Subscribers** and all **Additional Subscribers** will be the lesser of the following:
  - A. The amount of the remaining **Aggregate Limit of Liability** of the policy in force at the time the **Claim** was first made; and
  - B. The amount of the remaining **Aggregate Limit of Liability** of the policy in force at the time the **Claim** or **Circumstance** was first reported to **ALIA**;

taking into account erosion, if any, of such limits by **Defence Costs** or other amounts.

For greater certainty, this paragraph 4.2(b) shall not apply to any Claim that is first made against a Subscriber prior to July 1, 2020.

- (c) *Information.* After notification, the **Subscriber** shall submit, as soon as practicable, to the **Person(s)** designated by **ALIA** all information reasonably required by **ALIA** that the **Subscriber** is reasonably capable of providing. In addition, the **Subscriber** shall immediately forward to the **Person(s)** designated by **ALIA** any demand, notice, summons or other process received by the **Subscriber** in connection with the **Claim** or **Occurrence**. If a **Subscriber** fails without reasonable excuse to comply with this paragraph, **ALIA** may withdraw coverage under the **Policy** for that **Subscriber**. If a **Subscriber** is unable by reason of death or mental or physical incapacity to comply with this paragraph, **ALIA** may, at its option, take the place of the **Subscriber** to ensure compliance but is not obliged to do so.
- (d) *Acceptance of notice from other Subscribers or Persons.* **ALIA** may, in its discretion:
  - (i) deem notice of a **Claim** or **Circumstance** by an **Individual Subscriber** to be notice of such **Claim** or **Circumstance** by their **Additional Subscribers**; and
  - (ii) accept notice of a **Claim** or **Circumstance** which is provided to **ALIA** during the **Policy Period** by a **Person** other than the **Subscriber** who was required to give it.

However, this discretion will not be exercised if **ALIA** has been prejudiced by late notice of a **Claim** or **Circumstance**.

#### 4.3 **Cooperation, Admissions and Settlement**

- (a) *Co-operation.* The **Subscriber** shall co-operate fully with **ALIA**. Without limiting the generality of this requirement to cooperate fully, this includes the requirements that the **Subscriber** shall respond promptly to all communications from **ALIA** and any **Person** appointed by and acting on its behalf, and shall, upon request:
  - (i) assist in investigations;
  - (ii) assist in settlement attempts;
  - (iii) attend at questionings and other interlocutory proceedings;

- (iv) attend at alternative dispute resolution;
  - (v) assist in enforcing any right of contribution or indemnity against any third party;
  - (vi) attend at hearings and trials;
  - (vii) assist in securing the attendance of witnesses; and
  - (viii) otherwise assist in the repair, defence or settlement in all other reasonable respects.
- (b) *Non-compliance.* If a **Subscriber** fails without reasonable excuse to comply with Condition 4.3(a), **ALIA** may withdraw coverage under the **Policy** for that **Subscriber**. If a **Subscriber** is unable by reason of death or mental or physical incapacity to comply with Condition 4.3(a), **ALIA** may, at its option, take the place of the **Subscriber** to ensure compliance but is not obliged to do so.
- (c) *Admission of liability.* The **Subscriber** shall not make any admission, make any offer to settle or take any other action with respect to a **Claim** or **Occurrence** (including an attempt to correct an **Error** in the rendering of **Professional Services**, prevent the threat, institution or advancement of a **Claim**, or reduce or avoid any liability, damages or loss arising out of an **Error**) unless **ALIA** is aware of and consents in writing to the admission, offer or action in advance. Any such admission, offer to settle or other action taken without the consent referred to in this Condition 4.3(c) shall be at the sole risk of the **Subscriber**. However, this clause shall not apply to any such admission, offer or other action that occurs after **ALIA** has granted the permission referred to in Condition 4.3(e).
- (d) *Payments, etc.* Any payment, obligation or expense in connection with a **Claim** or **Occurrence** that is made, assumed or incurred by the **Subscriber**, without obtaining the prior consent of **ALIA**, shall be the sole responsibility of the **Subscriber**.
- (e) *Compromise or settlement.* The decision to settle or compromise a **Claim** is within the sole discretion of **ALIA**, which has the exclusive right and authority to enter into a compromise or settlement without the consent of the **Subscriber**. If the **Subscriber** objects to a compromise or settlement, the **Subscriber** may request that the **Subscriber** be permitted to contest or continue legal proceedings in connection with the **Claim**. **ALIA** has no obligation to grant such permission but may do so within the exercise of its sole discretion. Any permission so granted shall be in writing and is subject to the express condition that the amount payable under this Part A in respect of the relevant **Claim** shall not exceed the amount for which the **Claim** could have been settled, including **Defence Costs** up to the date of the **Subscriber**'s objection, subject to the other Conditions of this Part A.

#### 4.4 **Innocent Additional Subscriber Provisions**

- (a) *Fraud or malice.* Subject to Condition 4.4(d), if coverage under this Part A is excluded, suspended or lost for an **Individual Subscriber** due to the operation of Exclusion 3.6 or 3.7 (that is, a **Dishonest**, fraudulent, criminal or malicious act or omission by the **Individual Subscriber** other than one relating in any way to theft or **Misappropriation** of trust funds or property), coverage shall continue to apply for the benefit of any **Additional Subscriber** against whom a **Claim** is made arising out of the **Occurrence** caused by the **Individual Subscriber**.

- (b) *Failure to provide information or cooperate.* Subject to Condition 4.4(d), if coverage under this Part A is excluded, suspended or lost for an **Individual Subscriber** due to that **Individual Subscriber's** failure to provide information or copies of any demand, notice, summons or other process as required by Condition 4.2(c), or to cooperate with **ALIA** in accordance with Condition 4.3(a), coverage shall continue to apply for the benefit of any **Additional Subscriber** against whom the **Claim** in question, or a **Claim** arising out of the **Occurrence** in question, is made; provided, for greater certainty, that nothing in this paragraph shall be construed as providing coverage to an **Additional Subscriber** where such coverage was not available to the **Additional Subscriber** pursuant to Conditions 4.1 or 4.2.
- (c) *Non-Qualifying Services.* Subject to Condition 4.4(d), if coverage under this Part A is excluded, suspended or lost for an **Individual Subscriber** under Exclusion 3.3 because the **Individual Subscriber** has rendered **Non-Qualifying Services**, coverage shall continue to apply for the benefit of any **Additional Subscriber** against whom a **Claim** is made arising out of the **Occurrence** caused by the **Individual Subscriber**.
- (d) *Condition of coverage.* It is a condition precedent to the coverage referred to in this Condition 4.4 that the relevant **Additional Subscriber** shall not have concealed, acquiesced or participated in the conduct that has disqualified the **Individual Subscriber**, nor have breached any other provision of this Part A.

#### 4.5 **Other Insurance**

- (a) If a **Subscriber** has or had at any time insurance (other than excess insurance) under another Canadian **law society's** policy (or Canadian **law societies'** policies) that applies to a **Claim** covered by this Part A, the total amount of insurance and indemnity 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 will respond, or as to any allocation between (or amongst) the policies, will be made by the **Law Society** together with that other **law society** (or, if more than one, with those other **law societies**) and the **Subscriber** agrees to be bound by that decision. However, the aggregate coverage provided under all applicable policies will not exceed the applicable **Limits of Liability** regardless of the number of policies involved.
- (b) Except to the extent that Conditions 4.5(a) or 4.6(a) apply, if a **Subscriber** has or had at any time insurance (other than excess insurance) placed with another indemnifier or insurer that applies to a **Claim** covered by this Part A, this Part A will apply only as excess coverage over the other insurance to the extent that the other insurance is valid and collectible. This is regardless of whether:
  - (i) this policy is in any way, whatsoever, described (specifically or otherwise) as anything other than excess indemnity or insurance, in any such other insurance; or
  - (ii) that other insurance is primary, contingent, excess, umbrella, or contains any form of excess or escape "other insurance" clause, condition or provision.

Further, **ALIA** will not be called upon to contribute or otherwise pay any amounts, whatsoever, where any such amounts are covered under or are otherwise included in other valid and collectible insurance.

#### 4.6 **Inter-jurisdictional Coverage**

- (a) Subject to Condition 4.5(a), if a **Claim** is made against a **Subscriber** in a **Reciprocal Jurisdiction** in connection with **Professional Services** rendered in that jurisdiction pursuant to the Mobility Rules, and the professional liability coverage provided to the **Subscriber** by this Part A is narrower in scope than that required of the members of the **law society** of the **Reciprocal Jurisdiction**, then **ALIA** shall provide in respect of such **Claim** the same scope of coverage under this Part A as that of the **Reciprocal Jurisdiction's** policy; subject to an **Occurrence Limit** of \$1,000,000.00 and an **Aggregate Limit** of \$2,000,000.00. This Condition applies for the benefit only of a **Subscriber** who was a **Member** at the time the **Professional Services** were rendered.
- (b) For clarity, if a **Member** (other than a **Legal Services Organization Lawyer**) is exempt under the **Rules** from the requirement to pay the professional liability assessment, whether pursuant to the **Mobility Rules** or otherwise, this Part A will not respond or be applicable to a **Claim** arising out of an **Occurrence** taking place during the period of exemption.

#### 4.7 **Cancellation**

- (a) *For all Subscribers.* This Part A may be cancelled at any time by **ALIA**. Such cancellation shall terminate the coverage provided under this Part A to all **Subscribers** without prior notice to any **Subscriber**.
- (b) *For any Subscriber.* **ALIA** may, with the consent of the **Law Society**, terminate the coverage provided by this Part A to a particular **Subscriber** on 60 days' written notice given to that **Subscriber** delivered by personal delivery or registered mail to the last address of the **Subscriber** shown on the records of the **Law Society**. Such notice shall be deemed to have been given on the day of delivery in the case of personal delivery or three (3) business days in Calgary, AB after the registered letter is delivered by **ALIA** to the post office in the case of registered mail.
- (c) *No return of premium.* There shall be no return of premium to any **Subscriber** on the cancellation or termination of this Part A.

#### 4.8 **Subrogation**

- (a) *General.* If any payment is made under this Part A on behalf of a **Subscriber**, **ALIA** shall be subrogated to all of that party's rights of recovery against any **Person** in respect of the payment.
- (b) *Exercise against Subscriber.* **ALIA** will not exercise its subrogation rights against any **Subscriber**, except **ALIA** may exercise such rights against an **Individual Subscriber**:
  - (i) whose conduct has caused payments to be made on behalf of one or more **Additional Subscribers** by virtue of the operation of Condition 4.4(a) or 4.4(b) of this Part A;
  - (ii) who has failed to comply with Conditions 4.3(a) or 4.3(c) of this Part A; or

- (iii) who committed the **Error** in rendering **Professional Services** while not authorized by the **Law Society** to practice law, or while not authorized by the **Law Society** to practice law in that practice area.
- (c) *Preservation of rights.* The **Subscriber** shall do nothing to prejudice **ALIA**'s subrogation rights and, in addition, shall execute and deliver all documents and take any other action that **ALIA** considers necessary or appropriate, acting reasonably, to secure those subrogation rights.
- (d) *Application of amounts recovered.* Any amounts recovered through exercise of **ALIA**'s subrogation rights, net of recovery **Costs**, shall be applied as follows:
  - (i) first, to repay a **Subscriber** or an excess insurer who, pursuant to an agreement with **ALIA**, has paid an amount on the **Subscriber**'s behalf in respect of the **Claim** over and above payments under this Part A;
  - (ii) second, to reimburse **ALIA** (and, on a *pro rata* basis, any other insurers who have contributed to the **Claim** pursuant to an agreement with **ALIA**, except for those referred to in Condition 4.5(b) for **Damages** and **Defence Costs** paid in respect of the **Claim**;
  - (iii) third, to reimburse **ALIA** for **Damages** and **Defence Costs** paid in respect of the **Claim**; and
  - (iv) fourth, to reimburse the **Subscriber** for deductibles paid that are referable to the **Claim**.

#### 4.9 **Miscellaneous Conditions**

- (a) *Effect of bankruptcy or insolvency.* The bankruptcy or insolvency of a **Subscriber** shall not affect the obligations of **ALIA** under this Part A and shall not relieve a **Subscriber** of personal responsibility for their obligations under this Part A.
- (b) *Effect of death or incapacity.* The death or incapacity of a **Subscriber** shall not affect the obligations of **ALIA** or a **Subscriber** under this Part A with respect to **Occurrences** before the death or incapacity. The legal or personal representatives of the **Subscriber** shall be entitled to enforce any coverage provided by this Part A for the benefit of the **Subscriber**, but shall be bound by the conduct of the **Subscriber** in connection with the **Occurrence(s)** in question.
- (c) *Notice to ALIA.* Notice to **ALIA** shall be given to **ALIA** at the local address for service shown in Item 3 of the Declarations and shall be delivered by personal delivery or registered mail. Such notice shall be deemed to have been given on the day of delivery in the case of personal delivery or three (3) business days in Calgary, AB after the registered letter is delivered by the sender to the post office in the case of registered mail. Notice to any other **Person** (including the **Law Society**), or knowledge by that **Person**, of such matters does not constitute notice to **ALIA**, does not affect **ALIA** or its rights under this Part A, and does not affect the applicability of the terms and conditions of this Part A.

- (d) *Notice to **Subscriber***. Subject to Condition 4.7, notice to any **Subscriber** must be given to the **Subscriber** at the last address of the **Subscriber** shown in the records of the **Law Society** and shall be delivered by personal delivery or registered mail. Such notice shall be deemed to have been given on the day of delivery in the case of personal delivery or three (3) business days in Calgary, AB. after the registered letter is delivered by the sender to the post office in the case of registered mail.
- (e) *Waiver*. No provision of this policy shall be waived by **ALIA** in whole or in part unless:
- (i) the waiver is stated in writing;
  - (ii) the clause being waived is specifically identified; and
  - (iii) the fact that the clause at issue is being waived is specifically stated.
- (f) *Arbitration against **ALIA***. The following are conditions precedent to an arbitration against **ALIA** by a **Subscriber**:
- (i) the **Subscriber** must have complied in all respects with the terms and conditions of this Part A; and
  - (ii) the amount payable for damages or settlement in respect of the **Claim** must have been finally determined by:
    - (A) a court of competent jurisdiction;
    - (B) an arbitration to which the **Subscriber** must submit or does submit with **ALIA**'s prior written consent; or
    - (C) a settlement to which the **Subscriber** and **ALIA** have both agreed in writing with the **Claimant**.

Clause 4.9(f)(ii) does not apply to an arbitration by a **Subscriber** against **ALIA** for a declaration that **ALIA** has a duty to defend a **Claim**.

- (g) *Arbitration*. This provision applies to any dispute under or in relation to Part A of this Policy, including, without limiting the foregoing, as to:
- (i) the interpretation of this Part A;
  - (ii) the validity or existence of this Policy; or
  - (iii) the payment of an **Individual Deductible**;
- that arises between a **Subscriber** and one or more of the following:
- (iv) **ALIA**; or
  - (v) another **Subscriber** who is not presently at the same **Law Firm** as the **Subscriber** and was not at the same **Law Firm** at the time of the **Occurrence**.

Such a dispute shall be adjudicated only by arbitration. The arbitration shall be conducted in accordance with the provisions of the *Arbitration Act* (Alberta) by a single arbitrator and may be initiated by any party to the dispute on written notice to all other parties at any time after the expiration of 90 days from the date the dispute arose. The parties agree that such an arbitration will be confidential, and that they will not disclose any aspect of the arbitration, including, without limiting the foregoing, the facts, the issues, the evidence, or the result; provided however, that **ALIA** may disclose any aspect of the arbitration to the **Law Society**. The arbitration will be final and binding.

- (h) *Assignment.* The rights of a **Subscriber** under this Part A that are exercisable against **ALIA** cannot be assigned to any other **Person**.
- (i) *Third Persons.* For greater certainty, nothing herein, express or implied, is intended or shall be construed to confer upon any **Person** who is not **ALIA** or a **Subscriber** any rights or remedies under or by reason of this Part A.
- (j) *Service.* Service of any action to enforce the obligations of **ALIA** under this Part A shall be made on **ALIA** at the local address for service shown in the Declarations.
- (k) *Currency.* All **Limits of Liability** and deductibles under this Part A are stated in lawful currency of Canada and all payments under this Part A shall be made in the same currency.
- (l) *Information Sharing.* Personal information collected from the **Subscriber**, whether pursuant to Part A or Part B, will be used by **ALIA** for one or more purposes contemplated by the *Legal Profession Act* (Alberta), the **Rules**, the **Law Society's** Code of Conduct, and/or any resolution of the Benchers of the **Law Society** or the Board of Directors of **ALIA**; and may be accessible to all departments of the Law Society. Without limiting the generality of the foregoing, the information may be used or disclosed by **ALIA**, now or in the future, for regulatory purposes including **Law Society** investigations and proceedings.
- (m) *Governing law.* This Part A shall be governed by and construed in accordance with the laws of the Province of Alberta.



## **PART B - MISAPPROPRIATION INDEMNITY**

### **I. DEFINITIONS**

In this Part B:

**Adult Interdependent Partner** has the same meaning as in the *Adult Interdependent Relations Act*, SA 2002, c. A-4.5.

**ALIA** means the Alberta Lawyers Indemnity Association, a company incorporated under Part 9 of the *Companies Act*, RSA 2000, c. C-21.

**Claim** means a demand for money, an action, or institution of proceedings against a **Subscriber** arising from an alleged **Loss**.

**Claimant** means a **Person** who has made or may make a **Claim**.

**Compensation Program** means the Assurance Fund as provided under the *Legal Profession Act* (Alberta).

**compensation program** means:

- (a) any statutory program, as provided for by a legislative act; and
- (b) any fund established by a **law society** to pay for **Losses** from any misappropriation, wrongful conversion or dishonesty by members of a **law society** as may now or subsequently be established.

**Costs** includes costs, charges, disbursements and expenses.

**Defence Costs** means Costs incurred by **ALIA** in defending or settling a **Claim**, including, without limiting the foregoing, legal fees and disbursements of counsel appointed by **ALIA**; notional legal fees and disbursements incurred by in-house defence counsel of **ALIA**, if any, as determined by **ALIA**; the fees and disbursements incurred for investigators, experts, appraisers and witnesses; **Costs** of alternative dispute resolution; and adjuster's fees incurred on the instructions of counsel in defending or settling a **Claim**.

**Dishonest** means conduct which a reasonable person would consider to be:

- (a) deceptive and morally reprehensible;
- (b) untruthful and morally reprehensible; or
- (c) lacking in candour and integrity;

even in the absence of an actual dishonest purpose, motive or intent.

**Enterprise** means any proprietorship, partnership, limited partnership, co-operative, society, business, association, joint venture, syndicate, company, corporation, firm, trust, municipality, government, governmental or regulatory authority, university, court or other legal or commercial entity.

**Ineligible Costs** means:

- (a) **Costs** incurred and earnings lost by a **Subject Lawyer** or an **Innocent Subscriber** in connection with investigation, defence, or settlement of a **Claim**, including, without limiting the foregoing, those associated with:
  - (i) photocopying documents;
  - (ii) expending time and effort;
  - (iii) preparing for and attending questioning or cross-examinations;
  - (iv) preparing for and attending alternate dispute resolution;
  - (v) preparing for court and testifying; and
  - (vi) otherwise cooperating with **ALIA** in the investigation, defence or settlement of a **Claim**;
- (b) out-of-pocket **Costs** of a **Subject Lawyer** or **Innocent Subscriber** that are not authorized for reimbursement by **ALIA** in advance, including, without limiting the foregoing, **Costs** of independent or personal counsel retained by the **Subscriber** and **Costs** of disputing issues relating to coverage; and
- (c) **Costs** awarded personally against a **Subscriber** as a result of the **Subscriber's** conduct in litigation, whether or not connected with a **Misappropriation**.

**Innocent Subscriber**, with respect to one or more **Subject Lawyer(s)**, means:

- (a) a present or former partner of the **Subject Lawyer(s)**;
- (b) any **Law Firm** through which the **Subject Lawyer(s)** have practised law, whether as partners, associates, employees, counsel, contract lawyers or otherwise; and
- (c) a present or former partner of any **Law Firm** through which the **Subject Lawyer(s)** have practised law;

provided that the **Innocent Subscriber** did not conceal, acquiesce, or participate in the conduct of the **Subject Lawyer(s)** that gave rise to a **Loss**.

**Law Firm** means:

- (a) a sole proprietorship through which a **Subject Lawyer** practises law; or
- (b) two or more **Members** who are, or appear to be, holding themselves out to the public as practising law together, whether or not a partnership exists in fact and regardless of the form or forms of business organization through which the practice is conducted.

**Law Society** means the Law Society of Alberta.

**law society** means a law society, barristers' society or similar organization of a jurisdiction other than Alberta.

**Limits of Liability** means the **Misappropriation Limit** and the **Profession-wide Annual Aggregate Limit**.

**Loss** means direct financial loss sustained by a **Person** of no more than the value, at the time of the **Misappropriation**, of **Money** or the equivalent cash value of **Securities and Property** that is the subject of a **Misappropriation** by a **Subject Lawyer(s)**, but does not include any amount which the **Claimant** or **Subscriber** has or is entitled to claim under any other policy or form of indemnity, insurance, title insurance, or any **compensation program**.

**Member** means a **lawyer** who, at the date of the **Misappropriation**, was enrolled with the **Law Society** pursuant to the *Legal Profession Act* (Alberta).

**Misappropriation** means, for the purposes of this Part B, a theft, wrongful taking, or wrongful conversion and may include multiple thefts, wrongful takings, or wrongful conversions concurrently, or over time, by a **Subject Lawyer** of **Money, Securities or Property**, whether to the use of the **Subject Lawyer** or a third party, which was entrusted to or received by that **Subject Lawyer** or by another **Member** in the **Subject Lawyer's Law Firm**, in their capacity as a barrister or solicitor or such other capacity as the **Law Society** may designate, regardless of the form or forms of business organization through which the practice as a barrister and solicitor is conducted. All such thefts, wrongful takings, or wrongful conversions shall be deemed to be one **Misappropriation** and shall be subject to one **Limit of Liability**, even if such thefts, wrongful takings, or wrongful conversions may have occurred or been reported during more than one policy period.

**Misappropriation Limit** has the meaning given by clause 2.4(a).

**Money, Securities or Property** means:

- (a) money including, without limiting the foregoing, currency, coins, and bank notes having a face value and in current use;
- (b) securities including, without limiting the foregoing, all negotiable and non-negotiable instruments or contracts representing money, debt, an equity interest, or an interest in property and includes revenue and other stamps, tokens and tickets in current use; and
- (c) personal property, including, without limiting the foregoing, trust money, in cash or on deposit, and chattels, which have been entrusted.

**Occurrence** has the same meaning as in Part A of this policy.

**Person** includes an individual and an **Enterprise**.

**Policy Period** is that indicated in Item 5(b) of the Declarations.

**Profession-wide Annual Aggregate Limit** has the meaning given by clause 2.4(b).

**Related** includes factual relationships, logical relationships, causal relationships and any other relationship.

**Spouse** means the husband or wife of a married **Person**.

**Subject Lawyer** means a **Member** who has committed or is alleged to have committed a **Misappropriation**.

**Subscriber** means:

- (a) the **Law Society**;
- (b) an **Innocent Subscriber**; and
- (c) a **Subject Lawyer**.

## II. INDEMNITY AGREEMENTS

In consideration of payment of the premium when due, and subject to the **Limits of Liability**, exclusions, conditions and all other terms of this Part B, **ALIA** agrees with each **Subscriber** as follows:

### 2.1 **Payment of Loss**

- (a) **ALIA** will pay:
  - (i) the amount of the **Loss** suffered by a **Claimant** as determined by a court; or
  - (ii) the amount of the **Loss** suffered by a **Claimant** as determined by the **Law Society** or **ALIA** and, in the case of a determination by the **Law Society**, subject to the approval of **ALIA**.
- (b) At **ALIA's** sole discretion, such payments may be made, in whole or in part, to:
  - (i) the **Claimant**, subject to the **Claimant** providing a release on such terms as required by **ALIA** (which may include an assignment of the **Claim**); or
  - (ii) to a custodian appointed in respect of the **Subject Lawyer's** practice.

### 2.2 **Defence of Claims**

In respect of the indemnity coverage given by this Part B:

- (a) **ALIA** has the right, but not the duty, to defend any **Claim** against a **Subscriber** alleging a **Loss** that would fall within the coverage provided by this Part B;
- (b) if **ALIA** elects to defend a **Claim** against a **Subscriber** alleging a **Loss** that would fall within the coverage provided by this Part B, **ALIA** has the right to:
  - (i) investigate the **Claim** alleged to have caused the **Loss**;
  - (ii) select and instruct defence counsel; and
  - (iii) withdraw from the defence of the **Claim** without seeking the consent of the **Subscriber**; and

- (c) the decision to settle or compromise a **Claim** is within the sole discretion of **ALIA**, who has the exclusive right and authority to enter into a compromise or settlement without the consent of the **Subscriber**.

### 2.3 **Limits on Payment of Costs**

**ALIA** is not responsible for and will not pay any **Ineligible Costs**.

### 2.4 **Coverage Limits**

- (a) ***Misappropriation Limit:*** The maximum amount payable by **ALIA** collectively for all **Losses** and **Defence Costs** in respect of any **Misappropriation** is \$5,000,000, regardless of the number of: **Claims** made; **Losses** arising from the **Misappropriation**; **Claimants** or retainers; or **Subject Lawyers** or **Innocent Subscribers** involved, or alleged to be involved, in the **Misappropriation**. For clarity, multiple **Claims**, **Losses**, **Claimants**, **Subject Lawyers** or **Innocent Subscribers** involved in any **Misappropriation** will not increase or cumulate the **Misappropriation Limit**, even if such **Misappropriation** took place during more than one policy period;
- (b) ***Profession-wide Annual Aggregate Limit:*** The maximum amount payable by **ALIA** collectively for all **Losses** and **Defence Costs** on an aggregate basis for all **Losses** and **Claims** made and reported in the policy period is \$25,000,000. For clarity, all payments by **ALIA** of all **Losses** and **Defence Costs** incurred during the **Policy Period** will reduce the **Profession-wide Annual Aggregate Limit** for that **Policy Period** in the amount of those payments.

## III. **EXCLUSIONS**

The indemnity coverage given by this Part B does not apply to:

- 3.1 any **Claim** or **Loss** that falls within Part A of this policy;
- 3.2 an **Occurrence** to which Part A of this policy responds, or would have responded had there been compliance with the Conditions set out in Section IV of Part A, regardless of: the **Limits of Liability** of Part A of this policy; compliance, or lack thereof, with the notice and/or reporting requirements of Part A of this policy; and whether Part A of this policy has been cancelled;
- 3.3 bodily injury, sickness, disease or death of any Person;
- 3.4 physical damage to tangible property, including, without limiting the foregoing, physical damage that results in the loss of use of the property;
- 3.5 a **Claim** or **Loss**:
  - (a) resulting from a **Misappropriation** reported to the **Law Society**; or
  - (b) which formed the basis of a claim for compensation under the **Compensation Program** or any other **compensation program**;

prior to July 1, 2014.

- 3.6 a **Claim** or **Loss** that arises out of or is in any way **Related** to, in whole or in part, the **Dishonest** or unlawful conduct, fault or neglect committed by or on behalf of the **Claimant**; the **Claimant's Spouse**; the **Claimant's Adult Interdependent Partner**, or any parent, child, sibling or other relative, or agent, of the **Claimant**.
- 3.7 a **Claim** by an **Enterprise** that arises out of or is in any way **Related** to, in whole or in part, the wrongful or unlawful conduct, fault or neglect of a director, officer, employee or agent of the **Enterprise**; or a **Person** who had, at the time of the **Loss**, directly or indirectly, effective control of the **Enterprise** or beneficial ownership of the **Enterprise** in an amount greater than ten per cent (10%) or any **Spouse, Adult Interdependent Partner** or parent, child, sibling or other relative, or agent, of any individual referred to in this clause.
- 3.8 a **Claim** brought by a **Claimant** who knew prior to the time of the **Misappropriation** of any **Dishonest** act by the **Subject Lawyer(s)**;
- 3.9 a **Claim** or **Loss** sustained by any **Person** or **Persons** who committed, participated in committing, consented to (expressly or implicitly), or acquiesced in the **Misappropriation**, or who were reckless or wilfully blind to the **Misappropriation**;
- 3.10 a **Claim** or **Loss** sustained by any **Person** or **Persons** who had unlawfully obtained the **Money, Securities or Property** that was the subject of the **Misappropriation**;
- 3.11 a **Loss** that does, or is alleged to arise out of or from, a purported investment, or a Ponzi or similar investment scheme, in which the **Subject Lawyer** or the **Subject Lawyer's Law Firm** merely received and distributed money, whether through their trust account or otherwise;
- 3.12 a **Claim** against a **Subject Lawyer** made by or on behalf of the **Subject Lawyer's Law Firm** or its current or former partners;
- 3.13 a **Claim** against a **Subject Lawyer** made by or on behalf of the **Subject Lawyer's** employer, or made by or on behalf of any government, municipality, university, Person or **Enterprise** by whom the **Subject Lawyer** is contracted to practise law solely within the scope of that contract; and
- 3.14 a **Claim** or **Loss** for which proper notice has not been given in accordance with Conditions 4.1 and 4.2 (other than notice by a **Subject Lawyer**).

#### IV. CONDITIONS

The coverage afforded by this Part B is subject to the following Conditions:

##### 4.1 **Claims First Made and Reported**

- (a) Coverage under this Part B shall only apply to **Claims** or **Loss** arising out of **Misappropriations** that occurred while the **Subject Lawyer** was a **Member** and provided that a **Claim** is first made against the **Subject Lawyer**, and reported in writing to **ALIA**, during the **Policy Period**. All **Claims** arising from a **Misappropriation**, whenever made (including if made during different policy periods), shall be deemed for purposes of this policy to have been made and reported on the date the first such **Claim** is made and reported.

If, during the **Policy Period**, a **Subscriber**, other than a **Subject Lawyer**, learns of a **Claim** or becomes aware of any **Misappropriation** or of circumstances that might constitute a **Misappropriation** or which could reasonably be expected to give rise to a **Claim**, however unmeritorious, that **Subscriber** shall give written notice to **ALIA** of such **Misappropriation** or circumstances during the **Policy Period**. For the purposes of this policy, the date upon which such written notice is given by that **Subscriber** to **ALIA** shall be the date on which any resulting **Claim** or **Loss** is deemed to be first made and reported to **ALIA**.

- (b) Subject to Condition 4.1(a), when the **Policy Period** expires, **ALIA** shall be free of liability for all **Losses** except for those in respect of which a **Claim** has been both made during the **Policy Period** and reported during the **Policy Period** in accordance with Condition 4.2.

#### 4.2 **Notice Requirements**

- (a) *Notice by Subscriber.* The **Subscriber** shall, as soon as practicable after learning of a **Claim** or becoming aware of any **Misappropriation** or of circumstances that might constitute a **Misappropriation** or which could reasonably be expected to give rise to a **Claim**, however unmeritorious, give written notice to **ALIA** at the local address for service shown in the Declarations. Subject to Condition 4.1(a), this is a condition precedent to **ALIA**'s liability under this Part B.
- (b) *Acceptance of notice from other Persons.* **ALIA** has the discretion, but is not required, to accept notice of any **Claim**, **Misappropriation** or of circumstances that might constitute a **Misappropriation** or which could reasonably be expected to give rise to a **Claim**, however unmeritorious, which is provided to **ALIA** during the **Policy Period** by a **Person** other than the **Subscriber**.
- (c) *Information.* After notification, the **Subscriber** shall submit promptly to the **Person(s)** designated by **ALIA** all information reasonably required by **ALIA** that the **Subscriber** is reasonably capable of providing. In addition, the **Subscriber** shall immediately forward to the **Person(s)** designated by **ALIA** any demand, notice, summons or other process received by the **Subscriber** in connection with the **Claim** or **Misappropriation**.

#### 4.3 **Co-operation of Subscriber**

The **Subscriber** shall co-operate fully with **ALIA**. Without limiting the generality of this requirement to fully cooperate, this includes the requirements that the **Subscriber** shall respond promptly to all communications from **ALIA** and any **Person** appointed by and acting on its behalf, and shall, upon request:

- (a) assist in investigations;
- (b) assist in settlement efforts;
- (c) attend at questionings and other interlocutory proceedings;
- (d) attend at alternative dispute resolution;
- (e) assist in enforcing any right of contribution or indemnity against any third party;

- (f) attend at hearings and trials;
- (g) assist in securing the attendance of witnesses; and
- (h) otherwise assist in any investigation, defence or settlement efforts in all other reasonable respects.

#### 4.4 **Other Insurance**

- (a) If a **compensation program** (or programs) provided by another Canadian **law society** (or Canadian **law societies**) other than the **Law Society** applies to a **Loss** covered by this Part B, the total amount of coverage provided under this Part B and those **compensation programs** together will not exceed the total value of the **Loss** or the most that is available under either (any one) of this Part B or those **compensation programs** alone, whichever is less. The decision as to which policy or **compensation program** will respond, or as to any allocation between (or amongst) them, will be made by **ALIA** together with the other **law society** (or, if more than one, with those other **law societies**) and the **Subscriber** agrees to be bound by that decision.
- (b) Except to the extent that Condition 4.4(a) applies, if there is available to a **Subscriber** or a **Claimant** any other insurance or indemnity against the **Loss**, this Part B will apply only as excess coverage over the amount recoverable or recovered under such other insurance or indemnity and will not be called upon in contribution.

#### 4.5 **Cancellation**

- (a) *For all Subscribers.* This Part B may be cancelled at any time by agreement between **ALIA** and the **Law Society**. Such cancellation shall terminate the coverage provided to all **Members** without prior notice to any **Member**.
- (b) *For any Subscriber.* **ALIA** may, with the consent of the **Law Society**, terminate the coverage provided by this Part B to a particular **Subscriber** on 60 days written notice to that **Subscriber** delivered by registered mail to the last address of the **Subscriber** shown on the records of the **Law Society**. Such notice shall be deemed to have been given on the day of delivery in the case of personal delivery or three (3) business days in Calgary, AB after the registered letter is delivered by **ALIA** to the post office in the case of registered mail.
- (c) No return of *premium*. There shall be no return of premium paid for this Part B coverage to any **Member** on the cancellation or termination of this Part B.

#### 4.6 **ALIA's Right to Recover Payments (Subrogation)**

- (a) If a **Subject Lawyer** is determined to have committed a **Misappropriation**, it is agreed between **ALIA** and the **Subscribers** that **ALIA** has the right to recover from that **Subject Lawyer** all **Losses** and **Defence Costs** paid by **ALIA**.
- (b) In the event of any payment under this Part B **ALIA** shall be subrogated to and entitled to an assignment of:



- (i) all of the **Claimant's** rights of recovery therefore against any **Person**, including, without limiting the foregoing, the **Subject Lawyer(s)**, in respect of said payment and the **Claimant** shall execute and deliver instruments and papers and render assistance to secure such rights. The **Claimant** shall do nothing after the **Loss** to prejudice such rights;
- (ii) all of the **Innocent Subscriber's** rights of recovery against any **Person**, including, without limiting the foregoing, the **Subject Lawyer(s)**, in respect of said payment, and the **Innocent Subscribers** shall execute and deliver instruments and papers and render assistance to secure such rights. The **Innocent Subscribers** shall do nothing after the **Loss** to prejudice such rights. The **Innocent Subscriber's** rights to which **ALIA** is subrogated or entitled to an assignment, shall extend to the value of any **Subject Lawyer's** interest in any **Law Firm** as determined by the **Law Firm's** books as of the date of the discovery of the **Loss** by a **Subscriber**, including, without limiting the foregoing, any amounts owing to the **Subject Lawyer** by the **Law Firm**. **ALIA** acknowledges that it waives all rights of recovery against any **Innocent Subscriber(s)** in respect of the **Misappropriation** resulting in any **Loss** paid under this Part B, unless the **Loss** was caused or contributed to by the fault or neglect of the **Innocent Subscriber(s)**.
- (c) The **Subject Lawyer** shall, upon payment by **ALIA** of any amount to a **Claimant** or other **Person** hereunder be deemed to have irrevocably waived any limitation period applicable to the **Claim** in respect of which such payment has been made.
- (d) Any amounts recovered through exercise of **ALIA's** subrogation rights and/or by salvage net of recovery **Costs**, shall be applied as follows:
  - (i) first, to reimburse **ALIA** for payments under this Part B; and
  - (ii) second, to the satisfaction of the **Losses** which would have been paid but for the fact that the **Loss** is in excess of the **Limit of Liability** under this Part B.

#### 4.7 **Miscellaneous Conditions**

- (a) *Effect of bankruptcy or insolvency.* The bankruptcy or insolvency of any **Subject Lawyer** or **Innocent Subscriber(s)** will not affect the obligations of **ALIA** under this Part B and will not relieve **ALIA** of responsibility for its obligations under this Part B.
- (b) *Effect of death or incapacity.* The death or incapacity of any **Subject Lawyer** or **Innocent Subscriber** will not affect the obligations of **ALIA** or any **Subject Lawyer** or **Innocent Subscriber** under this Part B with respect to **Misappropriations** before the death or incapacity.
- (c) *Notice to ALIA.* Notice to **ALIA** must be given to **ALIA** at the local address for service shown in item 3 of the Declarations and shall be delivered by personal delivery or registered mail. Such notice shall be deemed to have been given on the day of delivery in the case of personal delivery or three (3) business days in Calgary, AB after the registered letter is delivered by the sender to the post office in the case of registered mail. Notice to any other **Person**, or knowledge by that **Person**, of such matters does not constitute notice

to **ALIA**, does not affect **ALIA** or its rights under this Part B, and does not affect the applicability of the terms and conditions of this Part B.

- (d) *Notice to **Subscriber**.* Subject to Condition 4.5, notice to any **Subscriber** (other than the **Law Society**) must be given to the **Subscriber** at the last address of the **Subscriber** shown in the records of the **Law Society** and shall be delivered by personal delivery or registered mail. Such notice shall be deemed to have been given on the day of delivery in the case of personal delivery or three (3) business days in Calgary, AB after the registered letter is delivered by the sender to the post office in the case of registered mail.
- (e) *Waiver.* No provision of this policy shall be waived by **ALIA** in whole or in part unless:
  - (i) the waiver is stated in writing;
  - (ii) the clause being waived is specifically identified; and
  - (iii) the fact that the clause at issue is being waived is specifically stated.
- (f) *Arbitration.* This provision applies to any dispute that arises between **ALIA** and the **Subscriber(s)** under this Part B. Such a dispute may be adjudicated by arbitration if the **Subscriber(s)** and **ALIA** agree to such arbitration. The arbitration shall be conducted in accordance with the provisions of the *Arbitration Act* (Alberta) by a single arbitrator and may be initiated by any party to the dispute on written notice to all other parties at any time after the expiration of 90 days from the date the dispute arose. The arbitration will be final and binding.
- (g) *Assignment.* The rights of the **Subscriber** under this Part B that are exercisable against **ALIA** cannot be assigned to any other Person.
- (h) *Third Persons.* For greater certainty, nothing herein, express or implied, is intended or shall be construed to confer upon any **Person** who is not **ALIA** or a **Subscriber** any rights or remedies under or by reason of this Part B.
- (i) *Service.* Service of any action to enforce the obligations of **ALIA** under this Part B shall be made on **ALIA** at the local address for service shown in the Declarations.
- (j) *Currency.* All **Limits of Liability** under this Part B are stated in lawful currency of Canada and all payments under this Part B shall be made in the same currency.
- (k) *Governing law.* This Part B shall be governed by and construed in accordance with the laws of the Alberta.

In Witness Whereof **ALIA** has caused this policy to be executed the 1<sup>st</sup> day of July, 2021.

**ALBERTA LAWYERS INDEMNITY  
ASSOCIATION**

Per: (signed) "*David Weyant*"  
Name: David Weyant, Q.C.  
Title: President and Chief Executive Officer

**NUCLEAR INCIDENT EXCLUSION CLAUSE-LIABILITY-DIRECT (BROAD)-  
CANADA**

It is agreed that this policy does not apply:

- (b) to liability imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof; nor
- (c) to bodily injury or property damage with respect to which an indemnified party under this policy is also insured under a contract of nuclear energy liability insurance (whether the Subscriber is unnamed in such contract and whether or not it is legally enforceable by the Subscriber) issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; nor
- (d) to bodily injury or property damage resulting directly or indirectly from the nuclear energy hazard arising from:
  - (i) the ownership, maintenance, operation or use of a nuclear facility by or on behalf of a Subscriber;
  - (ii) the furnishing by a Subscriber of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; and
  - (iii) the possession, consumption, use, handling, disposal or transportation of fissionable substances, or of other radioactive material (except radioactive isotopes, away from a nuclear facility, which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by a Subscriber.

As used in this policy:

- I. The term "nuclear energy hazard" means the radioactive, toxic, explosive, or other hazardous properties of radioactive material.
2. The term "radioactive material" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances which may be designated by or pursuant to any law, act or statute, or law amendatory thereof as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy.
3. The term "nuclear facility" means:
  - (a) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;
  - (b) any equipment or device designed or used for (i) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (ii) processing or utilising spent fuel, or (iii) handling, processing or packaging waste;

- (c) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them if, at any time, the total amount of such material in the custody of the Subscriber at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste radioactive material;

and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

- 4. The term "fissionable substance" means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
- 5. With respect to property, loss of use of such property shall be deemed to be property damage.

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

**ENDORSEMENT NO.**

**1**

**(Applies to Part A Only)**

It is understood and agreed that, for the purposes of Condition 4.6(a), coverage provided under (a) "Part B: Trust Protection" of the Law Society of British Columbia's professional liability insurance policy, (b) any trust protection indemnification or other coverage provided by a policy issued by the Canadian Lawyers Insurance Association ("CLIA") in respect of any law society, which policy provides coverage for misappropriation, theft or wrongful conversion, and (c) similar coverage provided by any law society or by any entity providing coverage to members of any such law society, shall not be considered to be insurance or indemnification required of the members of the law societies of British Columbia, any law society in respect of which a policy is issued by CLIA, or any other law society, respectively. For greater certainty, it is understood and agreed that Condition 4.6(a) shall not apply to broaden coverage under Part A as a result of the provisions of any of the foregoing policies.

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

Attached to and forming part of Policy Number 2021-2022 of the Alberta Lawyers Indemnity

Association. This endorsement shall be effective from July 1, 2021, 12:01 a.m. at Calgary, Alberta.

**ALBERTA LAWYERS INDEMNITY ASSOCIATION**

Per: (signed) "David Weyant"  
Name: David Weyant, Q.C.  
Title: President and Chief Executive Officer

**ENDORSEMENT NO.****2****(Applies to Part A Only)**

It is understood and agreed that the following are identified as an Approved Law under Part A: (a) the practice of immigration law pursuant to and in compliance with written authorizations provided to Canadian lawyers generally by the U.S. Department of Homeland Security to practice immigration law in front of the U.S. Department of Homeland Security; (b) practice in front of the U.S. Patent and Trademark Office (“**USPTO**”) to the extent expressly permitted by them through written authorizations provided to Canadian lawyers generally by the USPTO; and (c) international trademark applications and subsequent country designations, made directly or indirectly to the International Bureau of the World Intellectual Property Organization (“**WIPO**”) pursuant to treaties to which Canada is party, but specifically excluding advice or other professional services provided in respect of the actions of any particular country designated in respect of such application or any patent or trademark registered therein.

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

Attached to and forming part of Policy Number 2021-2022 of the Alberta Lawyers Indemnity

Association. This endorsement shall be effective from July 1, 2021, 12:01 a.m. at Calgary, Alberta.

**ALBERTA LAWYERS INDEMNITY ASSOCIATION**

Per: (signed) “David Weyant”  
Name: David Weyant, Q.C.  
Title: President and Chief Executive Officer