

**B.C. LAWYERS' COMPULSORY PROFESSIONAL
LIABILITY INSURANCE
POLICY NUMBER: LPL 00-01-01**

INSURER:

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

Administrative Offices, 6th Floor, 845 Cambie Street
Vancouver, B.C. V6B 4Z9

ADMINISTRATOR:

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

INSURANCE CONSULTANT:

JARDINE INSURANCE SERVICES CANADA INC.

DECLARATIONS

- | | | | |
|----|--|---|--|
| 1. | Individual Insured | As defined in this policy | |
| 2. | Policy Period | From January 1, 2000 to January 1, 2001
(12:01 A.M. P.S.T.) | |
| 3. | Limits of Liability including
damages, claims expenses
and deductibles | (a) | \$1,000,000 All claims arising out of
an error |
| | | (b) | \$2,000,000 Annual aggregate |
| 4. | Deductible | (a) | \$5,000 Each error which gives rise to
claims resulting in the payment
of damages |
| | | (b) | \$10,000 Each additional error reported
within a three year period
which gives rise to claims
resulting in the payment of
damages |
| 5. | Insurance Fee | As agreed between the Company and the Law Society | |

This policy governs claims and potential claims reported in 2000 — read carefully.

INSURANCE POLICIES

DEFINITIONS

For convenience, all defined words are in bold print. We, us or our refers to the **Company**. You, your or the **Insured** refers to the **Individual Insured** or the **Additional Insured**. In this policy:

Additional Insured means:

- (a) each **law firm** in which the **Individual Insured** is or was a partner, employee or associate counsel or that is or was vicariously liable for the **Individual Insured**;
- (b) each **law corporation**, law office management corporation and law office management limited partnership, which is or was owned wholly or partly, directly or indirectly, by the **Individual Insured** or his or her spouse, and each present or former officer, director, shareholder or limited partner thereof;
- (c) each present or former partner of the **Individual Insured**; and
- (d) each present or former employee of the **Individual Insured**, or of any **law firm, law corporation, law office management corporation and law office management limited partnership** described in (a) or (b) above, provided such employee was acting within the scope of his or her duties and acting under the supervision of the **Individual Insured**.

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

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

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

Claims expenses means:

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

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

Damages means: any monetary award or settlement, and any pre-judgment interest, post-judgment interest and costs awarded against you relating to covered allegations. **Damages** does not include an order of set-off or any order for the return or reimbursement of any property or benefit that you received or for the return or reimbursement of your legal fees or disbursements, even if claimed as general damages, or any order for punitive or exemplary damages, or any fine, sanction, penalty or special costs awarded against you.

INSURANCE POLICIES

Error means: an actual or alleged negligent act, negligent error or negligent omission, or **personal injury**, and where there is a series of related actual or alleged negligent acts, negligent errors or negligent omissions, or **personal injuries**, such series will be deemed to be one **error**.

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

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

Individual Insured means: each **member** or former **member** who made or allegedly made the **error**.

Insured means: an **Individual Insured** or **Additional Insured**.

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

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

Member means: a member in good standing shown on the records of the **Law Society**.

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

Personal injury means:

- (a) false arrest, detention or imprisonment;
- (b) wrongful entry or eviction or other invasion of the right of private occupancy;
- (c) libel or slander, or a publication or utterance in violation of an individual's right of privacy; and
- (d) malicious prosecution.

Policy period means: the period stated in Declaration 2.

Professional services means:

- (a) the practice of law as defined in the *Legal Profession Act* of British Columbia;
- (b) *pro bono* legal services;
- (c) acting as an Official Administrator, a custodian under Part 8 of the *Legal Profession Act* of British Columbia, an arbitrator, mediator or conciliator, by a **member**;

INSURANCE POLICIES

- (d) acting as:
- (i) a receiver or receiver manager;
 - (ii) an administrator, conservator, executor, guardian, trustee or committee or in any similar fiduciary capacity;
 - (iii) a patent or trademark agent;
 - (iv) agent for any record keeping or filing duty imposed by any provincial or federal statute;
- provided that such services are connected with and incidental to the **Individual Insured's** profession as a lawyer; and
- (e) performing any other activity deemed to be the practice of law by the **Law Society**.

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

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

INSURING AGREEMENTS

1. INDEMNITY

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

2. DEFENCE AND SETTLEMENT

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

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

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

- (a) settle the **claim** without your consent and you will remain liable to pay the deductible stated in Declaration 4; or
- (b) give you the right to negotiate or defend the **claim** or suit. In this event, any duty we may have had to defend the **claim** ceases and the **damages** and **claims expenses** in excess of the amount for which we could have settled will not be recoverable under this policy.

INSURANCE POLICIES

- 2.2 With respect to any **claim** that is made or suit that is brought elsewhere than within Canada or the United States of America seeking **damages** for which you are entitled to indemnity under this policy:
- 2.2.1 we shall have the right, but not the duty, to investigate, settle, defend or pay **claims expenses** in accordance with Insuring Agreement 2.1.2; and
- 2.2.2 if we elect not to investigate, settle or defend a **claim** or suit, you will, under our supervision, investigate and defend as is reasonably necessary and, if we deem prudent you will settle such **claim** or suit. We shall reimburse you for the reasonable cost of such investigation, settlement or defence.
- 2.3 In any **claim** or suit in which we provide a defence under a reservation of rights or where our interests may be in conflict with yours, each party will have the right to obtain advice from counsel other than counsel we appoint to defend you. In this event, each party will bear its own costs for such advice.
- 2.4 Notwithstanding Exclusion 2, we shall have the right and the duty to defend, in accordance with Insuring Agreement 2.1.2, any **claim** first made against you and reported to us during the **policy period** arising out of a **personal injury** while you were performing or failing to perform **professional services** for others.

3. SCOPE OF COVERAGE

- 3.1 This policy applies to **errors** occurring anywhere in the world.
- 3.2 This policy applies only to **claims** arising out of **errors** which occurred during the **individual coverage period** and provided that:
- 3.2.1 the **claim** or potential **claim** is first made against you during the **policy period** and reported to us in writing during the **policy period**; and
- 3.2.2 you had no knowledge, prior to January 1, 1989 of the **claim** or of an **error** or circumstances occurring prior to January 1, 1986 which you knew or could have reasonably foreseen might be the basis of a **claim**.
- 3.3 A **claim** is first made against you during the **policy period** if during the **policy period**:
- 3.3.1 you become aware of an **error** or any circumstance which could reasonably be expected to be the basis of a **claim**, however unmeritorious; or
- 3.3.2 a **claim** is made against you seeking **damages** for which you are entitled to indemnity under this policy.
- 3.4 If a **claim** or potential **claim** is reported to us by or on behalf of any **Insured** during the **policy period**, all additional **claims** or potential **claims** reported subsequently that arise out of the same **error** shall be considered as reported within this **policy period** and all such **claims** or potential **claims** shall be subject to the terms of this policy.

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- 3.5 If this policy replaces, without interruption of coverage, a policy issued previously by us then a **claim** which was first made against you after January 1, 1989, and reported to us within the **policy period**, will be deemed to be first made against you within the **policy period** of this policy.
- 3.6 Except as provided in Condition 6, if you are not entitled to indemnity or a defence for a **claim**, this policy will not provide indemnity or a defence for such or similar **claim** to any other **Insured**.

EXCLUSIONS

This policy does not apply to:

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

individually or collectively, directly or indirectly, had at the time of the **error** or thereafter, effective management or control of the **organization** or beneficial ownership of the **organization** in an amount greater than ten percent (10%).

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- 6.3 If a **claim** arises from an **error** which occurred before January 1, 1991, **family** shall be read without the words “(including **common-law spouse**)” and “parents or siblings”.
- 7. a **claim** arising out of your activity as an employee or partner of any **organization** other than:
 - 7.1. a **law firm**; or
 - 7.2. a trade union, provided that such **claim** is brought against you by a member of the trade union or any employee represented by the trade union; or
 - 7.3. a society, provided that such **claim** is brought against you by a member of the society; or
- 8. a **claim** against you where the **Individual Insured** is a member of any other law society or bar, except a law society of another province or territory of Canada, arising out of that **Individual Insured’s** permanent practice as a member of that other law society or bar in the other jurisdiction.

CONDITIONS

1. LIMITS OF LIABILITY

1.1 LIMIT OF LIABILITY — EACH **ERROR**

- 1.1.1 The limit of liability stated in Declaration 3(a) shall be the maximum amount payable under this policy for all **damages, claims expenses** and deductibles for all **claims** arising out of an **error**.
- 1.1.2 If a **claim** or potential **claim** is reported to us by or on behalf of any **Insured** during the **policy period**, all additional **claims** or potential **claims** reported subsequently that arise out of the same **error** shall be subject to the one limit of liability applicable to the **claim** or potential **claim** first reported.

1.2 LIMIT OF LIABILITY — ANNUAL AGGREGATE

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

1.3 MULTIPLE **INSUREDS, CLAIMS** OR CLAIMANTS

An **error** giving rise to more than one **claim** or resulting in a **claim** made against more than one **Insured** or made by more than one person or **organization** shall not increase our limits of liability.

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1.4 PRIORITY OF PAYMENTS

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

1.5 EXHAUSTION OF LIMITS

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

2. DEDUCTIBLES

2.1 If **damages** are payable, you will pay the deductible stated in Declaration 4.

2.2 Our obligation to pay **damages** applies only to **damages** in excess of the deductible and we shall be liable only for the difference between the deductible and the limit of liability.

2.3 When one or more **claims** arising from an **error** are made jointly or severally against two or more **law firms**, the deductible will apply separately to each **law firm**.

2.4 All the terms and conditions of this policy apply notwithstanding that the amount of the **claim**, potential **claim** or **damages** may be less than the deductible stated in Declaration 4.

2.5 If we request, you will make direct payments for **claims** or potential **claims** within the deductible to us or to other parties.

3. REIMBURSEMENT

3.1 We may pay **damages** or **claims expenses** in excess of the limit of liability or within the deductible and you will repay such amounts to us on demand.

3.2 If you are not entitled to coverage for a **claim** because of any term, Exclusion or breach of a Condition of this policy and we pay **damages** or **claims expenses** on behalf of you or any other **Insured** pursuant to this policy, you will reimburse us for all such amounts.

3.3 If we pay on behalf of two or more of you pursuant to Condition 3.1 or 3.2, your liability to us will be joint and several.

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4. NOTICE OF CLAIM OR SUIT

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

Lawyers Insurance Fund
6th Floor, 845 Cambie Street
Vancouver, B.C. V6B 4Z9
Attention: Susan I. Forbes, Director of Insurance
FAX: (604) 682-5842

- 4.2 If a **claim** is made or suit is brought against you, you will forward immediately to us every demand, writ of summons or other process with the fullest information obtainable.
- 4.3 We may deem notice of an **error** or **claim** given by a third party to be notice given by you.

5. ASSISTANCE AND COOPERATION

- 5.1 You will cooperate with us and assist us in investigating coverage for and the facts and circumstances of **claims** and potential **claims**, in efforts to repair **errors**, in making settlements and in the conduct of suits. Upon request, you will also:
- 5.1.1 give written statements to and meet with our representative for the purpose of determining coverage;
 - 5.1.2 provide information and documents as necessary to investigate and defend any **claim** or potential **claim**;
 - 5.1.3 submit to examination and interview by our representative, under oath if we request;
 - 5.1.4 attend hearings, examinations for discovery and trial;
 - 5.1.5 assist in securing and giving evidence, including obtaining the attendance of witnesses in the conduct of suits;
 - 5.1.6 assist in effecting all rights of indemnity, contribution or apportionment available to you or us;
- all without cost to us.
- 5.2 You will notify us immediately of any settlement offer made on any **claim** or potential **claim**.

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- 5.3 You will not, except at your own cost, admit liability, make any payment, settle a **claim** or potential **claim**, assume any obligation, directly or indirectly assist in making or proving a **claim** against you, agree to arbitration or any similar means of resolution of any dispute, waive any rights or incur any expenses without our prior written consent.
- 5.4 We shall be entitled to disclose such information as we deem appropriate to third party auditors, reinsurers and excess insurers.

6. INNOCENT INSURED

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

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

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

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

- 6.2 Where Exclusion 6.2 applies to a **claim** because, individually or collectively, directly or indirectly, you or your **family** acquired effective management or control or beneficial ownership greater than 10% of an **organization** after the time of the **error**, then, pursuant to the terms of this policy, we shall cover your partners, who were **members** at the time of the **error**, or the **law firm** employing you (excluding any **law corporation** wholly owned by you or your **family**) at the time of the **error**.

7. ARBITRATION OR MEDIATION

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

8. OTHER INSURANCE

- 8.1 This insurance is excess over any other valid and collectible insurance, whether primary, contributing, excess, contingent or on any other basis.
- 8.2 Condition 8.1 does not apply to insurance specifically arranged to apply as excess insurance over the insurance provided by this policy.
- 8.3 If you are required to purchase lawyers professional liability insurance in another Canadian jurisdiction this policy will apply as agreed between the **Law Society** and such other law society or bar. The maximum amount of insurance available to you under both this policy and any other Canadian lawyers compulsory professional liability insurance together shall not exceed the limit of liability stated in the Declarations of this policy.

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9. ACTION AGAINST US

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

10. INSOLVENCY, BANKRUPTCY, INCAPACITY, DEATH

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

11. SUBROGATION

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

12. CHANGES

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

13. ASSIGNMENT

Your interest in this policy is not assignable.

14. INSURANCE FEE ADJUSTMENT

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

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

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

15. CANCELLATION OF POLICY

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

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

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

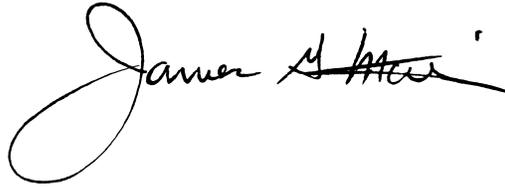
INSURANCE POLICIES

16. APPLICABLE LAW

This policy will be exclusively governed by and interpreted in accordance with the laws of British Columbia and any applicable federal laws of Canada, and all disputes arising out of or in connection with this policy shall be submitted to and be subject to the exclusive jurisdiction of the Courts of British Columbia.

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

LSBC Captive Insurance Company Ltd.

A handwritten signature in black ink, appearing to read "James G. Matkin". The signature is written in a cursive style with a large, looping initial "J".

James G. Matkin, President