



## FMI CAPITAL ADVISORY INC.

### STRICTLY PRIVATE AND CONFIDENTIAL

February 28, 2023

#### **XEMOTO MEDIA LTD.**

77 King Street West, Suite 2905  
Toronto, Ontario M5K 1H1

**Attention:** The Board of Directors

#### **Re: Engagement as Exclusive Financial Advisor**

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Dear Sirs/Mesdames:

This letter will update, replace and supersede the engagement letter signed between FMI Capital Advisory Inc. (“**FMICA**”, “**us**”, “**we**” or “**our**”) Xemoto Media Ltd. (the “**Company**” or “**you**”) (previously named Untapped Lab Inc.) dated May 1, 2021. FMICA will continue to assist the Company with your following efforts:

- a) A listing of the common shares in the capital of the Company on a recognized Canadian or United States stock exchange (“**Liquidity Event**”);
- b) an amalgamation, merger, arrangement, or other business combination or transaction involving the Company with a public company or shell, or an entity which is private but has at least \$2 million in cash (altogether, a “**Target**”); and/or
- c) any other similar business transaction, whether in one or a series of transactions, directly or indirectly, by the Company, either alone or in combination with sections (a) and (b) above shall altogether hereinafter be defined as a “**Transaction**”.

Upon and subject to the terms of this agreement (“**Agreement**”), the Company hereby reconfirms the appointment of FMICA, and FMICA hereby confirms that it will continue as the exclusive financial advisor to the Company in connection with any Transaction.

1. **Services.** At the CEO’s request, FMICA will provide the following services to the Company, as required:
  - i. business planning;
  - ii. assistance in developing pricing models;
  - iii. assistance in preparing budgets and financial models;
  - iv. industry research and comparative research;
  - v. assistance in developing capital structures;
  - vi. assisting management in further developing and defining its strategic plan and messaging it to the market;
  - vii. working with management to gather all relevant documents to create due diligence data room;
  - viii. assisting with creating and maintaining a corporate presentation, website, and other marketing materials;
  - ix. introducing potential directors, management candidates, and service providers as needed;
  - x. build a financing syndicate including a lead agent for a Transaction or similar go public financing;

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- xi. assist in structuring a reverse take-over transaction or other go public transaction with a Target and a listing on a Canadian or United States stock exchange or sale or acquisition or merger with an entity with sufficient funding to fund the business plan of the Company;
- xii. work with management to develop a financing strategy in conjunction with one or more private placements (each, a “**Financing**”);
- xiii. if required, work with management to develop a financing strategy in conjunction with the Transaction, with a view to closing financing concurrently with the closing of the Transaction (“**Concurrent Financing**”), including identifying, contacting, and evaluating potential investors; documenting and developing the corporate finance and go public “roll-out” strategy, as well as managing the go public process and financing;
- xiv. introduction to potential Targets;
- xv. provide the services of Adam Szweras in the role of Chairman or Co-Chairman of the board of directors;
- xvi. introduce the Company to licensed investment dealers registered with the Investment Industry Regulatory Organization of Canada; and
- xvii. coordinating with management, lawyers, and auditors to prepare and submit a filing statement.

Items (i) through (xvii) collectively shall hereinafter be referred to as the “**Services**”.

2. **Fees.** For the Services of FMICA hereunder, the Company agrees to pay the following fees (collectively, the “**Fees**”) to FMICA:
  - a. **Past Services Rendered:** In respect of those Services rendered to the Company by FMICA from the period commencing May 2021 through to June 2022, a fee of \$136,000, plus Taxes thereon. The fee can be paid in cash or in the form of common shares of the Company at the discretion of the Company and FMICA
  - b. **Work Fee:** In respect of the financial advisory and investment banking services to be rendered to the Company as set forth in paragraph 1 (Services), a fee of \$15,000, accrued monthly in arrears as a work in progress until invoiced by FMICA, commencing retroactively as of July 1, 2022, prorated for any partial month of service (the “**Monthly Work Fee**”). The Monthly Work Fee shall accrue each month and only become payable upon FMICA issuing an invoice to the Company. Thereafter, the Monthly Work Fee shall become payable monthly for a period of eighteen (18) months from the completion of a Transaction. The Monthly Work Fee can be paid in cash or in the form of common shares of the Company at the discretion of the Company and FMICA.
  - c. **Stock Success Fee:** Upon execution of this Agreement, the Company commits to issue to FMICA 2,971,112 common shares in the capital of the Company at a deemed price per share at the time of issuance, (the “**Bonus Shares**”) for services previously provided. The Bonus Shares will be accrued as a work in progress until invoiced by FMICA and will be issued immediately upon FMICA issuing an invoice to the Company.
  - d. **Transaction Fee Shares:** At the closing of a Transaction, the Company will issue to FMICA that number of common shares (the “**Transaction Fee Shares**”) equal to the difference of those Bonus Shares issued to FMICA and five percent (5%) of the issued and outstanding common shares of the Company immediately prior to a Transaction. For greater clarity, the sum of the Bonus Shares and Transaction Fee Shares shall be equal to but not less than 5% of the issued and outstanding shares in capital of the Company at the time of a Transaction.

- e. **Cash Success Fee:** Upon successful completion of the Transaction, a fee of \$150,000 plus applicable taxes (HST 13%), payable to FMICA in cash ("**Cash Success Fee**").
- f. **Break Fee:** 30% of any break fee paid to the Company in connection with a Transaction, payable at the time the Company receives such break fee. For greater certainty, the Break Fee shall not exceed the fees set forth in paragraph 2 hereof that otherwise would have been payable to FMICA should the Transaction have closed.

If you agree to pay a commission or fee to anyone else (including without limitation, any other financial advisor to the Company), such commission or fee shall be for your own account and shall not reduce the amount payable to us under this Agreement.

3. **Fees Protected.** If, during the term of this engagement or within the period of 12 months following termination of this Agreement (other than a termination by the Company as a result of breach of this Agreement by FMICA), if a Transaction is completed with a Target introduced to the Company by FMICA during the term of this Agreement, or the Company announces or enters into an agreement in respect of a Transaction with a Target introduced to the Company by FMICA during the term of this Agreement which is subsequently completed, or the Company announces or enters into an agreement in respect of a Transaction for which the Company receives a Break Fee from a Target introduced to the Company by FMICA during the term of this Agreement, upon the closing of such Transaction or payment of the Break Fee by the Target to the Company, as applicable, the Company will pay FMICA the Fees set out in this Agreement in relation to such Transaction.
4. **Additional Services.** If FMICA is requested to provide any other services in addition to those described in paragraph 1 (Services) above, the terms and conditions relating to such services will be outlined in a separate letter of agreement and the fees for such services will be in addition to the fees payable hereunder, will be negotiated separately and in good faith and will be consistent with fees paid to North American investment banks for similar services. However, for greater certainty, FMICA will not provide any legal, tax or accounting advice, either pursuant to this Agreement or otherwise. This Agreement shall not constitute or create a retainer for legal services or advice by FMICA, its subsidiaries, and affiliates, and each of their respective directors, officers, employees, securityholders and agents who are licensed to practice law. The Company and the Board, as applicable in their determination, will be solely responsible for engaging and instructing such legal, tax and accounting professionals as you and they deem necessary for purposes of the subject matter of this Agreement.
5. **Counsel to FMICA.** Subject to reasonable pre-approval by you, FMICA will retain external legal counsel, pre-approved by you, experienced in these types of matters and reasonably acceptable to you, to assist us in the discharge of our duties hereunder, the full cost of which shall be pre-approved and payable by you upon presentation of invoices which include reasonable particulars of the services provided to us.
6. **Use of Experts.** You will retain, if required by us and subject to your reasonable approval such accounting, tax, and other advisors we reasonably deem appropriate to work with us in the discharge of our duties hereunder; you will pay the fees, taxes, and disbursements of all such advisors.
7. **Expenses and Taxes.** You will reimburse us for all reasonable and pre-approved out-of-pocket expenses incurred by us in connection with our engagement hereunder, including, but not limited to, advertising, printing, courier, telecommunications, data searches, travel, entertainment, any other expenses and the fees, taxes and disbursements of experts retained by us, together with any related harmonized sales taxes ("**Taxes**"). Such reimbursements will be payable upon a request for payment thereof by us whether or not the Transaction or any other transaction contemplated by this Agreement is completed. All or part of the amounts payable under this Agreement may be subject to Taxes. Where such Taxes are applicable, an additional amount equal to the amount of such taxes owing will be payable by you.

8. **Indemnification.** The Company shall indemnify FMICA, and every other “Indemnified Parties” as provided for in and in accordance with Schedule “A” attached hereto. Such indemnity (the “**Indemnity**”) which forms part of this Agreement and consideration for which is the entering into of this Agreement. The Indemnity will apply to all services contemplated in this Agreement, including, without limitation, any additional services contemplated by paragraph 4 (Additional Services) of this Agreement.
  
9. **Term and Survival.** This Agreement shall be effective upon the execution of this Agreement (the “**Commencement Date**”) and may be terminated by either party as follows: (i) on the provision of 90 days written notice or (ii) if either party believes that the other is in breach of its material obligations hereunder, then the non-breaching party may deliver notice of such breach to the other party, and the allegedly breaching party shall have ten (10) business days from such notice to dispute or cure such breach. If the allegedly breaching party fails to cure, or fails to dispute, that breach within such time period, then the party originally delivering the notice of breach may terminate this Agreement effective on written notice of termination to the other party. The representations and warranties contained in this Agreement and the obligations pursuant to paragraphs 2 (Fees), 3 (Fees Protected), 5 (Counsel to FMICA), 7 (Expenses and Taxes), 8 (Indemnification), including, for greater certainty, Schedule “A”, 9 (Term and Survival), 11 (Use of FMICA’s Advice and Materials), 14 (Acknowledgment of other FMICA Business), 17 (Notices) and 18 (Other Provisions) hereof will survive the completion of our engagement hereunder, any withdrawal or termination of or decision not to proceed with a Transaction or the expiry or other termination or purported termination of this Agreement. Should this agreement be terminated with any fees outstanding which are to be converted into shares of the Company, but where such shares have not yet been issued, such fees shall be instead payable in cash.
  
10. **Information & Material Changes.** You will provide FMICA with all corporate, financial, and operating information and documentation regarding the Company and the Transaction and with timely access to the Board, your senior management, facilities, employees, auditors, legal counsel, and consultants, which are reasonably necessary and sufficient, in our sole determination, to allow us to perform our services hereunder. Without restricting the generality of the foregoing, you will provide us with copies of all information (financial or otherwise), corporate, financial and operating data, reports, opinions, valuations, appraisals, forecasts and projections and other information and material of whatsoever nature or kind relating to the Company that are in the Company’s possession or that are reasonably obtainable by the Company which FMICA may reasonably require or deem appropriate in carrying out its engagement hereunder.

In carrying out our responsibilities hereunder, FMICA will necessarily rely on information prepared or supplied, directly or indirectly, orally or in writing, by the Company and its agents and advisors and other sources believed by us to be reliable and assumes no obligation to verify the accuracy or completeness of such information and under no circumstances will we be liable to you or your security-holders for any damages arising out of the inaccuracy or incompleteness of any such information.

You will bear sole responsibility for the accuracy and completeness of any prospectus, listing application, securities filings, take-over bid circular, management information circular, confidential information memorandum or other disclosure documents (“**Disclosure Documents**”) to be prepared in connection with any Transaction. You will provide us with an opportunity to review and provide comments on drafts of any Disclosure Documents.

If you determine to make information concerning the Company and/or the Transaction available to third parties, you will bear sole responsibility for the accuracy and completeness of the information provided to third parties, except for any information created solely by FMICA and which is provided to third parties by FMICA without your concurrence. You represent and warrant that the information so provided to such parties will be accurate and complete in all material respects and will not be misleading or omit to state any fact or information which would be material to parties considering the Transaction. FMICA expressly disclaims any liability or responsibility for the form or content of any Disclosure Documents prepared by the Company and mailed to shareholders in connection with the Transaction or delivered to regulatory authorities, other than an opinion, if applicable, or a description of the services

provided by FMICA under this engagement letter that may be required by law and approved by FMICA, acting reasonably.

You represent and warrant to us that all information and documentation concerning the Company that is provided by you in connection with this engagement will be accurate and complete in all material respects and not misleading and will not omit to state any fact or information which would be material to a financial advisor or agent performing the services contemplated herein.

You will advise us promptly upon learning of any material change, actual or contemplated, provided by you to us concerning a Transaction and, to the extent you are aware of such changes, in information concerning any other relevant third party. Unless advised otherwise, FMICA will be entitled to assume that there has been no material change in such information and will be entitled to rely thereon. You will notify us promptly of any notice by any judicial or regulatory authority requesting any information, meeting or hearing relating to the Transaction or exchange listing or any other event or state of affairs that may be relevant to us.

11. **Use of FMICA's Advice and Materials.** Other than as expressly provided herein, you acknowledge and agree that all written and oral opinions, advice, analysis and materials provided by FMICA in connection with our engagement hereunder, including the contents of any oral or written presentations, comments or drafts are intended solely for your benefit and for your internal use only in considering a Transaction and you covenant and agree that no such opinion, advice or material will be used for any other purpose whatsoever or reproduced, disseminated, quoted from or referred to in whole or in part at any time, in any manner or for any purpose, without our prior written consent in each specific instance. Any advice or opinions given by FMICA hereunder will be made subject to and will be based upon such assumptions, limitations, qualifications, and reservations as we, in our sole judgment, deem necessary or prudent in the circumstances. FMICA expressly disclaims any liability or responsibility by reason of any unauthorized use, publication, distribution of or reference to any oral or written opinions or advice or materials provided by us or any unauthorized reference to FMICA or this engagement.

The foregoing shall not prevent the Company from making such disclosure or reproduction which, in the judgment of the Company upon the written advice of counsel, is required under applicable securities laws, regulations, rules or policies and provided in any event that FMICA is given a reasonable opportunity to review and comment on the text of such disclosure.

12. **Confidentiality.** FMICA and each of its directors, officers, employees and agents shall keep strictly confidential and shall use only for the purpose of performing its obligations hereunder all information, whether written or oral, acquired from the Company and its agents and advisors or to which they obtain access in connection with FMICA's engagement hereunder except and only to the extent that the information was made available to the public prior to FMICA's engagement or thereafter becomes available to the public other than through a breach by FMICA of its obligations hereunder and except to the extent that FMICA is required by law or in connection with legal process or legal or regulatory or stock exchange proceedings or policy to disclose such information. If FMICA is required to disclose any such information, it shall to the extent legally permitted provide the Company with prompt notice of such requirement so that the Company may seek an appropriate protective order or waive compliance with this requirement.
13. **Relationship.** The Company agrees that FMICA has been retained to act solely as the Company's financial advisor regarding a Transaction, and not as an advisor to any other party, including the Company's beneficial owners. FMICA shall act as an independent contractor and any duties that FMICA has arising out of this engagement shall be owed solely to the Company and not to any other party.
14. **Acknowledgment of other FMICA Business.** The Company acknowledges that certain of its affiliates of FMICA: (i) act as a trader of, and dealer in, securities both as principal and on behalf of its clients, and, as such, may have had, and may in the future have, long or short positions in the securities of the



Company, a Target, or related entities and, from time to time, may have executed or may execute transactions on behalf of such persons; (ii) may provide research or investment advice or exempt market dealer services to clients on investment matters, including the Company; (iii) may participate in securities transactions on a proprietary basis, including transactions in the Offering or other securities of the Company or related entities and, (iv) nothing herein shall restrict their ability to conduct business in the ordinary course and in compliance with applicable laws.

15. **Independent Legal Advice.** The company acknowledges and agrees; (i) that the Company has been advised to seek independent legal counsel in respect of this Agreement and matters contemplated herein and to the extent that the Company fails to seek independent legal advice, it waives the right, should a dispute later develop, to rely on its lack of independent legal advice to avoid its obligations, to seek indulgences from FMICA or its affiliates or otherwise attack the integrity of this Agreement and provisions thereof, in whole or in part, and (ii) Adam Szweras (“**Szweras**”), a director and officer of FMICA and counsel to the law firm Fogler, Rubinoff LLP (“**Fogler**”), retains an indirect economic interest in FMICA and its affiliates, accordingly the Company agrees to specifically waive any legal conflicts arising from the Szweras relationship in connection with this Agreement and any legal services offered through the facilities of Fogler, should the Company engage Folger for such legal services.
16. **Announcements.** The Company agrees that FMICA may, at FMICA’s own expense, place advertisements or announcements in any newspapers, periodicals, or other publications, or otherwise disclose to third parties, that FMICA has acted as the Company’s financial advisor in connection with a Transaction. If requested, the Company will include a reference to FMICA as being the Company’s financial advisor in any press release or public announcement made with respect to a Transaction.
17. **Notices.** Any notice or other communication required or permitted to be given under this letter agreement shall be in writing and shall be sufficiently given or made by delivery by mail or by email to the respective parties as follows:

If to the Company:

77 King Street West, Suite 2905  
Toronto, Ontario M5K 1H1

Attention: Virginia Brailey  
Email: v.brailey@Xemoto.media

If to FMICA:

77 King Street West, Suite 2905  
Toronto, Ontario, M5K 1H1

Attention: Alex Storcheus, Managing Director  
Email: astorcheus@foundationmarkets.com

Any notice so given shall be deemed conclusively to have been given and received, (i) in the case of personal delivery, when so personally delivered, (ii) in the case of postal mail, on the third business day after it was mailed (excluding each business day during which there existed any general interruption of postal services due to strike, lockout or other cause), and (iii) in the case of email, on the same day that it was sent if sent during business hours on a business day or on the first business day thereafter. Any party may change its address by notice to the others in the manner set out above.

18. **Other Provisions.**

- a. You will comply with all applicable laws, regulations, and policies, whether domestic, foreign, federal, national, provincial, state or otherwise, applicable to a Transaction.

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- b. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, and the parties irrevocably attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario.
- c. All references to “dollars” or “\$” in this Agreement are to Canadian dollars unless otherwise expressly indicated.
- d. This Agreement may not be assigned without prior written consent, except FMICA may assign this Agreement as part of a reorganization. This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
- e. No waiver, amendment, supplement, restatement, termination, or other modification of this Agreement shall be effective unless in writing and signed by each party hereto.
- f. Any waiver of a provision of this Agreement shall be limited to the specific breach waived. No waiver of any breach, failure to exercise or delay in exercising, any right or remedy under this Agreement will be deemed to be a waiver of any subsequent breach or a waiver of that right or remedy.
- g. This Agreement supersedes any prior agreement, representation or undertaking between the parties hereto with respect to the subject matter hereof including the advisory agreement between the Company and FMICA dated May 1, 2021.
- h. To the extent that any provision or part thereof of this Agreement shall be determined to be unenforceable or invalid but capable of severance, the remainder of this Agreement shall remain enforceable to the maximum extent permitted by law.
- i. The Parties agree to make, do, and execute, or cause to be made, done, and executed, all such further acts, deeds, agreements, assurances, instruments, or documents as may be reasonably required by either of them in order to document or evidence any of the transactions or events set out herein.
- j. This Agreement may be executed in counterparts, each of which shall be deemed an original and may be delivered by email transmission.

If the foregoing is in accordance with your understanding, please indicate the Company's agreement by signing and returning the enclosed duplicate copy of this letter.

Yours sincerely,

**FMI CAPITAL ADVISORY INC.**

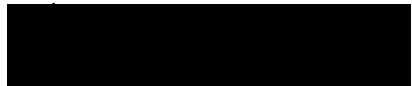
**Per:**  /s/ "Alex Storcheus"  
Alex Storcheus  
Managing Director, Corporate Finance

*I have authority to bind the company.*

The foregoing accurately reflects the terms of the transaction that we hereby agree to enter into, and the undersigned agrees to be legally bound hereby.

Accepted as of the date set forth above.

**XEMOTO MEDIA LTD.**

**Per:**  /s/ "Virginia Brailey"  
Name: Virginia Brailey  
Title: Chief Executive Officer

*I have authority to bind the company.*



## SCHEDULE “A”

### INDEMNITY

As consideration for FMICA agreeing to provide the services described in the engagement letter to which this Schedule “A” is attached (the “**Engagement**”), the Company and its subsidiaries or affiliated companies, as the case may be (collectively, the “**Indemnitor**”) agrees to indemnify and hold harmless FMICA and each of its subsidiaries and affiliates, and each of their respective directors, officers, employees, securityholders and agents (collectively, the “**Indemnified Parties**” and each, an “**Indemnified Party**”), to the full extent lawful, from and against all expenses, fees, losses, claims, actions, damages, obligations and liabilities, joint or several, of any nature (including the reasonable fees and expenses of their respective counsel and other expenses to the extent permitted hereunder, but not including any amount for consequential, indirect or special damages, such as lost profits) (collectively, “**Losses**”) that are incurred in investigating, defending and/or settling any action, suit, proceeding, investigation or claim that may be made or threatened against any Indemnified Party (collectively, the “**Claims**”) or to which an Indemnified Party may become subject or otherwise involved in any capacity insofar as the Claims arise out of or are based upon, directly or indirectly, the Engagement together with any Losses that are incurred in enforcing this indemnity. This indemnity shall not be available to an Indemnified Party in respect of Losses incurred where a court of competent jurisdiction in a final judgment that has become non-appealable determines that such Losses resulted from the fraud, negligence, or willful misconduct of the Indemnified Party.

The Indemnitor agrees to waive any right it may have of first requiring an Indemnified Party to proceed against or enforce any other right, power, remedy, or security or claim payment from any other person before claiming under this indemnity. The Indemnitor also agrees that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Company or any person asserting Claims on behalf of or in right of the Company for or in connection with the Offering except to the extent of the amount of any Losses suffered by the Company are determined by a court of competent jurisdiction in a final judgment that has become non-appealable to have resulted solely from fraud, the gross negligence or willful misconduct of the Indemnified Party.

If for any reason (other than a determination as to any of the events referred to immediately above) this indemnity is unavailable to an Indemnified Party or is insufficient to hold an Indemnified Party harmless in respect of any Claim, the Indemnitor shall contribute to the Losses paid or payable by such Indemnified Party as a result of such Claim in such proportion as is appropriate to reflect not only the relative benefits received by the Indemnitor on the one hand and the Indemnified Party on the other hand but also the relative fault of the Indemnitor and the Indemnified Party as well as any relevant equitable considerations; provided that the Indemnitor shall in any event contribute to the Losses paid or payable by an Indemnified Party as a result of such Claim, the amount (if any) equal to (i) such amount paid or payable, minus (ii) the amount of the fees received by the agent, if any, under the Engagement.

The Indemnitor agrees that in case any legal proceeding shall be brought against, or an investigation is commenced in respect of, the Indemnitor and an Indemnified Party or its personnel are required to testify in connection therewith or shall be required to respond to procedures designed to discover information regarding, in connection with or by reason of the Engagement, the Indemnified Party shall have the right to employ its own counsel in connection therewith, and the reasonable fees and expenses of such counsel as well as the reasonable costs (including an amount to reimburse the Indemnified Party for time spent by its personnel in connection therewith at their normal per diem rates together with such disbursements and out-of-pocket expenses incurred by the personnel of the Indemnified Party in connection therewith) shall be paid by the Indemnitor as they occur.

FMICA will notify the Indemnitor promptly in writing after receiving notice of any Claim against FMICA or any other Indemnified Party or receipt of notice of the commencement of any investigation which is based, directly or indirectly, upon any matter in respect of which indemnification may be sought from the Indemnitor, stating the particulars thereof, will provide copies of all relevant documentation to the Indemnitor and, unless the Indemnitor assumes the defence thereof, will keep the Indemnitor advised of the progress thereof and will discuss all significant actions proposed. The omission to so notify the Indemnitor shall not

relieve the Indemnitor of any liability which the Indemnitor may have to an Indemnified Party except only to the extent that any such delay in giving or failure to give notice as herein required prejudices the defence of such Claim or results in any increase in the liability under this indemnity which the Indemnitor would otherwise have incurred had FMICA not so delayed in giving, or failed to give, the notice required hereunder.

The Indemnitor shall be entitled, at its own expense, to participate in and, to the extent it may wish to do so, assume the defence of any Claim, provided such defence is conducted by counsel of good standing acceptable to FMICA. Upon the Indemnitor notifying FMICA in writing of its election to assume the defence and retaining counsel, the Indemnitor shall not be liable to an Indemnified Party for any legal expenses subsequently incurred by it in connection with such defence. If such defence is not assumed by the Indemnitor, the Indemnified Parties, throughout the course thereof, shall provide copies of all relevant documentation to the Indemnitor, shall keep the Indemnitor advised of the progress thereof and shall discuss with the Indemnitor all significant actions proposed. If such defence is assumed by the Indemnitor, the Indemnitor throughout the course thereof will provide copies of all relevant documentation to FMICA, will keep FMICA advised of the progress thereof and will discuss with FMICA all significant actions proposed.

Notwithstanding the foregoing paragraph, any Indemnified Party shall have the right, at the Indemnitor's expense, to separately retain counsel of such Indemnified Party's choice, in respect of the defence of any Claim if: (i) the employment of such counsel has been authorized by the Indemnitor; or (ii) the Indemnitor has not assumed the defence and employed counsel therefor promptly after receiving notice of such Claim; or (iii) counsel retained by the Indemnitor or the Indemnified Party has advised the Indemnified Party that representation of both parties by the same counsel would be inappropriate for any reason, including for the reason that there may be legal defences available to the Indemnified Party which are different from or in addition to those available to the Indemnitor or that there is a conflict of interest between the Indemnitor and the Indemnified Party or the subject matter of the Claim may not fall within the indemnity set forth herein (in any of which events the Indemnitor shall not have the right to assume or direct the defence on such Indemnified Party's behalf), provided that the Indemnitor shall not be responsible for the fees or expenses of more than one legal firm in any single jurisdiction for all of the Indemnified Parties.

No admission of liability, no settlement of any Claim, no compromise nor any consent to the entry of any judgement shall be made by the Indemnitor or an Indemnified Party without the prior written consent of the Indemnified Parties affected or the Indemnitor, as the case may be, such consent not to be unreasonably withheld.

The Indemnitor hereby acknowledges that FMICA acts as trustee for the other Indemnified Parties of the Indemnitor's covenants under this indemnity and FMICA agrees to accept such trust and to hold and enforce such covenants on behalf of such persons.

The indemnity and contribution obligations of the Indemnitor hereunder shall be in addition to any liability which the Indemnitor may otherwise have (including under the Engagement), shall extend upon the same terms and conditions to the Indemnified Parties and shall be binding upon and enure to the benefit of any successors, permitted assigns, heirs and personal representatives of the Indemnitor, FMICA and any other Indemnified Party. The foregoing provisions shall survive any termination of the Engagement, or the completion of professional services rendered under the Engagement.