[FIRM NAME] ONLINE ACTIVITY AND SOCIAL MEDIA POLICY

Lawyers, paralegals and their staff are using websites and Internet communication that can impact individual and firm reputation and professional conduct. These activities span both work hours and personal time, blurring lines that might have been clearer in the past. These guidelines include a number of topics that may or may not apply in your practice. We have attempted to highlight sections that may be more appropriate for a particular firm size.

EXPECTATION OF ONLINE ACTIVITY

[Firm name] understands that a great deal of time is spent online, both during work and in your private time. Whether you are sending e-mail to clients or colleagues, or updating your social network status on a social networking or life-streaming website such as Facebook or Twitter, you may find that the distinction between work and personal blurs. [We / I] understand that this activity can enhance business development and personal relationships, and you are encouraged to participate in online resources. These guidelines are intended to help you be aware of potential areas where, during work or personal time, your disclosure of certain information can have a negative impact on [Firm name].

SCOPE

These guidelines affect every lawyer, paralegal, staff member, and contractor of [Firm name]. The primary function of these guidelines is to give you parameters in which you may or may not use information about the firm. These include explicit use of or reference to the firm name, the firm’s or individual’s contact information, and our website or e-mail addresses. It also includes content created at work, like images from a firm or client event, or documents dealing with clients or our operations. It includes anything created using firm resources, including computers and smart phones. Specific examples include:

- client contact information, even if published elsewhere, or information disclosing the firm’s current or former representation of client
- documents, images, and other information related to client representation
- documents, images, and other information related to firm operations, particularly those that clients otherwise hire the firm to prepare or advise upon

While this policy most obviously applies to online websites, like Facebook or personal websites and blogs, it also applies to e-mail. When you share information on the Internet, it is often archived by search engines. Similarly, an e-mail sent to a friend or to a discussion list may be forwarded beyond your control, or archived so that the information is broadly accessible beyond those to whom you sent it.
[Firm name] encourages you to use professional and personal online communication but to be aware that your online activity may blur the line between those two areas. If you have questions about or suggestions to improve these guidelines, let [me / Firm HR contact] know.

**BE RESPONSIBLE**

You are personally responsible for any online activity that can be connected to the firm, including sharing of client or other firm information, or creating the impression that you are acting on behalf of the firm. This includes communications that constitute legal advice or could create a lawyer-client or a paralegal-client relationship. For example, if you identify the firm as your place of employment on a social networking website, be sure that any information you post on the site, especially in response to the comments or messages of others, does not imply that you are providing legal advice.

Where there is a legitimate business reason to share information, be sure to get firm and client permission before using it in an online communication that may become publicly accessible.

Keep in mind that we already have policies relating to [insert appropriate policies: acceptable Internet use, acceptable computer use, acceptable e-mail use] that apply to specific firm technologies.

**BE RESPECTFUL**

Your personal reputation and that of the firm can be negatively impacted by poorly considered online communications. A rashly worded or disrespectful comment will have a long life on the Internet and lead to unforeseen negative consequences. Online websites are frequently habituated by participants whose primary goal is to provoke, commonly known as trolls, seeking to bait others into negative interactions. While some online resources, like Twitter and other life-streaming sites, expect rapid responses and updates, temper this expectation so as not to be hasty in distributing information you would not otherwise share.

Keep in mind that it is sometimes difficult to communicate the right tone online or in an e-mail message. An e-mail conversation can escalate into insult and hostility, commonly called flaming, if you hit the wrong tone. If you are participating in a discussion, think carefully about how you use humour or other writing techniques.

This extends beyond communication to behaviour. Understand the terms of service for the online sites you are using and abide by them. Poor online behaviour can have as much negative impact as poor communications. Similarly, be sure that you have a basic understanding of “Netiquette”, where using UPPER CASE in an e-mail equates to yelling.
PROTECT OUR CLIENTS

When you are in an online environment, you cannot always know how far your communications or actions will extend. An e-mail you send may be forwarded to others. A posting to your LinkedIn network about client work may reach out beyond your own network, depending upon the settings your connections have made to their own accounts. You cannot assume that anything posted in a secure or private online network site will remain confidential.

You are encouraged to use online tools to generate new business and seek out client relationships. While doing so, you should not provide legal advice or invite sharing of information that can create a client relationship. Once you have developed interest, you may follow our normal procedures for interacting with new clients, whether electronically or in person.

Due to the informality with which a client relationship can be established on the Internet, be sure to run a conflicts check when you are dealing with specific individuals or organizations online, and comply with any identification rules. If you are not licensed to practice law or provide legal services in your online contact’s jurisdiction, be aware that your online activity may constitute the unauthorized practice of law or provision of legal services.

BE KNOWN

If you are communicating online, identify yourself clearly. You should not post anonymously or using pseudonyms. You would not be the first person to have a true identity discovered after participating in an online, anonymous discussion and divulged to a court. If it is appropriate and you have the firm’s permission, use links to the firm’s website or to your e-mail account at the firm.

BE ACCURATE

In some situations, your online communications and activities may be considered marketing. This may be helpful in generating new business. However, be careful to comply with professional rules and avoid deception and confusion. Use verifiably accurate, demonstrably true information in any situation where you market your or the firm’s services.
**BE CONSISTENT**

When you participate in an online site, whether commenting on a blog or posting your status, consider how you can create a permanent record of that activity. Whether it means printing off or making an electronic copy of a blog posting, or exporting your online status comments, you should be prepared to show what your online activities were where they relate to the firm. This may be particularly important if you have unintentionally created a client relationship, and it raises a conflict or the user has relied on the information you posted.

The firm has an online presence in a number of social networking sites, including [Canadian Lawyers, Legal OnRamp, Lexpert, LinkedIn, etc.]. If you would like to link to, “friend”, or otherwise connect to the firm’s presence from your personal account on those sites, feel free to do so. When your own online networking is personal, rather than related to the firm, do not feel obligated to link your profile to that of the firm. However, be aware that [we/I] may review any public information you make available on your personal profile or site.

**BE HUMBLE**

If you use online communication and are notified or notice that you have made an error, fix it promptly.

**DISCIPLINE**

[We / I] reserve[s] the right to take disciplinary action against anyone who engages in online activity that violates the law or professional rules, or otherwise reflects poorly upon or damages either the firm or its clients.

**EXAMPLES**

The following are some examples when these guidelines might apply.

- Beth, a partner at a firm, participates in an e-mail discussion list hosted by a business professional roundtable, where she can send and receive messages on a wide variety of business topics and interact with current and potential clients.

- Arthur, an associate at a firm, maintains a personal blog that he started as a law student. He has written about law school, classes, his articling experience, and now occasionally comments on his work.

- Greg, a paralegal, regularly reads the Empowered Paralegal blog and occasionally posts comments on the site.

- Susan, a litigation support specialist, has a Twitter account that she uses to update her friends and colleagues on her whereabouts, particularly if she’s working long hours on a case.
The following are some examples where these guidelines do not apply.

- Mark, Nadine, and Lisa have “friended” each other on Facebook and discuss movies and occasionally collaborate in a game of Firmtown. Their profiles identify [Firm name] as their employer but there is no other mention of work.

- Erik has a Twitter account where he provides to his followers updates on the status of his cactus throughout the day.

Please note that this information is not a substitute for the member’s own research, analysis and judgment. The Law Society of Upper Canada does not provide substantive legal advice or opinions.