

## WEBSITE TERMS OF USE

**Last Updated:** 7 October 2014

Our website (the "Site") is subject to the Terms of Use set out below ("Terms"). We can update the Terms without telling you. By using the Site, you are agreeing to the Terms, and if you don't, you may not use the Site. You need to re-visit this webpage to check for updates. Using the Site after updates means you agree to the updated Terms.

**No Relationship:** We are not your lawyers just because you use the Site or send a message to a lawyer here. Just getting your email or website message does not create a solicitor-client relationship .

### Conformance with the Law

You agree that through accessing or using this Site you will not knowingly violate any applicable local, national or international law, including without limitation, any regulations having the force of law. You agree not to impersonate another person in your use of the Site or in communications with Cunningham Swan.

### DISCLAIMERS

**The Site does not provide legal or professional advice. If you think you require legal advice, you should retain competent legal counsel to advise you.** If you have questions regarding availability of our lawyers to act on your behalf, please do not hesitate to contact the lawyer of your choice directly at the contact information provided on his or her biography page or contact Cunningham Swan's receptionist at (613) 544-0211 and request to speak with a lawyer who may be able to help you.

**The contents and links on this Site are posted for general informational purposes only.** The articles, biographical information, news postings, blogs, links and other information published on the Site are current solely as of their date of publication and may not address changes to the law or facts applicable to your circumstances, and therefore, you agree not to rely on them as legal advice. The contents and links posted on the Site do not necessarily represent the opinions of Cunningham Swan and should not be taken as specific legal advice.

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**If you would like to provide information of a confidential or sensitive nature to any lawyer at Cunningham Swan, please call (613) 544-0211 prior to sending us any such information.**

**No Liability for Links or Contents:** YOU HEREBY AGREE THAT CUNNINGHAM SWAN, ITS PARTNERS, EMPLOYEES, CONSULTANTS, AUTHORIZED AGENTS AND LICENSORS SHALL NOT BE LIABLE FOR ANY CLAIMS, DAMAGES, COSTS OR LOSSES ARISING FROM YOUR ACCESS, USE OR MISUSE OF THE SITE OR ANY DEFECTS, INACCURACIES, ERRORS OR OMISSIONS IN THE SITE WITHOUT REGARD TO THE FORM OF ACTION (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR HARM TO BUSINESS, LOSS OF PROFITS, PROGRAMS OR DATA, INTERRUPTION OF ACTIVITIES OR ANY OTHER PECUNIARY OR ECONOMIC LOSS) WHETHER SUCH DAMAGES, COSTS OR LOSSES ARE CLAIMED AS DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR OTHERWISE, EVEN IF CUNNINGHAM SWAN OR ITS LAWYERS, EMPLOYEES, CONSULTANTS, AUTHORIZED AGENTS OR LICENSORS KNEW OF, OR SHOULD HAVE KNOWN OF, THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES WERE REASONABLY FORESEEABLE. **Cunningham Swan does not make any guarantee about the accuracy of any information posted/linked on our Site or that the Site will be available free of interruptions, errors or omissions.** Cunningham Swan does not represent or guarantee that Site defects, if any, will be corrected, or that the contents of this Site or linked websites shall be free from viruses, spyware or other harmful components.

**Copyright and Trademark**

By using the Site, you agree that the content on the Site whether now existing or later developed, including (without limitation) executable code running the Site, text, images, sounds, graphics, videos, music (the “contents”) and the selection, arrangement, architecture and enhancement of the Site and its features (collectively, the “Site Design”) are protected as proprietary assets of Cunningham Swan or its licensors pursuant to Canadian and international intellectual and industrial property regimes.

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The display on the Site of any third party intellectual property should not be taken to imply that Cunningham Swan makes any claim of ownership in it.

### **Use and Access of the Site; Rights**

You agree that your access and use is at your own risk. Subject to the provisions of the Terms and otherwise in accordance with governing law, you may access and use the Site only to read the general information contained in its contents and to use the links provided for access to other places on the Internet. Any other use of the Site, Site Design or contents is forbidden. By accessing or using the Site, you agree that do not acquire any rights other than to access, read and review the Site while it remains active.

For certainty, the extent of your rights in this Site is the right to read or review its contents and use its links online while the Site is active and available online. The Site may not be reproduced, in whole or in part, without the express prior written consent of Cunningham Swan. To request such consent, please contact our Office Administrator at (613) 544-0211.

You acknowledge that the proprietary rights of Cunningham Swan in the Site, Site Design and Site’s contents are valid, protected and enforceable, and you agree that all of your access and use thereof will be in accordance with the Terms. **Any rights not expressly outlined herein are reserved rights of the content owner(s) and are not granted hereunder.**

### **Prohibited Uses**

No part of the Site or the Content may be reproduced, modified, distributed, sold, published, broadcast, retransmitted or circulated in any form without the prior written consent of Cunningham Swan. (To request such consent, please contact (613) 544-0211.)

Without limiting the foregoing, you may not perform, directly or indirectly, any of the following activities: creation of derivative works; making of translations; modification of materials into new selections and arrangements; merging of content; creation of compilations; framing from or on other websites; scraping **or** any other activity intended for purposes of the collection, compilation, storage, publication, distribution, summarization or manipulation of any proprietary contents or links of this Site, whether by an automatic program or a manual process. You agree to refrain from decompiling, disassembling or reverse engineering the Site, its architecture or its code. Any sales, licensing, sublicensing or engaging in any other commercial transaction involving or relating to the exchange of any of the protected contents and links on the Site are not allowed.

### **Third Party Sites**

**No Endorsements or Implied Third Party Affiliation:** Cunningham Swan may from time to time provide links on this Site to other places on the Web. Cunningham Swan provides such links for convenience. Links should not be viewed as implying any third-party sponsorship, endorsement, affiliation or association of third party wares, services or practices with Cunningham Swan.

**No Liability:** The contents of any linked website may contain viruses and may expose you and your computer or other devices to risks. Such contents are not under the control of Cunningham Swan or its members. You acknowledge and understand that the Terms, our [Privacy Policy](#), and all rights, duties and obligations thereof govern **this Site**, but once you are leave this Site and visit any third party-owned website, the Terms and our [Privacy Policy](#) will not control. It is recommended that you read the privacy policy and applicable terms and conditions of use for any other website you visit as a result of accessing a link on this Site before progressing.

### **TERMINATION**

Cunningham Swan may, in its sole discretion, terminate your right to use the Site, in whole or in part, at any time with or without notice to you (“Termination”). In the event of Termination, you will no longer be authorized to access the Site or the part of the Site

affected by such Termination. The restrictions imposed on you under these Terms will survive any such Termination. Cunningham Swan shall not be liable to anyone for any Termination at any time or under any grounds.

## **GENERAL TERMS:**

### **No Waiver**

Cunningham Swan will not be considered to have waived any of its rights or remedies described in the Terms unless the waiver is in writing and signed by Cunningham Swan. No delay or omission by Cunningham Swan in exercising its rights or remedies pursuant to the Terms or applicable law will impair the rights or remedies or be construed as a waiver. Any single or partial exercise of a right or remedy will not preclude the exercise of another right or remedy. Cunningham Swan's failure to enforce the strict performance of the Terms or any provision will not constitute a waiver of Cunningham Swan's right to subsequently enforce the Terms or any provision hereof.

### **Headings**

Headings used in this Agreement are included for convenience only and have no legal or contractual effect.

### **Severability**

If any term or provision of the Terms is held by a court of competent jurisdiction or an arbitrator to be invalid, it shall be severed and the remaining provisions shall remain in full force without being invalidated in any way.

## **RESOLUTION OF DISPUTES; APPLICABLE LAW AND JURISDICTION**

All disputes arising out of, or in connection with the Terms or your access, use or misuse of the Site, including the links and contents of the Site, shall be arbitrated and finally resolved pursuant to the *Arbitration Act, 1991* (Ontario) with the arbitration to take place in Kingston, Ontario, Canada, provided that in the event of any actual, immediate or imminent risk of irreparable harm to the rights or interests of Cunningham Swan, its lawyers, employees, authorized agents or licensors in the absence of injunction or other form of immediate relief, Cunningham Swan and any of its lawyers, employees, authorized agents or licensors may seek relief by way of an interim, temporary and permanent injunction or such other and further relief as a Court of competent jurisdiction may deem to be just and proper under the circumstances at that time. All matters related to these Terms and your access, use or misuse of the Site are governed by the laws of the Province of Ontario and the laws of Canada applicable in Ontario, notwithstanding any conflict of laws provisions, your domicile or the physical location of any party or property when access of the Site occurred. **You hereby consent to submit to the jurisdiction of the courts of the Province of Ontario and to arbitration in Kingston, Ontario for purposes of resolving any dispute related to or arising under the Terms or the Privacy Policy.**

### **Privacy:**

Please see our [Privacy Policy](#).

### **Feedback**

We welcome your feedback. If you have questions, comments or concerns about our Site, these Terms of Use or our [Privacy Policy](#) please contact our Director of Operation/Privacy Officer Patience McLeod at [pmcleod@cswan.com](mailto:pmcleod@cswan.com), 613-545-544-0211 x8086.

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## **PRIVACY POLICY**

Cunningham, Swan, Carty, Little & Bonham LLP ("Cunningham Swan") is a law firm offering a wide array of legal services with offices in Kingston, Ontario, Canada. The lawyers and employees of Cunningham Swan (sometimes referred to as "we") are committed to protecting your privacy. This Privacy Policy outlines how we handle and safeguard your personal information in compliance with the laws and regulations that govern us.

This Privacy Policy was last updated on 7 October 2014

### **Definition of Personal Information**

Generally speaking, in the Province of Ontario, Canada, "personal information" is defined by governing law as information about an identifiable individual ("Personal Information"); expressly excluded from the legal definition of Personal Information, however, are

the name, title, business address and telephone number of an employee of an organization. In other words, Personal Information does NOT include information that would generally be expected to appear on someone's business card.

## **Types**

Cunningham Swan may collect your name, home address, telephone number, personal e-mail address, billing and account information, information about legal issues and other information incidental to providing legal advice and services (including Personal Information about witnesses, family members, beneficiaries, directors, officers, employees, adverse parties, parties-in-interest, investigators, decision-makers, experts, other professional advisors and business partners, investors, shareholders, competitors and customers in relation to legal issues for which we are providing legal advice and services).

## **Consent to Our Collection of Your Personal Information**

In most cases, we obtain your consent to our collection, use or disclosure of your Personal Information by your submission of such Personal Information to us. If you retain our firm, we will assume that we have your implied consent to our collection, use and legally authorized disclosure of your Personal Information; however, at times we may ask for your express consent, either verbally or in writing. Generally, we will collect your Personal Information directly from you at the start of or during the course of your retainer with our firm. If you provide us or our service providers and agents with personal information of another individual, you represent that you have all necessary authority and/or have obtained all necessary consents from such person to enable us to collect, use and disclose such personal information for the purposes set forth in this [Privacy Policy](#). Sometimes we may obtain Personal Information about you from other sources, such as government registry or other professionals who serve you. Our Office Administrator is available to discuss this policy with you and any questions or requests you have relating to this policy or your Personal Information.

## **Use of Personal Information at Cunningham Swan**

We use your Personal Information to provide legal advice and services to you, to issue invoices and to maintain a database of our clients for conflicts searches and otherwise for legitimate business and professional purposes in association with our lawful and ethical conduct of our business in the practice law. Without limiting the foregoing, in the provision of legal services, we may disclose your Personal Information to third parties who we believe are acting as your agent (such as other lawyers, trade-mark agents or expert witnesses), or to lenders in a real estate transaction or to a third party in response to a court order requiring such disclosure, provided that the foregoing disclosures shall be done strictly in accordance with the rules of the Law Society of Upper Canada. We also may use, collect and disclose your Personal Information in other specific cases where you consent to its collection, use or disclosure and in circumstances in which we are required by law to use, collect and/or disclose it. In addition, if you apply for a position with Cunningham Swan, we will use your Personal Information to assess your candidacy. If you are a current or former employee or partner of Cunningham Swan, we may maintain your Personal Information and your contact details and employment status and history, all in accordance with applicable law, and we may disclose such information in response to a request for employment verification or where you have consented to and/or requested any such particular use or disclosure. We also collect Personal Information about prospective and current employees, contractors and partners that is reasonably required to establish, manage or terminate an employment, contractual or partnership relationship. We will disclose Personal Information to regulatory, self-regulatory and governmental authorities who exercise oversight and monitoring activities relating to our practice in certain instances where the disclosure or collection of Personal Information is required to be shared with any such bodies in accordance with governing regulations and laws. Additionally, we may use and collect your contact Personal Information in order to communicate with you about recent developments in the law or to keep you abreast of Cunningham Swan's news or to invite you to our firm events, provided that we have obtained your legal consent and you have not requested to unsubscribe from receipt of any such communications. If you wish to unsubscribe or modify your preferences to receive any commercial electronic communications from Cunningham Swan, please contact our Director of Operation/Privacy Officer Patience McLeod at [pmcleod@cswan.com](mailto:pmcleod@cswan.com).

## **Withdrawal of Consent**

You may withdraw your consent to our collection, use and disclosure of your Personal Information at any time upon written notice to us at [pmcleod@cswan.com](mailto:pmcleod@cswan.com). Your withdrawal of consent to our collection, use and disclosure of your Personal Information may impact our ability to represent you and/or provide you with legal advice. If you are currently receiving marketing communications from us, you can ask us not to send you any other marketing communications by following the opt-out instructions at the bottom of the marketing communication you received or by sending an email with the subject "Unsubscribe" to [pmcleod@cswan.com](mailto:pmcleod@cswan.com). If you refuse or withdraw your consent, we may not be able to provide you or continue to provide you with certain services or information which may be of value to you.

## **Disclosure of Personal Information**

We will not collect or disclose your Personal Information to third parties except in accordance with this policy unless required by law. The following are some examples when we may disclose your Personal Information:

We may disclose your Personal Information in circumstances in which

- such disclosure is necessary to collect fees or disbursements;
- we have contracted with a third party to provide us with certain services such as archival file storage or insurance, and in such cases, we will only do so if permitted by law and we will be certain to use contractual or other means to ensure the third party service provider is bound by obligations regarding privacy which are consistent with this policy;
- we retain expert witnesses or other professionals, including, without limitation, other lawyers or law firms or agents to provide services on your behalf.

## **Accuracy of Your Information**

It is important that all information that we have on file during the course of any retainer is accurate and up-to-date. If any information you have provided us changes, please inform us. We also may, from time to time, ask you to confirm whether your Personal Information is up-to-date.

## **Safeguards**

Cunningham Swan uses various safeguards to ensure that your Personal Information is protected against loss, theft, misuse, unauthorized access, disclosure, copying or alteration. These include: security of our physical premises, including the required use of security swipe cards for access to sensitive areas; adherence to our professional obligations under the law and our governing law society rules involving lawyers' protective measures for communications, information and materials; information technology staff, and security software and firewalls to prevent unauthorized computer access or "hacking"; and internal passwords that restrict access to our electronic files, among other safeguards.

## **Access to your Personal Information**

You have a right to challenge the accuracy and completeness of your Personal Information and to have it amended, as appropriate. You also have a right to request access to your Personal Information and to receive an accounting of how that information has been used and disclosed, subject to limits prescribed by applicable law. For example, if the requested information would reveal Personal Information about another individual, your request for access may be limited or denied. If your request for access is denied, Cunningham Swan will notify you in writing of the reason for the denial. To request access or to amend your Personal Information, please contact the lawyer or agent with whom you normally correspond or write to our Office Administrator/Privacy Officer at the address provided below. Cunningham Swan will respond within thirty (30) days of receipt of your written request or in such shorter period as may be prescribed by applicable law.

## **Website Privacy**

Like most other commercial websites, we may monitor traffic patterns, site usage and related site information to optimize your visit to our website. Our website server automatically collects IP addresses. Both our server logs and the analytic software we use and access will collect IP addresses, which are not used by the firm to identify personal information. We may view the IP log from time to time to maintain the security of our website and for other legitimate business-related reasons. We use cookies and analytics software. The cookies allow search engines to maintain state and preferences and our analytics software summarizes activities conducted during browsing sessions. We do not link the IP addresses to other personally identifiable information unless you complete an online contact form in which case you will be informed that personally identifiable information may be collected in connection with the submission of the form. If you provide Personal Information by submitting a form through our website, it will be collected and may be viewable by third parties not connected with the firm. If you use a social networking service, such as Google+, Facebook, Twitter or LinkedIn to connect with us, your Personal Information will be identifiable and may be viewable by third-parties who are not subject to restrictions by the firm as far as keeping your information private.

## **Privacy Contact**

If you have any questions or complaints about this Privacy Policy or the handling of your Personal Information or if you wish to submit a notice to us that you are withdrawing your consent to our use, collection and/or disclosure of your Personal Information, or

to request access to or update any information we have on file, please contact the lawyer or agent with whom you are dealing or our Director of Operation/Privacy Officer Patience McLeod at [pmcleod@cswan.com](mailto:pmcleod@cswan.com), 613-545-544-0211 x8086 or by mail at:

Cunningham Swan Lawyers  
Attn: Privacy Officer  
27 Princess Street, Suite 300  
Kingston, Ontario K7L 1A3  
Telephone:

### **Changes to this Privacy Policy**

We may change this Privacy Policy from time to time. Any changes will be posted on our website at [www.cswan.com](http://www.cswan.com). Please check back from time to time to ensure you maintain awareness of the content of our current legal notices, including our current Policy.

This Privacy Policy is effective 7-Oct-14

### **Feedback**

We welcome your feedback. If you have questions, comments or concerns about our website, the [Website Terms of Use](#) or this [Privacy Policy](#) please contact our Director of Operation/Privacy Officer Patience McLeod at [pmcleod@cswan.com](mailto:pmcleod@cswan.com), 613-545-544-0211 x8086.

### **Challenging Compliance:**

If you have questions regarding this Privacy Policy and our practices relating to how we are handling your Personal Information, please direct them to Cunningham Swan's Office Administrator/Privacy Officer at [\[NTD – Insert contact\]](#). Cunningham Swan will investigate all complaints so received and will respond within the period prescribed by applicable law. If the complaint is found to be justified, Cunningham Swan will take appropriate measures to resolve it in accordance with all applicable laws.

If after following the above procedure, the complaint or inquiry is not handled to your complete satisfaction, you may contact:

Privacy Commissioner of Canada  
112 Kent Street  
Ottawa, Ontario  
K1A 1H3  
Telephone: 613.995.8210  
Toll free: 1.800.282.1376

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