



Cunningham Swan
LAWYERS

**STANDARD
TERMS OF ENGAGEMENT
FOR
LEGAL SERVICES**

(This brochure sets out the terms of our agreement with you. Please read it carefully.)

**Cunningham, Swan, Carty, Little & Bonham LLP
Barristers and Solicitors
Smith Robinson Building
Suite 300 - 27 Princess Street
Kingston, ON K7L 1A3**

**Tel: 613-544-0211
Fax: 613-542-9814**

www.cswan.com

Standard Terms of Engagement for Legal Services

This brochure outlines the standard terms of engagement for Cunningham, Swan, Carty, Little & Bonham LLP as your lawyers. Unless expressly modified by a letter or some other form of written agreement accompanying this brochure, these terms constitute our agreement with you. Please review this brochure carefully and contact us promptly if you have any questions.

The Scope of Our Work

We appreciate the trust and confidence you have shown in our firm. Our commitment is to provide you with competent legal advice and representation in accordance with our professional obligations as officers of the Court and members of the Law Society of Upper Canada.

To do this, we will consult with you about your objectives and outline the options and alternatives available to achieve them. We will keep you advised from time to time of our progress and the status of your matters so that you are able to make informed decisions.

Professional Opinions

Any opinions or comments expressed by us about the probable outcome of our representation will reflect our best professional judgment based on the state of the law and our knowledge of the facts at the time, but are not guarantees.

We will also maintain the confidentiality of information you provide to us, unless either you consent to its release, or its release is necessary in order for us to properly represent you, or to meet our professional and ethical obligations.

Who Will Provide the Legal Services

The lawyer who normally handles your affairs and with whom you are familiar will retain overall responsibility for the quality of the work performed. However, since our firm is divided into specialized practice areas, other lawyers, articling students, law clerks or legal assistants within the firm may be involved because of their particular knowledge or skill. Their involvement will also enhance our ability to provide services in a cost efficient and timely manner.

How Fees Will Be Set

It is not our usual policy to accept assignments on a fixed fee basis, but we may do so for certain well defined services. In those situations, we will set out in writing the scope of the services to be provided and the amount of the fixed fee.

In the absence of a fixed fee arrangement, the amount charged is normally based on the hourly billing rates of the lawyers, articling students, law clerks and legal assistants working on your behalf. In setting the fee however, we may also consider other factors such as: the complexity of the legal problem; the importance of the matter to you; the degree of responsibility assumed by us; whether special skill or service has been provided; the monetary value of the matter; the results obtained; and any special circumstances such as the uncertainty of the result or the urgency of the matter.

We will keep accurate records of the time we devote to working on your behalf. This will include, but is not limited to, all meetings and telephone conferences with you, witnesses, consultants, court personnel and others; legal research and analysis; drafting and preparing letters, pleadings, briefs, contracts, and other documents; time preparing for and attending trials, hearings, discovery proceedings, meetings, negotiations and other similar activities; travel time; waiting time in court or at hearings; conducting investigations; and responding to any requests to provide information to your auditors or other third parties.

We record our time in units of tenths of an hour. The hourly billing rates of lawyers, articling students, law clerks and legal assistants are adjusted periodically to reflect current levels of legal experience, changes in overhead costs and other factors. In an effort to reduce legal fees however, we will endeavour, when we think it appropriate, to use articling students, law clerks and legal assistants rather than lawyers to perform work on your behalf.

Upon request, we will furnish the current hourly rates of the lawyers, articling students, law clerks and legal assistants who will be working on your behalf. We will also provide you with an estimate of the fees and costs likely to be incurred in connection with a particular matter or to a particular stage in the proceedings. This is not, however, a maximum or fixed fee quotation unless specifically stated to be such.

Client Disbursements

In the course of providing legal services to you, we may have to pay or incur on your behalf a variety of expenses, which are necessary to properly represent you.

Some examples are the costs of filing fees charged by the courts, Registry Office and other government offices; transaction levies imposed on client files by the Law Society; transcript costs; witness fees; charges by outside experts, consultants and other lawyers whom we may hire as our agents; travel expenses; photocopying and document production; computerized legal research charges; long distance telephone and telecopier charges; mail and courier charges; and staff overtime costs if required by the circumstances.

These expenses will normally be billed to you on a monthly basis. However, significant expenses will be referred directly to you for payment unless special arrangements are made. All such costs, whether or not paid by us, are incurred by us as your agent, and must be paid promptly by you on a regular basis.

Harmonized Sales Tax

All fees for legal services and certain expenses paid or incurred by us are subject to payment of the Harmonized Sales Tax. The amount of tax charged will be itemized and shown separately on our statement of account and will be part of the total amount due.

Retainers

It is our firm's normal practice to ask clients prior to accepting an assignment to provide us with a cash retainer to stand as security for our fees and disbursements. We will specify the amount of the cash retainer required, and will hold it without interest in our trust account according to the Law Society's Rules.

Statements of our account for fees and disbursements will be furnished to you on a regular basis and applied against the cash retainer. We will then ask that you replenish the cash retainer.

If we determine at any time that the amount of the retainer on hand is insufficient to cover our current or projected fees and disbursements, we reserve the right to request that it be increased. Upon conclusion of our legal representation, the balance of the cash retainer will be returned to you.

Billing

Normally, billing will occur on a monthly basis. Exceptions may be made for those matters that by arrangement are to be paid at closing or upon the termination of the transaction. All accounts are due upon receipt. If the account is not paid within 30 days of its date, interest will be charged at the rate set quarterly under the *Courts of Justice Act*.

If our accounts are not paid when due, we reserve the right to postpone or defer providing additional services, or to discontinue our representation. If a delinquency continues and you do not arrange payment on terms satisfactory to us, we may also pursue the collection of our account through legal proceedings. Any costs incurred to collect a delinquent account, including court costs and reasonable legal fees will be your responsibility.

Termination

You may terminate our engagement at any time by notifying us. Your papers and property will be returned to you after payment for all services rendered and expenses incurred prior to receiving your notice of termination and in connection with the orderly transfer of the matter. We will retain our own files pertaining to the matter.

The Law Society's Rules of Professional Conduct list several types of conduct or circumstances that require or allow us to withdraw from representing you further. These include conflicts of interest that were unforeseen, non-payment of fees or expenses, instructions contrary to our professional obligations as officers of the Court and as members of the Law Society, and loss of confidence in the lawyer-client relationship. We will always try to identify in advance and discuss any situations that may lead to our withdrawal, and to give adequate notice before doing so.

If we elect to withdraw, you agree to cooperate with us by executing any documents necessary to confirm in court or otherwise that our engagement has been terminated. We will be entitled to be paid for all services rendered and expenses paid or incurred on your behalf before the withdrawal and in connection with the orderly transfer of the matter.

Your Right to Assessment

If you have questions about the amount of our account, please discuss them with the lawyer primarily responsible for your affairs or with the firm's Managing Partner. If a fee dispute cannot be resolved, you have the right to request a hearing before a court appointed Assessment Officer.

We appreciate the confidence you have shown in our firm and look forward to the opportunity to serve you.