

English Bay Law Corporation: General Terms of Service

Thank you for asking English Bay Law Corporation to provide legal services to you. We welcome the opportunity and privilege of doing so and this brochure contains our basic terms of service. Please read it and ask us any questions you may have about it. Unless modified in writing, these terms will form an integral part of our agreement with you and will apply to all legal advice and services that we provide to you in addition to any legal advice and services specified in our letter to you.

Although we have asked you to sign a duplicate copy of our letter to you, if after receiving our letter you instruct us to perform work, we will proceed on the basis that you have accepted these terms.

1. Scope of Engagement and Duties

We will act on your behalf to the best of our ability and will provide the legal services reasonably required to represent and advise you. We may decline to perform any service requested for any reason including, without limitation, possible conflict of interest with another client or inadequate provision for the cost of services. You will cooperate with us to facilitate the services we provide. An expression on our part about the outcome of a legal matter is not a guarantee and is limited by our knowledge of the facts and the state of the law.

2. Confidentiality

Unless you indicate you intend to harm another person, we are in the business of keeping confidences and your confidences are protected by law and our professional code. We are best able to advise you if you provide us with full and open disclosure. If you withhold information, it could change the advice we would otherwise give to you.

If you retain us for any matter that requires us to file documents with a court or government agency or to consult with your accountants or other advisers, you authorize us to do so, and to disclose your confidential information to the extent we judge necessary or desirable for the purposes of the filing or consultation.

3. Fees for Services

In determining our fees, we give primary consideration to the time and effort required to provide legal advice and services, charged at hourly rates. However, hourly fees do not always reflect the full value of services provided and so we reserve the right to increase our fees to take into account added value. Factors that may add value or cost include:

- complexity, difficulty or novelty of the issues involved;

- skill, specialized knowledge and responsibility required;
- monetary value of the matter (*e.g.* the size of a transaction or value of property);
- time constraints or deadlines or priorities imposed by you that result in working on a priority basis or outside normal business hours
- extent to which our systems, procedures, experience or personnel have achieved economies or efficiencies;
- customary rates by other lawyers for similar services;
- degree to which or likelihood that your engagement precludes us from accepting other work;
- successful result or achievement of exceptional result;
- any special demands made upon us.

If the scope of the project is changed, re-prioritized or revised, our fees may increase. For exceptional results, provision of special value or for taking more than usual risks in providing services, we may charge you a premium over the hourly rate or quoted fee. If another lawyer must be engaged for work not anticipated in our fee arrangement, we will seek to advise you in advance as to their charge out rates. If we enter into referral fee arrangement with another lawyer or law firm, the rate that you pay us will not increase as a result.

If you believe that a fee charged does not reflect the fee agreed, you agree to discuss the matter with us before taking other measures. There may be a genuine misunderstanding about what was required to resolve your legal problem.

4. Disbursements

You agree to reimburse us for disbursements and other charges incurred on your behalf. Disbursements include expenses such as long distance telephone calls or faxes, postage, delivery or courier charges, travel expenses, third-party fees for investigations, searches, registrations, transcriptions, photocopying, online access and all other reasonable out-of-pocket expenses. Disbursements may be included with our accounts for services or may be billed separately. On request, you will pay directly or provide us funds in advance to pay regulatory and government fees (*e.g.* to securities or exchange authorities or SEDAR). Other charges are internal charges such as for photocopying, conducting searches, or similar cost-recovery not based on a specific third-party invoice.

On typical conveyancing and corporate minute book work, minor disbursements may be charged on a flat rate and not tracked to actual. We are pleased to provide specific breakdowns in advance. In such cases, both PST and GST would apply.

Please note that audit fees, agent's commissions, corporate finance fees, agent's legal fees, regulatory filing fees, printing costs, strata charges are also examples of disbursements that are not included in our hourly rates or project fees.

We are not required to advance any funds on your behalf. We may direct third party service providers to bill you directly. We may provide you with an estimate of disbursements for planning purposes, but this is not a guarantee. If we pay any disbursements on your behalf, you agree to reimburse us for them.

5. Other Charges

You agree to reimburse us for any other charges related to work conducted on your behalf. Other charges include office expenses such as in-house photocopying and faxing, paralegal or legal assistant time, processing fees for conducting searches and completing filings, word processing charges, computer costs, preparation of certified cheques, opening and administration of interest-bearing accounts, emailing, travel, preparing transaction closing books, deliveries or deposits made by in-house staff, fees for searching legal databases or other research and any other use of "overhead" resources or time in furtherance of your file.

Based on your description of your needs, we may provide you with an estimate of other charges for planning purposes, but they shall reflect the actual scope of the work undertaken. You agree to pay these other charges.

6. Real Estate, Corporate Annual Filing & Similar Work

Typical residential conveyancing and annual corporate secretarial work is priced at a discount that reflects the volume of similar work that we do and we can provide you in advance with a flat fee quote that reflects a typical transaction. The bottom line of such a quote is, therefore, the minimum charge and the allocations of the fees, disbursements and other charges above the bottom line are made for convenience only; we do not track variations from typical, but where additional or non-typical costs are required, they will be added to the invoice.

Some examples of non-typical costs include:

- changes to the nature of the transaction after the quote has been given;
- multiple or revised real estate or mortgage instructions;
- transaction value exceeds **\$850,000**;
- expenses not provided for in the quote;
- reviewing contracts prior to subject removal;

- changing financial or payout arrangements after document prep or less than **FIVE (5) DAYS** before closing;
- asking for expedited document prep;
- remote execution or execution by power of attorney;
- less than **EIGHT (8) DAYS** from full instructions (lender and real estate agent) to completion;
- no real estate agent (unless transfer to family member);
- private lenders;
- corporate entities in any part of the transaction;
- more than one mortgage to be paid out or more than one new mortgage to be registered; or
- anything else we deem to be non-typical.

If you are completing a transaction by Power of Attorney, we cannot guarantee that the other party(ies) will accept the attorney, or that the Land Title Office will accept the power in a timely fashion or at all. If a party is willing to recognize execution by attorney, they may expect holdbacks not previously agreed.

We endeavour to keep our flat fee rates competitive with the market and they may change from time to time. Fee quotes or estimates expire after thirty (30) days. The Land Title Office and other government offices usually raise their fees in April each year. Regardless of the timing of a quote or estimate, if filing fees and such third-party costs increase, the increased cost will apply.

7. Joint Retainers (e.g. Acting for Borrower and Bank)

Most residential conveyancing work that involves a mortgage in British Columbia is completed on what is called a “joint” retainer. That means that you have the right to choose your own lawyer to complete your mortgage and the bank also has the same right. Normally that would mean two lawyers in order to complete one mortgage (one for the bank and one for the borrower). The bank almost always makes the borrower pay for the bank’s legal costs. Law Society Rules allow a lawyer to act for both the bank and the borrower on a simple residential mortgage and requires the lawyer to explain to the borrower that normal confidentiality does not apply: anything the borrower client tells the lawyer, must be shared with the bank; and if the bank and the borrower end up in a dispute, then the lawyer who handled the mortgage may not act for either one of them, the bank and the borrower must each get new lawyers.

8. Deposits, Transfers, Refunds

If you provide us with your banking details, we may agree to deposit proceeds, refunds, or other funds directly to your account. If you provide us with details that contain

incorrect information, you indemnify us for any loss that arises from placing funds as you directed. If we place funds incorrectly, we will use our best commercial efforts to correct the error and if funds are incorrectly transferred to you, you agree to return such funds promptly.

If we send money on your behalf by bank draft, the bank will not issue a replacement draft unless provided with an indemnity. We will not provide such an indemnity unless we are similarly indemnified by you.

9. Cheques

If we issue a cheque to you, and the cheque stale-dates before you cash it, we may put a stop payment on the cheque and charge a fee for reviewing the file and issuing another cheque. If you successfully negotiating a cheque in respect of which we have issued another cheque, you indemnify us for the successful negotiation of any replacement of the first cheque. We may decline to issue a replacement cheque unless the first cheque has been returned to us.

If a cheque is certified by the bank or replaced with a draft or other guaranteed funds and is lost or destroyed without being returned to us, we may require an indemnity from you before issuing a replacement cheque, and may not be able to issue a replacement cheque unless and until the certifying bank has agreed to do so. We are not responsible for any loss or damages you may suffer due to any delay in obtaining a replacement of a certified cheque or draft or other guaranteed funds.

We are not responsible for any loss or damages suffered by you because a bank or other financial institution refuses or delays the negotiation of any instrument.

10. Wills Vault

We encourage all clients to keep their wills in their own safe deposit box. As a rule, we do not hold client wills.

11. Annual Increase

Our hourly rates increase annually, usually in September, and may do so without notice, taking into account inflation, legal experience, market, or any other factors.

12. Specific Fee Arrangements

We may be able to provide you with a fixed fee estimate or a fixed fee quote in writing. Estimates are based upon our experience they are not binding or fixed and are subject to the other terms of our engagement.

If we agree to set a fixed fee, we will adhere strictly to the agreed fee, but will apply it only to the agreed scope,

priority, and timing of the project. If the scope, priority or timing changes, the fee will increase. In circumstances where no fixed fee can be or has been specified, fees are billed on an hourly basis.

13. Billing and Payment

Our usual practice is to charge for services based on our schedule of hourly rates or based on an agreed fixed fee. Unless we agree otherwise with you in writing, we will bill you for our fees and disbursements and for any applicable taxes, and you will pay the amounts billed. We will assume, unless you instruct otherwise, that for GST/HST purposes British Columbia is the province of supply but the province of supply may change if required under applicable law or regulation. If the Canada Revenue Agency determines that a different place of supply applies and so assesses a higher rate of tax, you indemnify us against any additional GST/HST payable as a result, plus any consequential interest and penalties.

If our retainer with you is limited but you continue to use our services beyond the limits, the terms contained in this brochure will continue to be in effect until we agree otherwise in writing.

For project services, our usual practice is to bill on completion but for large or lengthy matters, we may issue interim bill(s). For hourly services, we usually bill monthly or bi-monthly. Accounts are due when rendered and you agree to make payment upon receipt of our account. Where we render services to more than one party, each party is jointly and severally responsible for payment of our account.

Invoices are due and payable on receipt and accrue interest at the greater of the rate specified on our invoice and the rate of **1% COMPOUNDED MONTHLY** (an effective rate of **12.68% PER ANNUM**) from the date of the invoice if they remain unpaid more than 20 days thereafter. We may increase this rate accordingly as the central bank rates rise above **SIX PERCENT (6%) PER ANNUM**. If your account is outstanding more than **SIXTY (60) DAYS**, we may ask you for security against payment of your indebtedness but delaying or forbearing in such a request shall not reduce our right to do so at a later date. We may refer unpaid accounts to an agency for collection.

If an account is unpaid and overdue, we may at any time stop providing you with services and we may pursue any collection remedy available to us. You agree to pay the costs of collecting the debt, including court costs, filing fees and any legal fees (on a solicitor and client basis) incurred.

If you anticipate payment troubles, we may at our discretion agree payment arrangements with you.

You are also liable to pay any sales tax imposed on any of our fees or disbursements. Where we are obligated to collect and remit that tax, we will add the tax to our account as a separate item.

14. Retainer & Trust Accounts

We may require an advance deposit from you. Unless otherwise agreed, deposits are placed in a trust account for your benefit. Deposits paid by credit card may be held in our General Account and credited to you as a retainer. Without further direction, we may apply (or reserve) deposit funds to pay part or all of our account(s) when rendered, in priority to any other payments. We may require you to replenish the deposit periodically. If deposits exceed requirements, we will return them to you, net of any fees, taxes, other charges, or disbursements.

If we provide legal services on more than one matter or if we have divided the services provided into distinct matters, we may apply deposit funds provided by you to some, all, or any portion of those matters as we deem appropriate. If funds are required to close on a transaction, an amount sufficient to pay our account must be included in the funds required to close or you will have insufficient funds to close the transaction as we may apply or reserve a portion of the funds on deposit to pay our account.

Upon rendering an account to you, we may deduct our unpaid fees and expenses from retainer deposits. Retainer deposits will not bear interest and will be placed in a pooled account unless you request, in writing, a segregated (interest-bearing) account. We do not receive any interest from the pooled account; interest earned on the pooled account is payable to the Law Foundation of British Columbia (established by the Government of BC) and used to fund, in part, legal aid, legal research, law reform, legal education and law libraries. If you instruct us to place your funds in a segregated interest-bearing trust account but you will be charged a fee for administering this separate account and any interest earned will be taxable in your hands. Typically, it is not economic to place funds in trust unless the deposit will earn more than \$500 in interest. In addition to the fee for establishing an interest-bearing account, we charge a fee of **ONE PERCENT (1%) PER ANNUM** for the ongoing use of the interest-bearing account, which you authorize us to deduct from the account and to pay to us. This fee is used to defray our firm expenses, including any required audit of our trust accounts.

Unless otherwise instructed by you in writing, we will place your trust funds in a Canadian Dollar pooled trust account. Please note that the Canadian Deposit Insurance Corporation (CDIC) insures only **\$100,000** per account and only accounts denominated in Canadian Dollars. You acknowledge that we have advised you that CDIC does not insure foreign currency accounts.

15. Tax Advice

We are not tax practitioners. We do not provide tax advice. We would be pleased to refer you to a tax lawyer.

Where you have been provided with tax advice by a third party, and we have prepared documents or a course of legal services based on that advice, you indemnify and save us harmless against any claim for any loss or tax payable including losses or taxes payable as a result of:

- following such advice;
- electing not to follow such advice;
- regulatory change invalidating such advice;
- any finding by a competent authority that such advice was in error;
- failure to provide any necessary fact or other information that would have had the effect of changing the advice given.

16. Record Retention and File Ownership

The physical and electronic documents, notes, communications, etc. that make up our file or files related to legal services we have provided to you are our property regardless of termination of our retainer. We may provide you with draft documents for comment and will provide executed copies of key documents related to a specific transaction. We will retain the files in accordance with Law Society Rules for a period of at least **SIX (6) YEARS**, after which time we may destroy all or any portion of them. As a rule, we do not release the “Word” versions of documents.

It is not our practice to release such files and we may refuse to do so without explanation. If we agree to provide copies of all or any part of such files, we will not provide you or any other party or provider of legal services with a copy of such files unless all outstanding accounts have been paid (or arrangements satisfactory to us have been made) and you have made provisions acceptable to us for payment of the cost of removing solicitor notes and copying the files.

17. The “Cloud”

We may make use of services or devices, such as for the sending, receiving and storage of email, faxes, telephone calls, retention, transfer or back-up of electronic files and

records, client document-sharing facilities and virtual “data rooms” that involve the transmission or storage of such information through facilities provided by telecommunications suppliers, internet service providers or other service providers (the “**Cloud**”). You authorize us to do so and you acknowledge that information in the Cloud or on a device such as a memory card, laptop, phone or other such device may pass through multiple legal jurisdictions whose laws may permit government, or its agents, access to such information, without notice or consent. Such laws include, but are not limited to, commercial, criminal, terrorism, money-laundering and other legislation and regulations made pursuant to such legislation, court orders, international treaties, co-operation and information sharing agreements and as a result any information transmitted through the Cloud may be exposed to their effects, including disclosure. We agree to take reasonable steps to maintain confidentiality of information and limit access to authorized individuals in possession of password, biometric or other security credentials and if possible to advise you in a timely fashion if we receive a notice or demand to access your information and to co-operate with you in opposing such request or demand. You authorize us to comply with any lawful information request or demand made pursuant to a court or regulatory order or other such due process.

18. Contacting you & Electronic Marketing

You agree that we may record your contact details in our client records, which may include a client management system and you agree that from time to time we may contact you about your file and about legal or related issues that we think may affect you or be of interest to you. We do not share our client details and we do not allow anyone else to have access to our client details either. If another firm is negotiating a merger with us and they have agreed to keep our confidences, we may provide them with client names for the purpose of completing the due diligence and conflict checks related to such merger.

You agree that we may send you commercial electronic messages, such as a periodic newsletter, from time to time.

19. Other Clients with Conflicting Interests

We represent diverse clients. You agree that we may continue to represent our existing clients and any future clients in any matter that is substantially unrelated to our work for you, even if their interests are directly adverse to your interests. If we possess confidential information concerning you or your business or affairs that might

reasonably affect our representation of such other client, then we will not act for them without your consent. In any case, you agree that our representation of you does not require us to disclose any confidential information of any other client to you and in turn we will not represent another client if to do so would require us to disclose your confidential information.

Before accepting your engagement, we conduct an internal conflict check to identify any potential conflicts with existing or former client interests. If we identify a potential conflict, we may be unable to act for you and may be required to withdraw. In some cases, we may be able to act if each of you and any conflicted party consent.

20. Electronic Communications

We will communicate with you by email or other electronic means. If you do not wish us to do so, our ability to represent you may be impaired or impossible. If you do not wish us to communicate with you electronically, or if you wish to withdraw your consent to receive our legal services by electronic means, please contact us by phone or mail.

21. References

From time to time we are asked by third parties to provide client references to provide a list of representative clients. Our professional codes require that we obtain consent of a Client before disclosing that we have acted for them. By entering into this Agreement, you authorize us to disclose that we have provided legal services to you and the general nature of those services, subject to our professional obligations to maintain client confidentiality.

22. Dispute Resolution

We expect to develop a good working relationship with you. But, if we have a dispute that we are unable to resolve through discussions ourselves, we both agree to attempt to use the services of a qualified mediator before using any judicial process. We would either mutually agree on a mediator or proceed under a mediator appointed by the British Columbia International Commercial Arbitration Centre. If judicial process is used, you agree that it will be exclusively based in British Columbia and will be governed exclusively by British Columbia Law without regard to the principles of conflicts of law as interpreted in any other jurisdiction.

23. Decorum

We recognise that most clients are under financial and other stress. We aim to provide you with legal services that reduce your stress. Occasionally unexpected events, errors,

misunderstandings, difficult third parties, financial difficulties, time crunches, or other circumstances arise that complicate achieving that aim easily. We still aim to please and to do our best to smooth out any difficulties and reduce the stress they cause. Most of the time these are due to circumstances beyond our control. If it should happen that the error arose in our office, we will do our utmost to correct it and to apologize. However, regardless of the cause, if you abuse or are rude to our staff, we retain the right to withdraw or terminate all services without further notice.

24. Termination

You may terminate our engagement at any time by notifying us in writing. On termination and receipt of payment for all outstanding fees and expenses, your property will be returned to you. Our own files pertaining to the engagement will be retained. Your termination of our services will not affect your responsibility for payment for services rendered and disbursements incurred before termination or for an orderly transition.

We may withdraw our services at any time for non-payment of our fees or expenses, misrepresentation or failure to disclose material facts, action contrary to our advice, conflict of interest with another client or if your instructions to us are inconsistent with our duty to the Court or in any other situation where we lose confidence in our ability adequately to serve you. If withdrawal becomes likely, we will give try to discuss the situation with you and, if it becomes necessary, give you written notice of our withdrawal and we will promptly render an account for outstanding fees and disbursements.

25. Duration of Representation

Where you have engaged us to act in a specific matter, our engagement with respect to that matter will terminate on the completion of such action or the provision of such advice and, unless otherwise agreed in writing, will not extend to providing future updates of changes in law or circumstances. Our engagement will not extend to acting as general counsel on a continuing basis solely by acting as registered and records office or by virtue of our engagement on one or more specific matters. It is not our usual practice to keep records of such matters as registration, limitation or notice periods for the purpose of advising present and past clients of the impending expiry of such periods and we advise you to diarize such dates so that you may arrange for all appropriate action to be taken prior to expiry.

Our goal is to provide you with legal services of the highest quality in a manner that best suits your needs.

In providing legal services to you, we endeavour to maintain a free flow of communication so that you are kept fully informed of the progress of your matters. Please ask us any questions you have about our services or this brochure. We would be pleased to answer them.

Contact Information

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Vancouver, BC Fax: 1-866-488-2120
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info@englishbaylaw.ca

englishbaylaw.ca
hockeylaw.ca

Rate Schedule

Unless otherwise agreed, our usual hourly rate is **\$425** for our lawyers and **\$155/hour** for our corporate assistants, plus taxes, disbursements and other charges (defined above).

Registry searches and filings: **\$21.99** processing fee per search or filing, plus taxes, disbursements and other charges. For electronic access to the LTSA and BCOnline registry databases: **\$2.50** per access or item filed.

We usually charge a minimum of **\$255** to set up an interest bearing account plus a monthly maintenance fee, GST/HST, PST and any fees charged by the bank (usually at least \$182.50/month). If additional bookkeeping or audit of such an account is required, such fees, disbursements or allocation of other charges (as the case may be) would also apply.

At this time interest rates do not usually justify the cost of setting up an interest-bearing trust account.

We charge the greater of **\$100.00** or time required, plus taxes, disbursements and other charges, to: (a) review a file or to attempt to contact you for the purpose of replacing uncashed stale-dated cheques. We may deduct this fee from the funds represented by the stale-dated cheque; and (b) review a file for the purpose of returning excess funds held in trust, where the excess is less than or equal to **\$100**, and we may deduct this fee from such excess funds. Where you have other uncompleted matters with us, we may transfer the excess funds to such other matter, at no charge to you.

These rates were in effect at the time this brochure was produced. Please check with our office in case there have been increases since then.