



## Concerto IP Limited: *Standard Terms & Conditions*

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In this document, **We, Us** and **Our** refer to Concerto IP Limited, references to anything done, or to be done, in writing are references to it being written, or having been written, and sent by email, hand or otherwise, and the expressions below have the following meanings:

**Agreement** means these Standard Terms & Conditions.

**Code** means the [professional code of conduct](#) and [litigator's code of conduct](#) prescribed by IPReg.

**Contract** has the meaning given it in Paragraph 1.1 B, second bullet point.

**Days** means days other than public holidays observed in the UK.

**Documents** means documents in electronic or other form (originals or copies) over which We have custody, power and control.

**Engagement** means any engagement agreed between You and Us to act for You on a Project (including any such engagement limited at any time to part only of the Project).

**Engagement Letter** means any document We send You which particularizes or, if agreed, (i) varies this Agreement for the purposes of a particular Matter or Matters it identifies or (ii) varies it more generally.

**Fee Agreement** has the meaning given it in Paragraph 4.3, first bullet point.

**File** means a file comprising Your Documents relating to one or more Matters.

**Instructions** means instruction(s) You verifiably give Us on a Matter which, if urgent, are given, or announced, by email if We have not previously represented You.

**IPReg** means the Intellectual Property Regulation Board.

**Matter** means a matter comprised in a Project, as the latter expression is defined below.

**MLR** means the Money Laundering Regulations, 2007, any re-enactment of it and legislation with similar requirements in other jurisdictions relevant to Instructions.

**New Terms** means new and/or amended terms and conditions, replacing or supplementing those in force immediately previously.

**Other Documents** means Documents relating exclusively to business development or financial transactions between, or intended between, us.

**Partner** means a person with whom We cooperate to provide You with services, the expression having its commercial meaning without holding out a legal partnership to exist between Us and that person.

**Project** means a project comprised of at least one matter, in the case of plural matters those matters being connected by a common goal<sup>1</sup>, which project may be described in an Engagement Letter.

**RTPA99** means the Contracts (Rights of Third Parties) Act 1999.

**Terms** means this Agreement, as modified by any New Terms and any Engagement Letter.

**You** means you as the contracting party to Terms.

**Your Documents** means Documents concerning Matters We retain to represent You or for record purposes, except Other Documents.

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<sup>1</sup> Where there are several matters, they may, for example, be matters which cover the preparation and filing of an application for intellectual property protection, as one matter, and prosecution of that application through official procedures towards grant of protection, as one or more further matters

## 1. Acceptance of Instructions, Commencement/Termination of Terms, New Terms

**New clients** (ie Terms do not apply at the time of issue of this Agreement)

### 1.1 Terms apply as follows:

#### A. As regards timing:

- from the first time, after that time of issue, at which:
  - We have accepted Instructions on any Matter and
  - You have agreed the Terms.

#### B. As regards issues other than timing:

- to all Matters on which You give Us Instructions We accept, and
- to each such Matter as a contract separate from any other Matter, but
- any Engagement Letter applies to a Matter or Matters beyond a particular Matter or Matters it identifies only to the extent the Engagement Letter so states and has been agreed by You

### 1.2 You may agree Terms in writing but otherwise You are deemed to have agreed Terms if and when:

- You have given Instructions on a new Matter, and
- We have provided Terms to You referring to the Instructions or the Matter, and any of the following apply:
  - 10 Days have passed following whichever is the later of the latter two events without You telling Us in writing You disagree with the Terms or that acceptance is conditional, or
  - after that later event, You contact Us in writing seeking implementation of your Instructions or a report on Our implementation of them or You consent in writing to Our provision of a service to You.

### All clients

**1.3** We reserve the right to amend Terms and propose New Terms at any time. We will notify You of the New Terms by email or post, and normally through the provision of a hyperlink in Our email footer.

**1.4** The New Terms will be deemed to apply commencing from the earlier of **(i)** your written acceptance of the New Terms and **(ii)** the date 10 Days immediately following the date We send You the notification of the New Terms. If You do not accept the New Terms, You must notify Us in writing as soon as possible and, in any event, within that period of 10 Days.

**1.5** The New Terms will apply from commencement to all ongoing Projects and to any new Project on whose Matter(s) Instructions are accepted by Us only after the date of notification of the New Terms.

**1.6** We may issue an Engagement Letter to You for your agreement at any time.

### Our acceptance of Instructions

**1.7** We may accept Instructions in writing or decline them in writing but otherwise We are deemed to have accepted Instructions if and when:

- We have received them, and
- You have agreed Terms and
  - 10 Days have passed following whichever is the later of the latter two events without Our telling You in writing that We decline the Instructions or that acceptance is conditional, or
  - We implement a material part of them or undertake in writing to do so.

### Termination

**1.8** Unless agreed otherwise in writing, You may wholly or partly terminate Terms by telling Us in writing, and We may do so giving You a reasonable amount of written notice.

## 2. Fundamental Professional Standards

**2.1** On all Matters, We will represent You according to Code.

**2.2** In particular, We undertake to:

- Practise competently, conscientiously, objectively and with integrity;
- Put your interests foremost while observing the law and Our duty to the court;
- **Safeguard** your confidential information, not disclosing it to any third party without your written permission or required by law;
- Disclose to You all information We possess of material relevance to your Instructions unless precluded from doing so by confidentiality obligation or law.

**2.3** We accept a duty of care for safe-keeping Your Documents as your property organised within Files. You are entitled to have any Your Document(s) You specify sent or otherwise made available to You within a reasonable time of your written request. We may charge You copying and other costs of sending any to You.

**2.4** All funds You provide on account will be held in trust for You pending implementation of Instructions to which they relate.

### **3. Document Retention & Conflicts of Interest Policies**

**3.1** We refer You to: (1) [Looking after Your Documents](#) and  
(2) [Protecting You from Conflicts of Interest](#).

### **4. Financial Matters**

**4.1** You are liable for Our charges **(i)** under all Fee Agreements and **(ii)** for professional work it is reasonable in Our view to carry out in discharging Our duty of care arising from Instructions outside the scope of any such agreement (including providing initial advice on options, with or without cost indications) including disbursements properly incurred.

**4.2** Professional work may be performed by qualified professionals, professional assistants, support staff or Partners and may take various forms ([What Does Professional Work Mean?](#)). Standard activities may be charged as standard charges. We will on-cost to You costs for paying Partners' invoices, marked up as agreed or otherwise by 20% or with a mark-up which does not cause contravention of a Fee Agreement.

**4.3** We offer the following fee arrangements:

- A written fee agreement:
  - specifying:
    - a fixed or range-bound fee, for defined work;
    - a cost estimate (which We will not exceed without your agreement except insofar as the fee agreement indicates) and any conditions to which it is subject;
  - for *ad hoc* advice over an agreed period.
- Our normal or notified hourly rates applied to Our time expenditure for professional work it is reasonable in Our view to carry out in discharging Our duty of care arising from Instructions outside the scope of any Fee Agreement (charged in 0.1-hour units rounded up), plus standard charges, plus disbursements.

**4.4** We will render charges (plus VAT where applicable) by invoice (sent electronically, unless You request otherwise or technically not practical) monthly unless We consider a different frequency appropriate.

**4.5** Our invoices will at least summarise action billed. A breakdown requested within 30 days of invoice date will be provided.

### **5. Credit Management, Continuity of Representation**

**5.1** Any invoice received by You from Us is due on receipt but, unless it or a notice sent You by its dispatch date states otherwise, may be paid, without interest, within 28 days following its date.

**5.2** If an invoice has not been paid according to Paragraph 5.1 without Our written agreement, We may:

- give You notice which is reasonable in all the circumstances that We shall suspend representation at a specified date, and then proceed according to the notice, no services being provided, and your interests being at risk, during any such suspension;
- apply lawful late payment penalties including [statutory interest](#);
- use lawful means to recover amounts You owe.

### **6. Your Instructions, Our Responsiveness**

**6.1** Instructions may be written or oral. If their acceptance is conditional on provision of funds, the condition is satisfied only if You send Us a remittance advice indicating their purpose. We will acknowledge in writing all Instructions.

**6.2** We will accept Instructions only from persons We believe are properly authorised. We will seek confirmation from such a person if We receive Instructions from someone We reasonably suspect is not authorised.

**6.3** We shall record, inform You of and monitor all action deadlines known to Us as materially applicable to any Matter. Except where urgency does not permit, We will seek Instructions in good time for You conveniently to provide timely Instructions. We will promptly implement Instructions We accept.

**6.4** Where the conditions mentioned in Paragraph 1.1 A have not been met, We may, exceptionally and in Our sole discretion, implement a material part of Instructions (giving You as much notice as practicable) where this involves only minor expense to You indicated in the notice or is reasonably necessary to manage an evident material risk of irremediable material harm to the Matter; Paragraph 1.1 B, second bullet point then applies but only to that part of the Matter.

**6.5** You agree to: provide Instructions, and any information We have requested in writing, within any reasonable term We have specified in writing; ensure that any such information is correct; review documents We prepare for your review; and notify Us in writing if any such document is incomplete, inaccurate or indicates a material misunderstanding by Us.

## **7. Special Conditions**

**7.1** Without prejudice to any provision in Paragraphs 1.3 to 1.6, We may, at any time, make implementation of Instructions subject to provision of information, authorization or funds in a particular manner and/or by a particular time, or to reasonable other special conditions. Any such special conditions will be notified to You in writing and then immediately form part of the Contract.

## **8. Communications, Contact Information**

**8.1** Unless agreed in writing otherwise, We shall normally communicate with You, and normally expect to receive communication from You, by email and/or telephone.

**8.2** We will take reasonable steps to ensure communications with You via the internet or other electronic means are secure and free from elements posing risk to the communications or your IT systems. We rely on You to take equivalent steps.

**8.3** You agree to notify Us of changes to your contact information whilst this Agreement is in force.

## **9. Complaints**

**9.1** If You complain to Us that You are dissatisfied with Our services and/or conduct, We will deal with your complaint following Our [Complaints Procedure](#), whose objectives are to:

- ensure We promptly and properly investigate your complaint;
- encourage oral discussion, if You wish;
- Achieve conciliation, restoration of mutual confidence and a full written response.

**9.2** If You are dissatisfied at close of Our complaints procedure, You are entitled to complain to the Legal Ombudsman (regarding service) and/or IPReg (about conduct). [Help Making an Official Complaint](#) (including contact information for these bodies) will assist You so doing.

## **10. Data Protection Act 2018 (“DPA18”) and General Data Protection Regulation (“GDPR”)**

**10.1** We will comply with DPA18 and GDPR whenever We process any “personal data”.

**10.2** Our policy with respect to data privacy is set out in Our [Data Protection & Privacy Policy](#).

## **11. MLR, Covenant, Liability Exclusions/Limitations, RTPA99, Governing Law and Jurisdiction**

**11.1** To comply with MLR, We must undertake investigations into clients, and must report to relevant authorities any activities which appear suspicious. You agree to comply with Our MLR requests and make no claim against Us (or any of Our employees), and hold Us (and them) harmless, for any loss or damage resulting directly or indirectly from Our responsible actions to comply with MLR.

**11.2** Unless You have Our written agreement, You covenant not to:

- solicit, contract with, participate in contractual relations or otherwise treat with any Partner on any Project for any part of which Terms are in force, or within a period of 12 months after Terms cease to apply to it unless You first do so within the 3 months following that cessation; or
- procure intellectual property rights for any subject-matter on which We gave You written advice unless You notified Us in writing, before that advice was given, of your intention to do so or You do so by an IPReg-regulated IP professional You appoint.

**11.3** You acknowledge and agree to the limitations on and/or exclusions from Our liability arising out of or in connection with any Engagement, as set out at: [Liability Limitations and Exclusions](#).

**11.4** Subject to Paragraph 11.3 and the content at the link to which it refers, RTPA99 does not apply to Terms and no person not party thereto (including any employee, officer, agent, representative or sub-contractor of a party) shall have the right (under RTPA99 or otherwise) to enforce any of its provisions.

**11.5** Terms shall be construed under English law. The English courts shall have exclusive jurisdiction to resolve any dispute arising under them.

*See previous document versions and document comparisons [HERE](#)*

**Concerto IP Limited Standard Terms and Conditions v8 June 5, 2019**