



## Concerto IP Limited: Standard Terms & Conditions

Click [HERE](#) to compare with previous version

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 (including weekends) other than public holidays observed in England.

**Documents** means documents in electronic or other form (originals or copies) over which We have custody, power or 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 4.5, first bullet point.

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

**Instructions** means any request, direction or other form of instruction(s) You verifiably give Us on a Matter which, if urgent, is/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.

**AML** means the *Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations, 2017 and the Proceeds of Crime Act 2002*, any re-enactment of either 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, whether in the form of an Engagement Letter, a new Agreement or both.

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

**Partner** means a person or organisation 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, including personnel who work with Us as contractors and who are not Our employees.

**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, namely Our client.

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

<sup>1</sup> Where there are a number of matters, they may, for example: cover preparation and filing of an application for intellectual property protection, as one matter; cover prosecution of that application through official procedures towards grant of the protection sought, as one or more further matters; or form part of a programme whose goal is to protect different aspects of a project by means of intellectual property protection of more than one kind and/or to apply another intellectual property exercise to the project.

## **1. (1) Acceptance of Instructions, (2) Commencement of Terms, (3) related matters**

### ***Agreeing Terms in the case of new clients***

*(ie where Terms do not already apply to You at the time of issue of this Agreement)*

#### **1.1 Terms apply as follows:**

##### **A. Commencement:**

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

##### **B. Scope:**

- to that Matter, and to all other Matters on which You give Us, after that occasion, Instructions We accept, and
- to each such Matter as a contract separate from any other Matter.

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

- You have given Instructions, and
- We have sent You a written communication mentioning both the Terms and your Instructions or the Matter to which they relate, and
- any of the following apply:
  - 10 Days have passed following the later of the latter two events without You telling Us in writing that You disagree with the Terms or that their acceptance is conditional or
  - after that later event, You do any of the following and We promptly record in writing that You have done so:
    - contact Us in furtherance of your Instructions, or
    - otherwise indicate your consent to Our provision of any service to You.

### ***Amending Terms when You are an existing client***

*(ie where Terms apply to You at the date of the notification referred to in Paragraph 1.4 below)*

#### **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:**

- to all Projects ongoing at the date of notification of the New Terms, and to any new Project on whose Matter(s) Instructions are accepted by Us only after that date of notification,
- from the earlier of:
  - your written agreement to the New Terms and
  - 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).

### ***Our acceptance of Instructions***

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

- We have verifiably 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***

#### **1.6 Unless agreed otherwise in writing, You may wholly or partly terminate any Engagement 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** Except with your informed consent recorded in writing (and then only in certain circumstances), all funds You provide on account with respect to prospective implementation of Instructions will be held in trust for You in a “*client trust account*” (separate from Our practice account) pending implementation of Instructions to which they relate. To enable stage payments, this professional obligation does not preclude Our sending You interim invoicing which is **(i)** in respect of, and limited to, disbursements paid and services We have performed in partial implementation of your Instructions and **(ii)** to be settled, by a time before any further implementation of the Instructions of which time We give You written notice, either by Our drawdown from any retained client trust account monies You provided for implementation of those Instructions or by another means You elect with Our agreement in writing.

### 3. (1) Document Retention, (2) Conflicts of Interest Policies

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

### 4. (1) Financial Matters, (2) Allocation of Instructions

**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 or support personnel to whom We will allocate tasks at Our discretion.

**4.3** No person We employ and no person who is or is employed by, or is a contractor of, a Partner will assume any personal liability for work undertaken for You nor any interest in the goodwill which may be created in providing services to You.

**4.4** Professional work may take various forms ([What does Professional Work Include?](#)). Standard activities may be charged as standard charges. We will on-cost to You costs for paying Partners’ invoices, marked up with commission which has been agreed, has not been agreed as such but does not cause contravention of a Fee Agreement or is otherwise 20% of the Partner’s invoice.

**4.5** 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 (find out Our normal [hourly rates](#))<sup>2</sup> 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.

**4.6** 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.

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

### 5. (1) Credit Management, (2) 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:

---

<sup>2</sup> Link may not be enabled on mobile devices and with some operating systems; You can request this information by separate email or by telephone.

- 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. (1) Your Instructions, (2) Our Responsiveness

**6.1** 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; and review documents We prepare and notify Us in writing if any such document is incomplete, inaccurate, indicates a material misunderstanding by Us or is not understood by You.

**6.2** Instructions may be written or oral. We may accept provision of funds as Instructions if We have received a remittance advice indicating the precise purpose of the funds. We will acknowledge in writing all Instructions.

**6.3** 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 who We reasonably suspect is not authorised.

**6.4** 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.

**6.5** Where Terms have not commenced by operation of Paragraph 1.1 A, 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; a Contract between us exists from the time of the notice but it applies only to the part of the Matter to which that implementation relates and We have no obligation to implement any other part of your Instructions.

**6.6** Unless We have expressly agreed otherwise in writing, no third party is entitled to rely on any advice, document, entitlement, right or other thing which results from any Engagement.

## 7. Special Conditions

**7.1** 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 notwithstanding any provision in Paragraphs 1.3 and 1.4.

## 8. (1) Communications, (2) 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. (1) Data Protection Act 2018 (“DPA18”), (2) General Data Protection Regulation (“GDPR”), (3) AML

**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**.

**10.3** To comply with AML, We must undertake investigations into clients, and must report to relevant authorities any activities which appear suspicious. You agree to comply with Our AML requests.

## **11. (1) Covenant against certain activities, (2) treating another person as Our client**

**11.1** Unless You have Our written agreement, You undertake not to do any of the following things:

- solicit, contract with, participate in contractual relations or otherwise treat with any Partner on any Project:
  - when Terms are in force for any part of it 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 and notify Us to that effect by that time); or
- seek intellectual property rights for any subject-matter on which We had given You advice recorded in a contemporaneous document sent to You (or You procure or suffer the seeking by another person of the same as your substitute), 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.

**11.2** If You request Us, with respect to any Project (in part or whole), to treat another person as Our client, or as responsible for payment of Our charges, instead of yourself, You remain liable under Paragraph 4.1 above for Our charges unless and until Terms apply to that other person making that other person liable for them instead. In particular, for the avoidance of any doubt, You agree that You will meet Our charges arising from Instructions on that Project which You give Us after the request and before Terms begin so to apply to that other person.

## **12. (1) Professional Indemnity Insurance, (2) Liability Limitations and Exclusions, (3) Indemnities**

**12.1** In accordance with Our current business policy, at the date of this Agreement (stated at its end), We maintain professional indemnity insurance cover for an insured sum of £2 million sterling any one claim with no exclusion or limitation applied with respect to claims made in any particular jurisdiction.

**12.2** We undertake to maintain professional indemnity insurance cover in accordance with Code and to review cover annually for the purposes of policy renewal, in particular to determine whether to maintain the same level of sum insured or to increase or decrease it.

**12.3** You acknowledge and agree to:

- the limitations on and exclusions from liability arising out of or in connection with any Engagement and
- the indemnities on your part,

as set out in the following document in each case: ***Liability Limitations and Exclusions, Indemnities*** (in which We draw your attention to Paragraph 3.2, n particular).

## **13. (1) RTPA99, (2) Applicable Law and Jurisdiction, (3) hyperlinked documents (4) other matters**

**13.1** Subject to Paragraph 5.3 of the document to which Paragraph 12.3 above 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.

**13.2** The headings appearing on this document are for explanatory purposes only and are not part of this Agreement. However, footnotes are part of this Agreement.

**13.3** This Agreement includes hyperlinks to further documents carrying Our logo and to other sources of information. All hyperlinked such further documents form part of Terms. If You cannot access any particular hyperlinked document or information, You must notify Us in writing. Unless We have received such a notification by the time You agree Terms or are deemed to have agreed Terms under Paragraph 1.2 of this Agreement (or by the time New Terms are deemed to apply under Paragraph 1.4 of this Agreement, in the case of New Terms), You are deemed to have agreed Terms (or New Terms, as the case may be) after having reviewed and considered all of the hyperlinked documents and information (if You so request, We shall provide You with hard copies of all the hyperlinked documents that You request).

**13.4** 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](#)*

**You may Click here to Sign by Email if Agreed<sup>3</sup>**

**Concerto IP Limited Standard Terms and Conditions ver9 December 10, 2019 edited January 2, 2020**

<sup>3</sup> Link may not be enabled on mobile devices and with some operating systems.