



## Concerto IP Limited Standard Terms & Conditions

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In this document, 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 the Intellectual Property Regulation Board (IPReg)

**Contract** has the meaning given it in Paragraph 1.1(ii)

**Days** means working days

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

**Engagement Letter** means any document we send You which particularizes or, if agreed, varies, this Agreement, for any Matter

**Fee Agreement** has the meaning given it in Paragraph 4.3

**File** means a file comprising Your Documents relating to a Matter or several Matters we have treated as connected

**In-House IP Department Engagement** means an engagement, governed by separate agreement, between us and a corporate IP department to assist it in serving its corporation

**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

**IP** means intellectual property

**Matter** means a project on which You entrust to engage us to act for You or, if it comprises stages, each stage

**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, on your consent 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** has the meaning given it in the definition of Matter

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

**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.

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

~~This Agreement~~ Terms applies (i) from the first time at which we have accepted Instructions and You have agreed Terms, to all Matters on which You give us Instructions we accept and (ii) to each such Matter as a contract separate from any other Matter.

1.2 We are deemed to have accepted ~~particular your first~~ Instructions if we have received them, You have agreed Terms, and (i) 10 Days have passed following whichever is later without our declining them in writing or (ii) we implement a material part of them or offer to do so.

1.3 You are deemed to have accepted Terms if You have given first Instructions, we have provided Terms to You referring to the Instructions or Matter and (i) 10 Days pass following whichever is the later event without You disagreeing Terms in writing or (ii) You consent after that later event to our provision of a service to You.

1.4 Unless agreed otherwise in writing, You may wholly or partly terminate this Agreement or terminate any Contract by telling us in writing or we may do so giving You a reasonable amount of written notice.

1.5 We may propose New Terms by giving You written notice, by hyperlink in an email footer ~~or otherwise~~ in the case of changes to, or replacement of, this Agreement. ~~Unless You disagree in writing beforehand, those New Terms will 10 Days later apply,~~ to all Matters on which You then give us Instructions we accept, 10 days later, unless You disagree in writing with them beforehand, or on your agreement if sooner.

## 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 except with 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 the cost of sending any to You, including copying.

2.4 Any 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** Such 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 specifically 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) and any conditions to which it is subject;
  - For *ad hoc* advice over an agreed period;
  - For In-House IP Department **Engagement**.
- 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) 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 we send You 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 in compliance with Paragraph 5.1 without our agreement in writing, 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;
- 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 only accept Instructions from persons we believe to be 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 on

Matters 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(i) 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(ii) 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** 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 Paragraph 1.5).

## 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 ~~non-encrypted~~ 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 Matters are entrusted to us.

## 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 ~~2011~~1998 (“DPA~~1898~~1998”) and General Data Protection Regulation (“GDPR”)

**10.1** We will comply with ~~DPA1898~~ DPA1998 and GDPR whenever we ~~obtain or use~~ process any personal data (as defined ~~therein, in DPA98~~) about You.

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

- ~~Will store your personal data and use it to provide services to You;~~

- ~~May use it to send You information about our services, unless You have asked us in writing not to;~~
- ~~May pass it to Partners, with authorization to store it and use it to execute instructions;~~
- ~~Not use it for any purpose other than mentioned in this Paragraph 10.2 without your consent unless entitled or required to do so by law, court order or regulatory authority; and~~
- ~~Will prepare for compliance, and comply, with GDPR from its commencement on May 25, 2018.~~

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

**11.1** To comply with MLR, we 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 are an ~~IPReg-~~regulated ~~person~~~~IP professional~~, You covenant not to:

- Solicit, contract with, ~~or~~ participate in contractual relations or otherwise treat with any Partner whilst ~~the Agreement is~~Terms are in force; or
- ~~Apply for~~Procure ~~IP protection rights~~ for any subject-matter on which we gave You advice recorded in writing unless You first notified us in writing of your intention to do so or You do so by ~~a~~such a regulated ~~IP professional~~person You appoint.

**11.3** You acknowledge and agree that Terms (and all Contracts) are subject to the limitations on and/or exclusions from our liability arising out of or in connection with our engagement to act for You for any Project, as set out at the following Link: [Liability Limitations and Exclusions](#).

### **12. ~~Contracts (Rights of Third Parties) Act 1999 ("RTPA99")~~**

**11.42.1** Subject to Paragraph 11.3 and the content at the link to which it refers, the Contracts (Rights of Third Parties) Act 1999 ("RTPA99") ~~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. ~~Governing Law, Jurisdiction~~**

**11.53.1** 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](#)*