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Concerto IP Limited: Standard Terms & Conditions

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 having been written, or to be written, and sent, or to be sent, by email, hand or otherwise, and the expressions below have the following meanings:

Agreement: these Standard Terms & Conditions in their present iteration.

AML: the *Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations, 2017*, the *Proceeds of Crime Act 2002*, any re-enactment of either and any similar legislation in the United Kingdom or other jurisdictions relevant to Instructions.

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

Contract: refers to the contract mentioned in the final line of Paragraph 1.2.

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

Documents: documents (electronic or otherwise; originals or copies) over which We have custody, power or control.

Engagement: any engagement 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: any document We send You which particularizes and/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: a written fee agreement as referred to in Paragraph 4.1.

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

Instructions: any request, direction or instruction which **(i)** You or someone authorised to do so verifiably give or gives Us on a Matter or **(ii)** We acknowledge in writing to be an Instruction.

IPReg: the Intellectual Property Regulation Board.

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

New Terms: new terms and conditions, replacing, or supplementing or otherwise amending, those in force immediately previously, whether the new terms and conditions are in the form of an Engagement Letter, a new Agreement or both.

Open-Ended Fee Tariff: an open-ended fee arrangement as referred to in Paragraph 4.1.

Other Documents: Documents relating to an actual or potential business development, financial transaction or dispute between us, drafts which have not been shared with any person and text messages.

Partner: 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 them; including any such person who is not Our employee and who works with Us as a self-employed contractor.

Project: a project comprised of at least one Matter, in the case of plural Matters those Matters being connected by a common goal,¹ which project may be described in an Engagement Letter.

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

Terms: this Agreement, as modified by any Engagement Letter You have agreed and/or by any New Terms.

You: you as the contracting party to Terms, namely Our client.

Your Documents: Documents reasonably required to perform an Engagement, not being Other Documents.

¹ By way of illustration, a project may, for example **(i)** comprise preparing a UK application for intellectual property protection which We file on your instructions, as one Matter, and prosecution of the application through subsequent official procedures as another, the common goal being grant of protection sought or **(ii)** be comprised of a programme whose goal is to provide intellectual property protection for different subject-matters of, or aspects of, the project and/or of more than one kind and/or in or for more than one jurisdiction. Should You require additional illustration, We shall be pleased to respond to your written request.

1. Commencement of Terms, acceptance of Instructions, termination, related matters

Terms in the case of existing clients

1.1. If, on the notification date of this Agreement, You have a relationship with Us governed by Terms, this Agreement constitutes proposed New Terms; the New Terms are hereby notified to You and will be deemed to apply as follows:

- The New Terms commence from the earlier of:
 - Our receipt of your written agreement to the New Terms and
 - the date 10 Days immediately following the notification date of those 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); and
- The New Terms, on commencement, shall apply as follows:
 - To all Projects ongoing at the notification date of the New Terms and
 - To all new Projects on which We accept Instructions on a Matter only after the notification date of the New Terms and
 - To each Matter as a contract separate from any other Matter.

Terms in the case of new clients

1.2. If, on the notification date of this Agreement, You do not have a relationship with Us governed by Terms and You wish to give Us new Instructions, this Paragraph 1.2 applies as follows, instead of Paragraph 1.1:

- Terms commence from the first occasion on which:
 - You have agreed Our Terms and
 - We have accepted your new Instructions; and
- Terms, on commencement, shall apply as follows:
 - To the Matter to which your new Instructions relate and
 - To each of every other Matter on which We receive Instructions We accept and
 - To each Matter as a contract separate from any other Matter.

1.3. You may agree Our Terms in writing or orally (We will record in writing any oral agreement). However, You are otherwise deemed to have agreed Terms as if You had done so in writing on the notification date of this Agreement, if and when:

- You have given Instructions, and
- We have sent You notification of this Agreement mentioning your Instructions, the Matter(s) or the Project, and
- 10 Days have passed immediately following the date of the later of the latter two events without You telling Us in writing that You disagree with the Terms or that your acceptance of them is conditional.

Changing Terms

1.4. We reserve the right to propose New Terms at any time, sending You notification of the New Terms.

1.5. The New Terms will be deemed to apply as stated in Paragraph 1.1 above.

Engagement Letters, Application of Conflicts of Interest Policy

1.6. Terms apply as follows:

- For avoidance of doubt, your agreement to this Agreement constitutes your agreement also to the latest Engagement Letter (if any) not previously agreed but notified to You in the period ending with the date 1 Day before the date of your agreement to this Agreement, any previously agreed Engagement Letter forming with this Agreement part of Terms, and
- Engagement Letters apply only to the Project or Matters they identify except to the extent that they state otherwise; and
- In the exceptional circumstances described in Paragraph 6 of our Conflicts of Interest Policy, Terms apply in the limited manner set out in that Paragraph 6.

Our acceptance of Instructions

1.7. We may decline or accept Instructions in writing but, subject to Paragraph 7 below and to Paragraph 6 of our Conflicts of Interest Policy, We are deemed to have accepted Instructions when:

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

What constitutes “notification” and “notification date” for the purposes of Paragraphs 1 and 6.6

- 1.8.** For the purposes of this Paragraph 1, notification of this Agreement, Terms or New Terms means an email sent to You which provides a hyperlink in the footer and/or message body of the email, or an attachment, which hyperlink or attachment, when opened, provides access to an instance of this Agreement, Terms or New Terms, and their notification date is the date the notification was sent to its addressee.

Termination of Engagements

- 1.9.** You are entitled wholly or partly to terminate any Engagement by telling Us in writing, We may do so by giving You a reasonable amount of prior written notice.

2. Professional standards

- 2.1** On all Matters, We will represent You according to Code. In particular, We undertake to:

- practise competently, conscientiously, objectively and with integrity and
- put your interests foremost while observing the law and Our duty to the court and
- safeguard your confidential information, not disclosing it to any third party without your written permission or required by law (in accordance with the undertakings set out in [Confidentiality](#))
- disclose to You all information We possess of material relevance to your Instructions unless precluded from doing so by confidentiality obligation or law.

- 2.2** We accept a duty of care for safe-keeping Your Documents 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 require funds on account for our copying and other costs of dealing with your request, and for professional time (if any) spent or to be spent in discharging Our duty of care to You in connection with your request or its execution.

- 2.3** 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:

- in respect of, or includes, disbursements paid and services We have performed in partial implementation of those Instructions and
- for settlement, so far as attributable to that partial implementation, by a time We notify to You in writing, as a condition of any further implementation by Us of the Instructions; We may execute the settlement on your behalf by drawdown from any retained client trust account monies You provided for implementation of those Instructions or settlement may be by other means You elect in writing with Our written agreement.

3. Document retention and conflicts of interest policies

- 3.1.** These policies are set out in the following documents:

(1) [Looking after Your Documents](#) and (2) [Conflicts of Interest Policy](#).

4. Our Fees, allocation of Instructions

- 4.1.** In terms of the fees You are liable to pay Us under Engagements:

- A written fee agreement (“Fee Agreement”)² may be agreed between us:
 - specifying:
 - a fixed or range-bound fee, for defined work, and any conditions to which it is subject or
 - 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, or
 - for *ad hoc* advice over an agreed period.
- In all other cases in which You give us Instructions, an open-ended fee arrangement (“Open-ended Fee Tariff”)² will apply in which the cost to You of the Engagement:
 - varies with the amount of time for which We are engaged on the Engagement, and
 - is determined as set out in Paragraphs 4.2 to 4.5 below.

- 4.2.** An Open-ended Fee Tariff applies to all services and disbursements which fall outside the scope of any Fee Agreement (either because there is no Fee Agreement or, if there is a Fee Agreement, because that agreement does not cover

² See [About Fee Formats and What counts as Professional Work](#) for illustrations

those services and/or those disbursements). We will rely on You to be aware that professional work not covered within a Fee Agreement will be separately and additionally charged to You and to check with Us if You are in doubt.

4.3. Our charges in the case of an Open-ended Fee Tariff are determined as follows:

- professional work which falls in the category of standard activities may be charged as standard charges, and
- charges for all other professional work will be determined by recording the time it took in 0.1-hour units rounded up and multiplying the total time by Our normal or notified hourly rates (find out Our normal [hourly rates](#)³), and
- all disbursements incurred to your account will have been properly incurred and will be charged to You after their amount has been determined as follows:
 - where a Partner carries out professional work in providing services of a UK or European Patent Attorney or a UK trade mark attorney, by recording the time it took in 0.1-hour units rounded up and multiplying that time by Our normal or notified hourly rates (find out Our normal [hourly rates](#)³) (or by a different method agreed with You in writing);
 - where a Partner provides a different service, by adding to the Partner's charge to Us a commission of 25% (or a different commission agreed with You in writing);
 - for any sundry item, by on-costing to You the total cost of its provision and a profit element, both determined at Our discretion on a basis which is reasonable for the item;
 - in the case of services provided by a Partner, We will normally add increments **(i)** representing Our time expended in engaging with the Partner in connection with the service and **(ii)** to manage any FX risk.

4.4. From the date Terms apply, You are liable for Our charges:

- For services and disbursements within the scope of any Fee Agreement;
- For services and disbursements under an Open-ended Fee Tariff:
 - namely, our charges for all professional work which it is reasonable in Our view to carry out, together with all disbursements it is reasonable in Our view to incur, to discharge Our:
 - Duty of care to You arising from your Instructions, including (without limitation) Our providing You with information, initial advice on options open to You (with or without costings) or comment on your Project, or performing any of the activities mentioned in the document hyperlinked in Paragraph 4.5 below, and
 - Duty to the court or any official body in connection with the Project in question, Our having given You notice of that duty to it if possible.

4.5. In general, all the time We spend on your behalf is professional work, whether within or outside a Fee Agreement, and We will record all that time in Our systems. It may take various forms ([About Fee Formats and What counts as Professional Work](#)) and may be performed by qualified professionals, professional assistants with less than full qualification or support personnel, to which persons We will allocate tasks at Our discretion.

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 to be appropriate.

4.7. To the extent an invoice does not already contain a breakdown of action taken and disbursements incurred, We will provide such a breakdown if a written request received is by Us within 28 Days of invoice date.

5. Credit management, discontinuity of representation

5.1. Any invoice You receive from Us must be paid by the date (the "Payment Date") which **(i)** it or a notice sent You by the invoice dispatch date states (eg "on receipt") or, if no such date is so-stated, **(ii)** falls 28 Days immediately following the date the invoice was sent to You. You agree that, at 17:00 UK time on the Payment Date of an invoice, that invoice is fully payable by You.

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

- after notifying You that the invoice is overdue, suspend representation (normally after giving you notice), no services being provided, and your interests being at risk, during any such suspension and
- make lawful late payment charges to You, including statutory interest (*find out about* [statutory interest](#)) and
- use lawful means to recover amounts You owe.

6. Instructions, your obligation to provide information and materials, Our responsiveness

6.1. By accepting Our Terms, You agree:

- to: provide Instructions and supply information or material We have requested, in each case within any reasonable term We have specified in writing (if We so specify); ensure that any such information or material is correct; and review documents We prepare, notifying Us in writing if and, as far as reasonably possible in what way, any such document is incomplete, inaccurate, indicates a material misunderstanding by Us or is not understood by You,

³ Link may not be enabled on mobile devices and with some operating systems. In such cases, We rely on You to ask Us by other means for this information.

- and that:
 - if We have required more than one thing from You, We may not implement your Instructions until We have received all of them and
 - You understand that piecemeal and/or delayed provision of Instructions, information and/or materials will meaningfully add to costs You are liable to pay Us, notwithstanding any Fee Agreement and
 - You have reviewed the hyperlinked information at the following link: [11 Tips for Managing the Engagement](#).

6.2. Instructions may be written (excluding text messages unless individually agreed by Us in writing) or oral. We will acknowledge in writing all Instructions.

6.3. Remittance of funds does not constitute Instructions but a separate written remittance advice provided by email and unequivocally indicating the precise purpose of the funds will be treated as Instructions having effect on the later of the date We receive it and the date We receive the funds.

6.4. 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.

6.5. We shall record, inform You of and monitor all action deadlines known to Us to be 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 actionable Instructions We accept.

6.6. Unless We have expressly agreed otherwise in writing, no third party is entitled to rely on any advice or document We give You.

7. Special conditions

7.1. We may, at any time, make implementation, or further implementation, of Instructions subject to provision of information, authorization, documentation, funds (eg to bring your account into line with Paragraph 5.1 above and/or with a credit limit We determine is appropriate) or response to an AML request (see Paragraph 10.3) in a particular manner and/or by a particular time, or to such other special conditions We reasonably consider necessary as a pre-condition for that implementation or further implementation. Any such special conditions will be notified to You in writing, shall take effect as a term of the Contract on giving that notification and shall not be treated as New Terms.

8. Communications, contact information

8.1. Unless agreed in writing otherwise, normally We shall communicate with You, and expect You to communicate with Us, by email, telephone and/or personal attendance. We may make audio recordings of conversations between us, in particular to assist implementation of Instructions and noting of information You provide Us.

8.2. We will take reasonable steps to ensure communications with You via electronic means (eg the internet) 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 in writing of changes to your contact information whilst this Agreement is in force.

8.4. You agree that any communication directed to a physical or virtual address (eg an email address or telephone number) previously notified by You to Us, or customarily used by Us, as an address for communication with You shall (unless we have received written notice from you of a replacement such address) be deemed to be notice to You of the contents of the communication.

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 and
- encourage oral discussion, if You wish and
- achieve conciliation, restoration of mutual confidence and a full written response.

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”), UK GDPR, AML

10.1. We will comply with DPA18 and UK 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](#) and is currently under review with respect to post-Brexit considerations.

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

11. Covenant against certain activities, treating another person as Our client

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

- solicit, contract with, participate in contractual relations or treat with any Partner:

- whilst there is an Engagement between us for any part of it, or
 - within a period of 12 months after the Engagement has ended, unless You first do so as a matter of reasonable necessity within the 2 months following its ending, provided that You have, prior to any contact with the Partner in that 2 months period, given Us written notice of your intended contact and obtained Our written acknowledgement of it; or
- where We have given You any advice or assistance in relation to any subject-matter:
- conduct any intellectual property exercise in relation to that subject-matter, or to different subject-matter, reliant on that advice or assistance, or cause, assist, procure or suffer such conduct by another person to whom You have communicated that advice or assistance or any part of it,
 - unless in each instance that exercise is carried out or supervised by Us or another IPReg-regulated IP professional You appoint.

11.2. If You request Us, with respect to the whole or part of any Project, to treat another person as responsible for payment of the whole or part of Our charges, instead of yourself, You remain liable under Paragraph 4.4 above for Our charges (in particular, for the avoidance of any doubt, Our charges arising from Instructions on that Project which You give Us after the request) except to the extent that Terms apply to that other person making that other person liable for them instead (and provided that the other person discharges his liability for them in accordance with Paragraph 5.1 of this Agreement).

12. Professional indemnity insurance, liability limitations and exclusions, indemnities

12.1. In accordance with Our current business policy, at the date of the notification to You of this Agreement, 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 shall use reasonable endeavors 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 Our liability arising out of or in connection with any Engagement and
- the indemnities on your part,

in each case as set out in the following document: [Liability Limitations and Exclusions, Indemnities](#) (which forms part of this Agreement and in which We draw your attention to Paragraph 3.2 thereof, in particular).

12.4. You agree that (i) none of our employees assumes any personal responsibility for any part of any Engagement between Us and You and (ii) no mention of any employee by name or other identifier in any document (electronic or otherwise; original or copy), database or otherwise in relation to or in connection with your affairs, Our business, any Engagement or any potential Engagement, is to be construed as indicating or implying any such assumption of personal responsibility by the employee so mentioned or any other employee.

13. RTPA99, applicable law and jurisdiction, hyperlinked documents, 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. Hyperlinks in the body of this Agreement are intended to enable You to access documents carrying Our logo (each an “Our Document”), to request certain fee information and to access other information. Our Documents may include hyperlinks to other documents carrying Our logo (each a “Further Document”) and to other information. We have tested once that all hyperlinks referred to above function on a desktop PC operating Microsoft Windows 10. If You are unable to access Our Documents, Further Documents, the fee information or other information referred to above in this Paragraph 13.2 (or any part of the foregoing), You must notify Us in writing; We shall send You on written request any of Our Documents, any of Further Documents and any of the fee information (and any of the other information it is reasonably within Our power lawfully to supply) which You have been unable to access. Unless We have received such notification before Terms commence or before New Terms are deemed to apply (as the case may be), You are deemed to have considered fully all of Our Documents and all of Further Documents, together with all of the fee information and all of the other information referred to above in this Paragraph 13.2 and to have agreed Terms (or New Terms, as the case may be) after having done so.

13.3. Our Documents, Further Documents and the footnotes appearing in this document are part of this Agreement (except the one of Our Documents referenced by hyperlink following the third bullet point of Paragraph 9.1, which is for information purposes only) but headings in this Agreement are not part of this Agreement.

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