

## STANDARD TERMS OF BUSINESS

### 1

#### Introduction

##### 1.1

Thank you for instructing Groom Wilkes & Wright LLP to carry out intellectual property work on your behalf.

Our company registration number is OC307192 and our registered office is The Straw Barns, Upton End Farm Business Park, Meppershall Road, Shillington, Hitchin, Bedfordshire, SG5 3PF, United Kingdom. Our VAT registration number is GB 835259414.

##### 1.2

We will provide you with confidential professional advice on intellectual property and related matters. The following are our Standard Terms and Conditions of Business, under which we will carry out all work for you. We may also provide a letter setting out any further terms agreed between us and you, in which case that letter will take priority over these terms.

##### 1.3

These Terms shall apply to all matters in respect of which Groom Wilkes & Wright LLP accepts instructions from you to perform professional services ("Services"). In these Terms, "Groom Wilkes & Wright", "we" or "us" means Groom Wilkes & Wright LLP. "You" are Groom Wilkes & Wright's client, being the person, firm, body or company who instructs Groom Wilkes & Wright and purchases Services from us.

### 2

#### Our Obligations

##### 2.1

Our qualified staff are members of the Chartered Institute of Trade Mark Attorneys (CITMA) and must comply with the codes of professional conduct issued by that body and by the Intellectual Property Regulation Board (IPReg).

##### 2.2

It is our responsibility to practice competently, conscientiously and objectively, putting the interests of our clients foremost while observing the law and our duty to any court or tribunal. It is also our responsibility to avoid any conflict of interest.

### 3

#### Instructions

##### 3.1

##### *Identity of the client*

##### (i)

Unless otherwise agreed, we will assume that any person within your organisation may instruct us on your behalf, unless they clearly do not have the appropriate authority.

##### (ii)

However, it is often helpful if you can nominate an individual within your organisation to act as a primary point of contact for us, and keep us updated if this changes.

##### 3.2

##### *New clients and start-up companies*

We welcome the opportunity to work with new clients and start-up companies. For all new clients, our policy is to seek adequate funds on account in advance of carrying out any work.

### 3.3

#### *Money laundering*

##### (i)

In order to comply with Anti Money Laundering Regulations and parallel legislations in many other countries, it is necessary for us to undertake certain investigations into new clients and to report to the relevant authorities any activities deemed suspicious.

##### (ii)

By instructing us, you agree that we are bound by this legislation and that you will make no claim against us and will hold us harmless for any loss or damage which results from our compliance with those regulations or any actions resulting therefrom.

### 3.4

#### *Timing of instructions*

##### (i)

We rely on our clients to give us timely, complete and accurate information and instructions. We prefer where possible to have all our instructions confirmed in writing in order to avoid any possible misunderstandings. If it is unavoidable for you to provide us with oral rather than written instructions we will confirm in writing the instructions we have received as we understand them.

##### (ii)

Intellectual Property Offices often impose time limits and failure to meet these limits can be fatal to the rights concerned. While it is our responsibility to keep you informed of any relevant time limits, we cannot accept any responsibility if you fail to provide us with instructions that are clear, complete and early enough to allow us to act within such official time limits.

##### (iii)

We will endeavour to inform you of time limits and of actions or instructions that are required but we do not undertake to give further reminders, incur costs on your behalf or take other action in the absence of instructions to do so. In this situation your rights may be lost irrevocably.

##### (iv)

If we receive late instructions we may not be able to implement them in time, in which case your rights may again be lost irrevocably. In the event of late instructions or late payments to us, urgency charges may be incurred which we shall have to pass on to you.

### 3.5

#### *Overriding instructions not to let rights lapse*

We shall assume that your overriding instructions are not to let your rights lapse without specific instructions so to do. There may be occasions when a third party instructed by us on your behalf has to take urgent action thought to be in your best interests without recourse to us or to you. Such action will be within the terms of the above overriding instructions.

### 3.6

#### *Updating information*

##### (i)

It is important that you inform us promptly of any change in relation to any primary contact, your name, address, telephone/fax numbers and email address, or any change of ownership of your trade marks, design rights or other related rights. Many such changes have to be officially registered.

##### (ii)

Please remember that the registration of trade marks and design rights can take years and that there may be little activity for long periods followed by a situation which requires immediate action.

We cannot accept responsibility for any loss of rights as a consequence of your failure to inform us of such changes.

### 3.7

#### *Form of communications*

##### (i)

We will normally communicate with you by email, however, we may communicate with you by post or fax. Given that emails sent over the Internet may lack security and jeopardise confidentiality, we cannot accept responsibility for any corruption in the information communicated to you or its disclosure to other parties as a result of the interception of such communication. Due to the nature of the Internet, we cannot accept responsibility for non-receipt or late receipt by you of such communications.

##### (ii)

We shall be responsible for carrying out regular virus checks; however, we advise you to carry out your own virus checks on any communications (whether in the form of computer disc, email, Internet or otherwise). To the extent that we have fulfilled our obligation above, we cannot accept responsibility (including negligence) for any viruses that may enter your system or data by these or any other means. Furthermore, while we observe reasonable precautions, we regret that we cannot guarantee the security of our IT systems.

## 4

### **Instruction of Third Parties to Act on Your Behalf**

#### 4.1

During our work for you we may need to instruct third parties, for example foreign attorneys (foreign associates) to act on your behalf. We may instruct such third parties directly on your behalf or alternatively you may need to sign a Power of Attorney or similar appointment to engage such third party.

#### 4.2

Such third parties are not part of this firm. While we shall endeavour to select third parties that we regard as being of good quality, we will not be liable for any default or negligence by such third parties. We shall of course monitor such third parties on an ongoing basis to ensure that the required service is provided and that our performance standards are maintained.

## 5

### **Professional Fees**

#### 5.1

##### *Our charges*

##### (i)

Our charges are principally based on the amount of our professional time spent on a matter, although other factors may also be taken into account. Such factors may include the size and complexity of the matter and the degree of urgency involved. We may adjust our standard charges if highly specialised knowledge is required, or if the matter is complex and/or urgent.

##### (ii)

Fixed charges may apply in relation to specific tasks, such as the actual preparation and filing of a trade mark or design application. The rates are reviewed periodically and are calculated at the rates which are current when the work is carried out.

#### 5.2

##### *Value added tax*

Where applicable, VAT (Value Added Tax, currently 20 per cent) will be added to appropriate components of your invoice, although certain official fees are exempt.

### 5.3

#### *Payment of expenses*

(i)

You will be responsible for any expenses we incur on your behalf. These include Intellectual Property Office fees and charges from draughtsmen, searchers, translators and foreign associates, non-exclusively.

(ii)

While our fixed charges and hourly rates are predictable, you should appreciate that local representatives' charges and official fees are outside our control since they may be changed without notice and (in the case of foreign matters) vary with exchange rate fluctuations.

(iii)

We may require payment on account, particularly in respect of large items such as charges and expenses to be incurred in foreign filings and actions. When we make such a request, we will usually not carry out any instructed work until the requested payment has cleared into our bank account, so good time should be allowed.

(iv)

Expenses and disbursements such as postage and packaging, courier costs, telephone call charges, faxes, photocopying and the charges (if any) paid or to be paid by us to third parties on your behalf (such as registration or renewal fees to be paid to the trade mark offices, or the charges of overseas trade mark attorneys) will be invoiced in addition to the fees and will be subject to a handling charge. Where disbursements are incurred in a currency other than sterling, we will apply an additional amount to reflect the cost of dealing in the foreign currency.

### 5.4

#### *Estimates*

(i)

If requested, we will try to give estimates of future charges in good faith based on our knowledge at the time. However, as charges may be affected by matters beyond our control and the amount of work involved often cannot accurately be forecast, such estimates will not be binding. Only some classes of work are suited to a firm advance quotation.

(ii)

If during the course of carrying out the work it becomes apparent to us that our actual charges are likely to exceed our estimate significantly, we will try to obtain your permission before exceeding our estimate. If you would like to set up a limit on the charges which may be incurred without prior reference to you then please let us know.

### 5.5

#### *Invoicing*

(i)

We would be happy to render invoices to and accept payment from another person nominated by you (for example another company of the same group). However, please note that the ultimate responsibility for making such payment will remain with your organisation.

(ii)

If a requested payment on account is not made or if an invoice remains unpaid after the payment period on the invoice, we reserve the right to suspend all work on your behalf. This is without prejudice to our right to invoice for work undertaken before such suspension and to take legal action for the payment of our charges. You will be responsible for the consequences of the suspension of work, which may include the irrevocable loss of, or failure to obtain, rights.

(iii)

Statements are issued on a monthly basis from our accounts system. Our terms are 30 days, so we expect invoices issued in a particular month to be paid by the end of the next month. The statement identifies accounts that are 60 days old, 90 days old and 120 days or more old. Accounts that are 90 days old are considered overdue and we shall contact you seeking payment within 7 days. Accounts that are 120 days old or older will be passed to our credit control solicitors who have a standing instruction to recover debts of this age.

## **6**

### **Filing**

#### **6.1**

##### *Checking of files/cases transferred to us*

(i)

When files/cases are transferred to us from other firms or organisations, they are usually accompanied by records of key data. We recommend that we check such information against the contents of the files/cases and/or from public records.

(ii)

In extreme circumstances we may need to levy a reasonable charge for such checking. If in those instances you instruct us to refrain from carrying out such checks, we will not have liability for any errors contained in the files/cases we receive and/or for any losses incurred as a result of the errors contained in the files/cases.

#### **6.2**

##### **Ownership of files**

Our files remain our property at all times. If you would like to transfer your work to other professional advisors, we will copy such files relating to your work as you request (at your expense) and release the copy file(s) when all our charges have been paid. Files may be retained in machine-readable (pdf) form and released in this form.

#### **6.3**

##### **Destruction of files**

It is our normal practice to destroy our draft documents and pre-filing correspondence after an application has been filed. In addition, post-filing correspondence is destroyed after an intellectual property right has been granted. Unless you tell us otherwise, we will assume that you are content with this arrangement. A copy of our detailed file retention policy is available upon request.

## **7**

### **Lien**

We are entitled to exercise a first and paramount general lien (i.e. we can keep) on all or any of your property, including documents and papers with which we or our agents have been provided in respect of all amounts and liabilities due to us from you, whether invoiced or not. We will not be obliged to release such property until payment of such amounts has been received in full.

## **8**

### **Confidential Information**

#### **8.1**

While acting for you we are likely to receive information which relates to you as our client. We will keep such information confidential except where disclosure is required by law or regulation or in other exceptional circumstances.

## 8.2

In general, we recommend that you restrict the release of and maintain strict control over any information not already in the public domain connected with instructions that we receive. We can advise on the desirability of releasing confidential information to the public in specific cases.

## 9

### Data Protection

#### 9.1

We are required to comply with the relevant Data Protection Acts wherever we obtain or use any personal data from clients (including names, addresses and any personal details). We will use your personal data to provide Services to you. In the course of instructing foreign attorneys it will be necessary to pass details of you to enable them to prosecute applications, and take other actions on your behalf.

#### 9.2

We will not use your personal data for any purpose, other than set out in this condition 9, without your consent unless we are entitled or required to do so by law or under a court or regulatory authority order.

## 10

### Searches

Any searches you request may be carried out by ourselves or an independent specialist searching firm or a firm of attorneys in the jurisdiction concerned or by Intellectual Property Offices. Due to the limitations and occasional errors in classifications, indices, computer databases and official records, no search can be guaranteed for comprehensiveness or accuracy. We will endeavour to point out any particular limitations when reporting search results and may recommend extending the search.

## 11

### Indemnity for Threat of Infringement Proceedings

#### 11.1

Before we send any warnings on your behalf to a third party, we will ask you to indemnify us against the risks of our being sued for making an unjustified threat of infringement proceedings. The aim of this request is to maintain our objectivity in contentious matters which would diminish if we were to become a party to any proceedings. We may refuse to act for you if you are not able to provide the requested indemnity.

#### 11.2

We will also tend to recommend issuing instructions to solicitors (or lawyers in the appropriate jurisdiction) to act on your behalf with respect to any contentious issues.

## 12

### Client's Privilege

#### 12.1

In general, communications between a UK trade mark attorney and a client are privileged under Section 87 of the Trade Marks Act 1994. This means that other people including the Courts are not entitled to discover the content of such communications where they concern professional advice. However, you should note that there are circumstances in which the privilege status of a letter or other document can be lost if it, or its contents, are disseminated to persons other than the addressee of the document.

#### 12.2

In rare circumstances the courts may rule that such privilege is lost or does not apply. In that event we accept no liability in respect of any loss whatsoever incurred by you or any other party as a direct or indirect consequence of the loss or absence of privilege.

## **13**

### **Conflicts of Interest**

#### **13.1**

We cannot act simultaneously for two clients whose interests in the matter in which we are advising conflict unless (exceptionally) both clients consent to such an arrangement. When potentially taking on a new client, we try to identify conflicts of interest that may preclude us from acting. It is helpful if potential new clients identify to us any such organisations for whom they believe we will be unable to act without a conflict of interest arising.

#### **13.2**

Sometimes, conflicts arise later because for example our clients acquire new companies or diversify into new areas of business. In such circumstances, we reserve the right to decline to act further, at least in relation to the area of conflict, for one of the clients in question, generally the client with the shorter relationship with us.

#### **13.3**

Because of obligations of confidentiality it is often not possible for us to identify the other client or the subject matter involved when we advise a client that we can no longer act for them.

## **14**

### **Client Care and Complaints**

#### **14.1**

We value our good relationships with our clients. However, we accept that from time to time difficulties and misunderstandings may arise. If you have any problems, you should feel free to discuss your concerns with the members of our professional staff dealing with your work.

#### **14.2**

However, if after such discussions you feel that the matter has not been adequately dealt with, you may invoke our complaints procedure. Our Complaints Handling Policy pamphlet is freely available upon request.

## **15**

### **Termination of Relationship**

#### **15.1**

You may terminate our relationship at any time by writing to us. If there is a good reason which prevents us from continuing to act for you, we may terminate the relationship ourselves by giving you reasonable notice.

#### **15.2**

In either case, if the relationship is terminated we will require you to pay our charges and expenses up to and including the date of termination.

## **16**

### **Force Majeure and Exclusion of Our Liability**

#### **16.1**

Your relationship is with Groom Wilkes & Wright who will have exclusive liability for the carrying out the Services and for any negligent act or omission by it in the course of providing those Services. You agree that no individual employee or agent of Groom Wilkes & Wright will have any personal liability for those Services. You also agree that an employee or agent of Groom Wilkes & Wright signing in his or her own name on any letter, email or other document in the course of providing Services does not imply he or she is assuming any personal liability separate to that of the Groom Wilkes & Wright. Except for acts of fraud you agree that any claim brought in respect of any matter on which we were instructed will be made against Groom Wilkes & Wright and not against any individual employee or agent of Groom Wilkes & Wright.

**16.2**

You agree that we shall have no liability nor shall we be deemed to be in breach of any duties or obligations owed to you if at any time we are prevented, delayed or hindered in complying with such duties and/or obligations by reason of any circumstances beyond our reasonable control.

**16.3**

Nothing in these Terms excludes or limits the liability of us for death or personal injury caused by our negligence, or for fraudulent misrepresentation.

**16.4**

We shall not be liable to you for any indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) or loss or damage (contractual, tortious, breach of statutory duty or otherwise) which arises out of or in connection with the contract (including loss of profit or other economic loss), or for any liability incurred by us to any other person for any economic loss, claim for damages or awards howsoever arising from the Services or otherwise.

**16.5**

We maintain professional insurance cover appropriate to a firm of our size and standing.

**17****Governing Law and Jurisdiction**

Our relationship, as set out herein, is governed by English law. By retaining this firm both we and you submit to the non-exclusive jurisdiction of the English courts in respect of any claims brought by us and to the exclusive jurisdiction of the English courts in respect of claims brought against us.

**18****The On-going Relationship**

Unless otherwise agreed and subject to the application of the current hourly rates, these Terms shall apply to any future instructions given by you to Groom Wilkes & Wright.