

## Standard Terms and Conditions of Business

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### 1 General

- 1.1 In these Terms of Business (“these Terms”), “we”, “us”, “our”, “TRIP” and “this company” are used as a reference to TR Intellectual Property Ltd, and “you”, “your”, “yourself”, “our client” are references to the person with whom we contract under these Terms.
- 1.2 These Terms shall apply to all matters in respect of which we accept instructions from you to perform professional services. By sending us instructions and/or by sending us further instructions and/or by allowing us to start work you shall be deemed to request that we perform services for you on the basis of these Terms. If we agree to perform any such services then there shall be a contract between us, and the contract will be governed by these Terms. We shall not, however, be obliged to accept any such instructions. Each matter in respect of which we perform services may at our option be treated as a separate contract between you and us.
- 1.3 Unless we are told to the contrary in writing, our client is the person, firm or company who first instructs us, who shall be liable for payment of our bills under clause 4 and who shall be bound in full by these Terms. Without limiting the foregoing, when we receive instructions from you as lawyer, attorney or agent, instructing us on behalf of your own client, you are our client and not the person for whom you act (hereinafter referred to as “your client”).
- 1.4 As our client, if you ask us to render invoices to a third party or arrange for a third party to settle our invoices (for example, your client), your status as our client does not change and you remain liable in full and these Terms apply to you in full.
- 1.5 Where we receive instructions from or on behalf of more than one person or entity to deal with a matter, each such person or entity for whom we act is our client and each is jointly and severally responsible for payment of the full amount of our fees, expenses and disbursements, regardless of the source of the instructions.
- 1.6 As our client, you should note that these Terms contain limitations on our liability to you and you should ensure that they meet your requirements. If for example you consider that our level of professional indemnity insurance is insufficient then we would be happy to discuss the matter with you. We would draw your attention in particular to clause 14 below which has potential implications for you and for your client, in the case when you are a lawyer, attorney or agent providing instructions on behalf of your client.
- 1.7 Some of our clients are companies who ask us to file Design or Trade Mark applications in the name of an individual who is a director of the company. Such individuals shall be personally liable (see clause 4 below) for our charges should you not meet them. You agree on their behalf that they are bound by these terms and acceptance by them of these Terms of business on your behalf

is also acceptance of these Terms on their own behalf.

- 1.8 When you instruct us from time to time, we may also issue one or more engagement letters that will specify the services we are to provide, and possibly including specific terms and conditions applying to that instruction. These Terms, together with any terms and conditions contained in any applicable engagement letter(s) shall constitute the entire agreement between us and contain all the terms and conditions that we have agreed with you in relation to our services.
- 1.9 These Terms supersede any previous terms of business that we have had with you. If there is any conflict between these Terms and those in any accompanying or future engagement letter or one still capable of applying to our relationship, the terms in such engagement letter(s) shall apply.
- 1.10 The services provided to you are provided by TRIP and the contract to provide such services is between you and TRIP and not with any individual, director, employee or agent of TRIP, including any affiliate of TRIP. Commencement of our providing services to you shall be deemed to be an acceptance of these Terms.

## 2 Instructions

- 2.1 Where you are an organisation, any person within your organisation may instruct us on your behalf, unless they clearly do not have the appropriate authority or you instruct us otherwise. We can rely on any information and instructions provided by such persons.
- 2.2 We shall have no responsibility for any failure to advise or comment on any matter that falls outside the limitations of our engagement or for advice in draft form or to update advice after it has been issued. Any advice given by us shall be based on your having supplied us with all relevant information which shall be true, accurate and not misleading to the best of your knowledge, information and belief (since we will only verify such information if requested to do so by you). Accordingly, we shall not be responsible for any loss or damage arising from reliance on information or for any inaccuracy or other defect in any document supplied by you or on your behalf.
- 2.3 Our advice is given to you for your sole benefit or for the benefit of your own client when you are instructing us on behalf of a third party. Our advice is given solely for the purpose of the instructions to which it relates. No other party may rely on or use such advice without our prior written permission.
- 2.4 For such period as we are instructed to carry out work, you give us express authority to complete and sign in your name, or on behalf of your client, such forms and other documents as are necessary or desirable to carry out your instructions. In agreeing to these Terms you agree to indemnify us in respect of all costs, claims, demands and expenses that may result from the exercise of that authority.
- 2.5 We rely on our clients to give us timely, comprehensible, complete and accurate information and instructions. We accept no liability in respect of instructions not received by us, or confirmed by us, in writing, or instructions which are late, incomprehensible, incomplete or inaccurate. We accept written instructions by post, fax or e-mail.
- 2.6 Patent and Trade Mark Offices often impose time limits, and failure to meet these limits can be fatal to the rights concerned. "Late" instructions are those which do not give us reasonable time to act within such official time limits. While we will endeavour to meet time limits when instructed to do so, we do not accept liability for any loss through failure to meet such time limits when

instructions are received and accepted by us late, and in any event less than five (5) working days before the deadline. We will endeavour to inform you of time limits and of actions or instructions that are required, but we do not undertake to give reminders, incur costs on your behalf, or take other action in the absence of instructions to do so. In this situation, rights may be lost irrevocably. Please remember that registration of Trade Marks and Design rights can take years and that there may be little activity for long periods followed by a situation that requires immediate action by you.

- 2.7 In the event of late instructions or late payments to us, urgency charges may be incurred which we shall pass on to you.
- 2.8 In the absence of specific instructions, we will assume we are instructed to take the minimum steps necessary to maintain rights pending. However, in the event that you become insolvent or enter liquidation or administration, or are in breach of any term of this Agreement and/or have not supplied advance payment on account if requested (clause 4.9 below), we reserve the right not to incur expense in taking such minimum steps.
- 2.9 It is important that you inform us promptly of any change in relation to: (a) any primary contact; (b) your name and contact details; (c) any change of ownership or the grant of licences of or under any Trade Mark or other relevant rights. Many such changes must be officially registered to be legally recognised. We accept no liability in respect any loss of rights as a consequence of your failure to inform us of such changes or to instruct us to record them in relevant official registers.
- 2.10 We will normally communicate with you by email, post or fax. Given that e-mails sent over the Internet may lack security and jeopardise confidentiality, we cannot accept responsibility for any disclosure to other parties as a result of the interception of such communications. Due to the very nature of the Internet, we cannot accept any liability for corruption in the information communicated to or from you or its non-receipt or late receipt by you or us of such communications. You should advise us as to what should not be sent over the Internet to you or on your behalf.
- 2.11 We advise you to carry out your own virus checks on any communications whether in the form of computer disk, e-mail, Internet or otherwise. We cannot accept responsibility (including in negligence) for any viruses or other malware (or their consequences) that may enter your system or data by these or any other means.

### 3 **Instructing Third Parties To Act**

- 3.1 During our work for you or your client we may need to instruct third parties (e.g. foreign lawyers, Trade Mark attorneys, draftspersons, translators, consultants) to perform the required work. You authorize us to instruct such third parties directly. However, you may be required to sign or procure the signature of a power of attorney or similar appointment to engage such third party, failing which, rights may be lost.
- 3.2 Such third parties are not part of TRIP. We select them with care, believing they can perform the work required. We will not be liable for any default or negligence by such third parties.

### 4 **Professional Fees**

- 4.1 Our charges are based on professional time spent, fixed service charges or a combination of both, although other factors may also be taken into account, including disbursements we are required to make on your or your client's behalf, or late or incomplete instructions. Other factors 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. Fixed service charges apply in relation to specific tasks (e.g. filing of a Trade Mark application). Our hourly rates are primarily based on the seniority and experience of the professional staff involved. Our charges are calculated at the rates that are current when the work is carried out.

- 4.2 We reserve the right to review and adjust our pricing structure periodically. A schedule of our fixed service charges is available on request.
- 4.3 As stated above in clause 2.8, we will take the minimum steps necessary to maintain rights pending. We are entitled to charge you accordingly. Pending Design and Trade Mark applications can give rise to events triggered by the relevant Patent office. In addition third parties contact us regarding any registered rights. We need to report these to you and we will make appropriate charges for such reports, including disbursements incurred. It may be necessary for third parties to take action without first notifying us (for example, translating into English official actions of local Trade Mark offices). It is important, therefore, if an application or a granted right is no longer of interest and further expense is not to be incurred in relation to it, that you instruct us accordingly. In the absence of such instructions, we reserve the right to charge for expenses so incurred.
- 4.4 In appointing us to act for you or your client, you are authorising us to incur such expenses and disbursements as we consider reasonably necessary to provide the service instructed. These expenses may include official Trade Mark fees, as well as those of third parties (see clause 3 above). They may also include such items as photocopying costs, courier charges, reasonable travel costs, meeting expenses, and telephone and fax charges. You will be responsible for reimbursement of such expenses.
- 4.5 Any estimates or quotations given by us will exclude VAT which will be charged to clients based within the European Union on our fees and on those expenses and disbursements that are liable for VAT.
- 4.6 You should appreciate that local representatives' charges and official fees are outside our control since they may be changed without notice and vary with exchange rate fluctuations. Any adverse fluctuations at all times remain your responsibility and you agree that we may recover the same from you at any time.
- 4.7 We may require you or your client to make payments on account, particularly in respect of large items. 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. You should allow sufficient time for such clearance. Any bank interest paid to TRIP in respect of money paid on account is the property of TRIP.
- 4.8 If requested, we will give estimates of future charges. We will do so in good faith, based on our knowledge at the time as an aid to assist you in budgeting your expenditure. Under no circumstances should such estimates be viewed as fixed price quotations or binding upon us, unless we agree with you to the contrary.
- 4.9 If, during the course of carrying out work, it becomes apparent to us that our charges are likely significantly to exceed our estimate, we will try to obtain your permission before exceeding our estimate. If you would like to set an upper limit on the charges that may be incurred without prior reference to you then please let us know.
- 4.10 We reserve the right to submit invoices to you on a regular basis (usually

monthly or at appropriate stages in the conduct of the matter).

- 4.11 Unless otherwise agreed, our invoices are payable on receipt. Where you are instructing us on behalf of your own client, you agree that you will pay us within such term even if your client does not pay your corresponding charges to them within the term.
- 4.12 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. We are entitled to charge interest at the Barclays Bank base rate plus 4% on any overdue account. 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 costs. You will be responsible for the consequences of the suspension of work, which may include the irrevocable loss of, or failure to obtain, rights. Interest shall accrue after as well as before judgement and shall be compounded quarterly.
- 4.13 On occasions special arrangements may be agreed on our charging where particular circumstances justify it. However, unless such arrangements include specific terms relating to reviews, we reserve the right to review such arrangements on a bi-annual basis from their start date.

## 5 Filing

- 5.1 Our files, both paper and electronic, remain our property at all times. If you would like to transfer your work to other professional advisors, we will copy such of the files relating to your work as you request (at your expense) and release the copy file(s) when all our charges have been paid. We reserve the right to charge reasonable expenses in closing files, as well as opening them.
- 5.2 It is our normal practice to destroy our correspondence files, draft documents and other papers after the work has been completed, but to retain a digital copy of them for such time as we judge reasonable or as required by UK law. If you subsequently require hard copies we will make them at your cost. Unless you tell us otherwise, we will assume that you are content with this arrangement. Original documents such as assignments, licences and grant certificates will not knowingly be destroyed.

## 6 Confidential Information

- 6.1 While acting for you, we are likely to receive information that relates to you or your client. We will keep such information confidential, except where disclosure is required by law or regulation, or in other exceptional circumstances, such as by our professional indemnity insurers or by our auditors or any other professional advisers appointed by us from time to time.
- 6.2 Only information known to those individuals having conduct of or working on matters to which these terms relate shall be taken into account in determining the scope of our responsibilities to you. We have no obligation to disclose to you information outside the scope of our engagement with you. We are under no obligation to disclose to you (or your client), or to use on behalf of you (or your client) any information in respect of which we owe a duty of confidentiality to a third party.

## 8 Searches

- 8.1 Any searches you request may be carried out by us, by Patent and Trade Mark offices or by independent specialist searching firms. Due to the inherently uncertain nature of searching, as well as 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. However, you

accept that failure to identify a particular document or item in a search does not itself justify a cause of action against TRIP.

## 9 Indemnity For Threat Of Infringement Proceedings

9.1 When we send any warning on behalf of you or your client to a third party, you agree, on your own behalf or on behalf of your client, as the case may be, to indemnify us against the risks of our being sued for making an unjustified threat of infringement proceedings. This provision allows us to maintain our objectivity in contentious matters, which may otherwise diminish if we were to become a party to any proceedings.

## 10 Termination Of Relationship

10.1 You may terminate our relationship at any time by writing to us. We may terminate our relationship with you where we have good reason to do so (including non- or late payment by you of our invoices or failing to provide payment in advance where so requested) by giving you reasonable notice in writing. 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 such termination by reference to the hourly rates applicable at the time of the work together with all further sums due to TRIP or to any third party incurred on your behalf prior to the date of termination. You agree that we may retain all your files and not supply you with copies of them until such time as all sums outstanding are settled in full.

## 11 Liability To Our Client Or To Your Client

11.1 We shall not be liable to you or your client for any failure or delay or for the consequences of any failure or delay in performance of your instructions if it is due to any event beyond our reasonable control including, without limitation, war, acts of God, industrial disputes, protests, fire, storm, explosion, national emergencies, acts of terrorism and failure of third party telecommunications and computer systems.

11.2 We shall not be liable to you or your client in any circumstances for any loss, damage, cost or expense arising from any dishonest, deliberate or reckless misstatement, concealment or other conduct on the part of any other person. We shall not be liable for loss of profits or savings or any indirect or consequential loss or damage suffered by you or your client arising from or in connection with our services.

11.3 The aggregate liability of TRIP, its officers, employees and agents in any circumstances whatsoever whether in contract, tort, statute or otherwise and howsoever caused (including negligence) for loss or damage arising from or in connection with our services shall be limited to the lesser of: a sum representing a proportion of loss or damage which would be attributed to us by a court allocating proportionate responsibility (having regard to any contribution to such loss or damage by any other person, whether or not there exists any impediment on your part or the part of your client in securing such contribution including without prejudice to the generality of the foregoing impediments as to limitation, lack of means or reliance on exclusion or limitation of liability or otherwise) in proceedings for contribution under the Civil Liability (Contribution) Act 1978; and the Limit of Liability (see clause 11.6 below).

11.4 The limit of our liability ("Limit of Liability") shall be the maximum level of professional liability insurance that we have in place to cover any claim made against us. The sum insured is currently GB£1M, subject to limitations. We review the sum insured periodically for perceived adequacy given the size and nature of our business. The sum insured is TRIP's sole responsibility and TRIP shall have no additional liability regarding its adequacy. A copy of our current certificate of insurance is available on request.

- 11.5 The Limit of Liability shall not apply to any liability on our part for death, personal injury or fraud, or where such limitation is prohibited by law. The provisions of this clause 11 shall continue to apply notwithstanding the termination of our engagement for any reason.
- 11.6 If you or your client consider that there may be circumstances in which you or your client could or might suffer loss or damage arising from or in connection with our services which is irrecoverable or exceeds the amount recoverable under these Terms, you or your client may wish to consider effecting your own insurance in respect of the same.
- 12 **Data Protection**
- 12.1 By instructing us you are consenting to our use as data processors of relevant personal data as appropriate in the course of our professional services, including any transfers of such data outside the European Union and sending to you and/or members of your organisation information about our services that may be of interest to you.
- 12.2 In the case of clients who are individuals you agree that we may process/disclose personal data in connection with (a) the carrying out of credit checks and the taking of credit references; (b) client identification procedures; (c) conflict of interest checks; and (d) the delivery of our services. You also agree that we may send you and/or members of your organisation information about our services that may be of interest to you. This may include seminar, hospitality events and legal updates. If at any time you or any member of your organisation does not wish to receive such information from us, please let us know.
- 13 **Third Party Rights**
- 13.1 For the purposes of the UK Contracts (Rights of Third Parties) Act 1999 it is confirmed that our services are only provided for our named clients and our terms of engagement are only enforceable by you or us and not by any third party.
- 14 **Governing Law And Jurisdiction**
- 14.1 You irrevocably agree that English law shall apply to the construction and interpretation of our relationship and that the English Courts shall have exclusive jurisdiction to resolve any disputes arising in relation to it.
- 14.2 The above terms will apply until varied or replaced with alternative terms agreed with you in writing. Please note that no change to the terms of our agreement will be valid unless agreed in writing by a director of TRIP.

