

AGILE IP LLP
Chartered & European Patent Attorneys

Terms & Conditions

1. Definitions

In these Terms and Conditions ("Terms"):

"we, us, our, the firm, Agile" means Agile IP LLP;

"you, your" means you the client, which is the person, firm, company or organisation to whom we have agreed to provide services;

"services" means the services we have agreed to provide you in relation to intellectual property rights and may comprise the preparation, filing, prosecution, asserting, challenging or defending intellectual property rights or advising on the same;

"intellectual property" means patents, trade marks, design rights, copyright and similar rights.

2. Point of Contact

Your current contact within Agile is your initial point of contact and you should direct any questions to him or her. However, if this person is unavailable please contact any of our Partners / Principals who will be happy to provide assistance. Our contact details are given in clause 19.

3. Your instructions & contact details

- 3.1 As an integral part of our business relationship, you must provide us with timely, complete and accurate information and instructions. The majority of our work follows deadlines or time limits set by various Intellectual Property Offices for dealing with procedural and substantive matters and failure to meet these deadlines or time limits may lead to any rights being lost irrevocably. We accept no liability if you do not provide timely, complete and accurate information and instructions for us to act within a deadline or time limit. We will normally advise you of deadlines or time limits, and of actions or instructions that are required. We may issue reminders but do not undertake to do so. If we receive late instructions, we may not be able to implement them in time to meet the relevant deadline or time limit. In the event of late instructions, or late payment to us, an urgency charge may be incurred which will be passed on to you.
- 3.2 We may accept oral instructions from you but you should confirm these in writing as soon as possible afterwards. We accept no liability for any misunderstandings or misinterpretations of oral instructions or for the absence of written confirmation thereof arising as a result of you not complying with this clause.
- 3.3 We will take instructions initially from the person signing these Terms at the address given on these Terms. If you are a partnership, LLP, limited company, corporation, government body, society, unincorporated association or trust, we will assume that we are entitled to take instructions from any partner, officer (e.g. director or secretary), executive, committee member, trustee, or a person appearing to be a senior employee, unless you inform us in writing that we may not do so. If we receive an email from any such person which copies-in another person, we shall assume that any reply we send to the email may copy in that other person unless we are told otherwise.
- 3.4 It is important that you inform us promptly of any change of name or address or other contact details, e.g. telephone, facsimile or email address, or of any change in persons from whom we may take instructions. It is also important that you inform us of any change in legal ownership of intellectual property rights as such changes usually have to be recorded at Intellectual Property Offices. We can accept no liability for any loss of rights in any case where you have failed to promptly inform us of such changes.
- 3.5 We may communicate with you by way of mailed letter, facsimile or, where you contact us by email or provide an email address, by email. Emails are marked as confidential. We can accept no liability for non-receipt or late receipt by you or problems caused by interception of email communications. If you have a preferred form of communication, please inform us promptly.
- 3.6 In the case of overseas clients, whether individuals or corporations, we reserve the right to request that you direct instructions through a professional representative such as a registered patent or trade mark attorney, or firm of lawyers, in your country.

4. Charges

- 4.1 All services and actions provided by us are chargeable, regardless of the outcome of the matter. We do not, however, charge for initial introductory telephone calls or meetings, or telephone calls of a general nature not involving substantive work, for example you asking us for an initial view on patentability of an invention or registrability of a trade mark or for the status of a pending matter.
- 4.2 It is our aim to avoid surprising clients with unexpected invoices. We endeavour to provide quotes for forthcoming actions as a matter of course. It is sometimes not possible to quote with precision our charges in advance, but we

will upon request provide an estimate which is a guide and not a binding figure. If the projected charges for an ongoing matter are likely to exceed an estimated figure, we will endeavour to contact you in advance of completing the matter.

- 4.3 Our charges will consist of one or more of (i) service charges for standard tasks, a schedule of which is available on request, (ii) time charges for substantive work (defined below) calculated using our hourly rate of £230 per hour for Partners / Principals and £180 per hour for other qualified staff, and (iii) disbursements which may include fees for travel, photocopying, postage, telephone calls, official fees paid on your behalf to Intellectual Property Offices or to a Court, and fees payable to external specialists, for example searchers, translators, renewals specialists, solicitors, barristers and overseas patent attorneys.
- 4.4 We reserve the right to review our service charges and hourly rates from time-to-time and adjust our charges.
- 4.5 Unless indicated otherwise, charge quotes given in letters, emails or telephone calls will be in pounds sterling and exclusive of UK Value Added Tax which will be added at the appropriate rate when invoiced.
- 4.6 If at any stage you are concerned about our charges, please speak to your initial contact or a Partner of Agile. This is without prejudice to your right to make a complaint using our Complaints Procedure (see below).
- 4.7 If you change your instructions after we have commenced work on your instructions and/or have instructed external specialists, we may still require you to pay our charges and to reimburse any costs, expenses, charges and losses incurred by us in instructing external specialists for the purposes of performing your instructions.
- 4.8 In the event that our relationship with you is terminated, we may ask for payment for photocopying and postage in respect of transferring copies of our files to you or your new representative.
- 4.9 We may require you to make payment on account in advance of us performing work for you. When we make such a request, we will not usually carry out any instructed work before the requested amount has cleared into our bank account. You should allow sufficient time for this. For example, such advance payments will be required to cover disbursements such as official fees and fees payable to external specialists.

5. Invoices

- 5.1 We shall send you an invoice for our charges, generally on completion of each stage of the matter. However, we reserve the right to send you interim bills on a monthly basis and/or at the end of the financial year to cover work in progress.
- 5.2 Where any taxable supply for VAT purposes is made under these Terms by us to you, you shall, on receipt of a valid VAT invoice from us, pay to us such additional amounts in respect of VAT as are chargeable on the supply of services at the same time as payment is due for the supply of the services.
- 5.3 You must pay our invoices within 30 days of the date of the invoice, unless otherwise agreed in writing. Any advance payment will be deducted from later invoices. If a requested payment is not forthcoming, and reasons for the delay are not unacceptable, we reserve the right to stop all work on your cases irrespective of any approaching deadline. This may lead to rights being lost if deadlines are missed for which we are not liable. We shall not release any files to you until all undisputed invoices have been paid. We may also contact external specialists to instruct them to stop all work and not to incur any further costs until payment issues have been resolved.
- 5.4 We reserve the right to charge interest on any overdue amount at the rate of 5% per annum above the Bank of England base rate and to charge an administration fee of £40 on each overdue invoice (which represents a genuine pre-estimate of the cost to us of contacting you to pursue payment from you). This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount. We also reserve the right to seek recovery of overdue invoices through legal action at the County Court.
- 5.5 If you are an individual consumer, if you dispute an invoice in good faith and contact us to let us know promptly after you have received an invoice that you dispute it, our right to charge interest will not apply for the period of the dispute.

6. Your Personal Guarantee

In the case of limited companies or limited liability partnerships, we may seek payment from any shareholder or member (or a duly authorised nominee) holding 25% or more of the shares in the company or, in the case of a limited liability partnership, a membership interest of 25% or more, if the client company or limited liability partnership fails to make any payment due to us. In agreeing to these Terms and in consideration of the provision of services to the limited company or limited liability partnership for the benefit of its members, you the undersigned are confirming that you hold 25% or more of the shares or interest of the company or partnership and are providing a personal guarantee to make full settlement of any overdue amount owed including interest and costs incurred. Any shareholder or member signing these Terms is jointly and individually liable with the client limited company or limited liability partnership, as the case may be, for the obligations and liabilities thereof.

7. Substantive Work

Substantive work may include, for example, drafting patent specifications, preparing and filing patent, design and trade mark applications, reviewing and preparing other documents relating to intellectual property, preparing letters, email and telephone correspondence and attending meetings. It may also include providing opinions concerning

patentability, licensing services and third party infringement and litigation services. Generally, substantive work is charged on the basis of an hourly rate.

8. External Specialists

It may be necessary for us to instruct external specialists to provide expertise we cannot provide directly. The most common example is the instruction of overseas intellectual property law firms to represent you in front of their national Intellectual Property Offices. It may also include, without limitation, patent and trade mark searchers, translators, technical draftsmen, solicitors and barristers. We have experience with working with solicitors and barristers in intellectual property litigation. In such cases, we always take the lead to ensure that we control costs and to make sure that work is not overlapping work already conducted. Where we instruct an external specialist on your behalf we do so in good faith.

9. Searches

Searches that you request may be carried out by us or by an external searching company. Due to the inherently uncertain nature of searching, including the limitations and occasional errors in database classifications, no search can be guaranteed for comprehensiveness or accuracy. Further you should understand that most Intellectual Property Offices do not publish pending applications for a certain period after filing and, hence, not all pending applications will show up in a search. For this reason, follow-up searches are sometimes advised. We can accept no liability for failure to identify a particular document or item in a search.

10. Quality of Service and Complaints

We are committed to providing our clients with a high quality of service. Our Chartered Patent Attorneys are regulated by the Intellectual Property Regulation Board (IPREG) and European Patent Attorneys by the European Patents Institute. If you have any queries, concerns or complaints regarding any aspect of the work or charges then please feel free to raise them with your main contact in the first instance or any Partner of Agile. A copy of our internal complaints procedure is available upon request which outlines the process by which formal complaints will be handled. Whilst we ask that you initially attempt to resolve your complaint with us internally, you also have the option of referring a complaint to the Legal Services Ombudsman the contact details of which are available on request and are given in our internal complaints procedure document.

11. Indemnity for threat of Infringement Proceedings

When you instruct us to 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 risk of us being sued for making an unjustified threat of infringement. The purpose of this is to maintain our objectivity in contentious matters which would not be the case if we were to become a party to the proceedings.

12. Termination

You may terminate our relationship under these Terms at any time by written notice. We will be entitled to hold on to any of your documents while invoices made to you are unpaid. We may terminate our relationship with you where we have good reason and we must give you reasonable notice. Reasons for us doing so include (i) your failure to provide us with proper instructions, (ii) your failure to give us the co-operation which we are reasonably entitled to expect, (iii) if you fail to pay our invoices in the required period or adhere to a subsequent payment plan agreed with us in writing or to provide payment in advance of work if requested by us, (iv) abusive behaviour to any member or staff of the firm, or (v) if our continuing to act would be impractical, unethical or unlawful. In the event of termination, you will be invoiced for our charges and expenses up to the time we stop acting.

13. Liability

13.1 Nothing in these Terms limit or exclude our liability for: death or personal injury caused by our negligence; fraud or fraudulent misrepresentation; or any breach of the Terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

13.2 Subject to the above: (i) we will under no circumstances whatever be liable to you whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this agreement for: loss of profits; or loss of sales, business or revenue; or loss of or corruption of data, information or software; or loss of business opportunity; or loss of anticipated savings; or depletion of goodwill and/or similar losses; or loss of contract; or any special, indirect, consequential loss or pure economic loss, costs, damages, charges or expenses; and (ii) our total liability to you in respect of all other losses arising under or in connection with this agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £5,000,000.

13.3 Except as set out in these Terms, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the agreement.

13.4 This clause shall survive termination of the agreement.

13.5 Subject to the other provisions of these Terms, "we" means Agile IP LLP, which will be solely responsible for the performance of professional obligations in respect of work done for you. Where Agile IP LLP is responsible for providing professional services to you then, to the fullest extent permitted by law, no individual who is a member or employee of, or consultant to, Agile IP LLP accepts or assumes responsibility to you or to any third party for advice or other professional services provided to you, whether or not that individual was described as a "partner, principal or member". You agree, to the extent that such agreement is enforceable in law, that you will not bring any claim in connection with any advice or other professional services provided to you by Agile IP LLP, whether on the basis of contract, tort (including negligence), breach of statutory duty, breach of fiduciary duty or otherwise, against any partner, principal, member or employee of, or consultant to, Agile IP LLP but this does not limit or exclude the liability of Agile IP LLP itself for the acts or omissions of its members, employees or consultants.

14. Files and Archiving

14.1 Our files, both paper and electronic, remain our property at all times. If you would like to transfer your work to another professional adviser or firm, we will copy such of the files relating to your work as you request (at your expense) and release the copies when our invoices have been paid.

14.2 It is our policy to retain files for a limited period only. For patents, trade marks and registered designs we will store files for six years following their expiry or abandonment, after which time the files will be destroyed unless we are requested by you to return them to you. Where possible and appropriate, we will endeavour to keep paper use to a minimum for environmental reasons. Consequently, it is our intention going forward to rely more, though certainly not exclusively, on email and other digital transfer of information unless you request otherwise in writing. Further, we will always seek to use recyclable materials where appropriate.

15. Future Instructions

Unless we both agree otherwise, these Terms will apply to any future instructions. Your continuing instructions will amount to your continuing acceptance of these Terms.

16. Timescales

Subject to the other provisions of these Terms, we shall use all reasonable endeavours to meet any performance dates specified by you in writing, but, except in the case of deadlines to meet statutory application or court deadlines, any such dates will be estimates only and time shall not be of the essence for performance of these services.

17. Intellectual Property Insurance

Intellectual Property Insurance is available and can provide a powerful deterrent to competitors. We do not offer any form of insurance service but can provide details of an insurance intermediary upon request.

18. Events Outside Our Control

We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this agreement that is caused by an Event Outside Our Control. An Event Outside Our Control means any act or event beyond our reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation of war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster or failure of public or private telecommunications networks [or impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.

19. Information about us and how to Contact us

We are a limited liability partnership (LLP) registered in England and Wales. Our company registration number is OC334850 and our registered office is at Airport House, Purley Way, Croydon, Surrey CR0 0XZ.

If you have any questions or if you have any complaints, please contact us. You can contact us by telephoning us at 020 8915 1010 or by emailing us at mail@agile-ip.co.uk.

If you wish to contact us in writing, or if any clause in these Terms requires you to give us notice in writing (for example, to cancel the agreement), you can send this to us by email, by hand or by pre-paid post to Agile LLP at Airport House, Purley Way, Croydon, Surrey CR0 0XZ. We will confirm receipt of this by contacting you in writing. If we have to contact you or give you notice in writing, we will do so by email, by hand, or by pre-paid post to the address you provide to us.

20. How we may use Your Personal Data

We will use the personal information you provide to us to: provide the services; process your payment for such services; inform you about similar products or services that we provide, but you may stop receiving these at any time by contacting us.

21. Severance

Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

22. No Waiver

If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

23. Third Parties

A person who is not a party to the agreement shall not have any rights under or in connection with it.

24. Variation

Except as set out in these Terms, any variation, including the introduction of any additional terms and conditions, to the agreement, shall only be binding when agreed in writing and signed by us. We may vary these Terms from time to time and will give you written notice of any change before it takes effect.

25. Governing law and Jurisdiction

These Terms are governed by English law. This means that an agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), will be governed by English law.

I have read the above and agree to the Terms & Conditions therein.

Client Legal Name _____

Registered Address _____

Signature _____

If signing on behalf of a partnership, limited company, or LLP, please indicate your position below. In signing these Terms, you confirm that you are authorised to sign on behalf of the organisation and that you hold a share or membership interest of 25% or more.

Position _____

Date _____

Address for Correspondence (if different from above):

Email _____

Telephone _____