

## General Terms and Conditions of Provision of Services by Mainstay IP B.V.

### Article 1. General

1.1 These General Terms and Conditions of Provision of Services shall apply to all contracts entered into by Mainstay IP in the context of execution of work for any third party ("Client"), and to all legal relations between Mainstay IP and the Client deriving from this.

1.2 Mainstay IP shall be understood to mean, as the occasion arises, the attorney or any employee or employees of the attorney.

1.3 Not only Mainstay IP, but also those who are involved in the performance of any assignment of the Client can invoke these General Terms and Conditions. The same applies to former partners and employees including their respective heirs, if they are held liable after they have terminated their practice with Mainstay IP.

1.4 The Code of Conduct for Patent Attorneys forms a part of these General Terms and Conditions.

1.5 Any terms and conditions or stipulations, of any nature whatsoever, applied by the Client, shall only be applicable if this is agreed explicitly in writing.

1.6 In case of deviation from these General Terms and Conditions, such deviations shall be agreed in writing. Provision of these General Terms and Conditions from which no deviation has been made shall be in full force.

### Article 2. The agreement

2.1 Agreements between the Client and Mainstay IP are concluded once the Client indicates, or procures indication, either in writing or verbally, that he wishes to use the services of Mainstay IP and Mainstay IP accepts the assignment concerned.

2.2 All agreements and/or acts that are entered into or performed as a consequence of, in relation to or further to the above shall be deemed a performance of the agreement.

2.3 All orders shall be deemed to be given to and only accepted by Mainstay IP. Applicability of Articles 7:404 and 7:407 paragraph 2 Dutch Civil Code is excluded.

### Article 3. Performance and liability

3.1 Mainstay IP warrants that it will perform the agreed work to the best of its ability and with due observance of the rules of conduct that normally apply in professional practice.

3.2 In carrying out the assignment that has been awarded Mainstay IP is entitled to engage the services of third parties. In the selection of such experts Mainstay IP observes due care and attention.

3.3 The Client acknowledges that any work performed by Mainstay IP is consultative in nature. In connection with said nature of the work performed by Mainstay IP and the subjective aspects of evaluation which always play a role in this respect, Mainstay IP excludes any liability for loss or damage arising as a consequence of, or in connection with,

the work. Mainstay IP shall only be liable if the loss or damage concerned is caused by wilful conduct or gross negligence on the part of Mainstay IP. In that case, liability shall be limited to the amount paid out under the professional liability insurance taken out by Mainstay IP including the deductible which Mainstay IP carries with the insurance.

3.4 If, by or in connection with the performance of an assignment of a Client or otherwise, damage is caused to persons or property, for which Mainstay IP is liable, then the liability will be limited to the amount or amounts, to which the third party indemnity insurance taken out by Mainstay IP provides coverage including the deductible which Mainstay IP carries with the insurance.

3.5 It is possible that persons engaged in connection with the performance of an assignment of the Client may wish to limit their liability in connection therewith. Mainstay IP proceeds from the assumption and stipulates thereby that all assignments given to it by the Client include the authority to accept such a limitation of liability also on behalf of the Client.

3.6 In all cases in which Mainstay IP is dependent on the cooperation of third parties, or engages the services of third parties, such as (but not limited to) foreign intellectual property firms, any liability of Mainstay IP for loss or damage resulting from or relating to any acts or omissions of such third party is excluded.

3.7 Mainstay IP shall not accept any liability whatsoever for any loss, damage and/or costs which the Client and third parties incur as the direct or indirect result of any inaccuracy or deficiency of the sources which Mainstay IP has consulted.

3.8 The burden of proof with regard to any alleged liability of Mainstay IP shall rest with the Client, who accepts such burden of proof.

### Article 4. Client information

4.1 Mainstay IP will treat all information that is provided by a Client in strict confidence. This undertaking shall, nevertheless, not relate to information provided by a Client (a) which is or has become generally known other than as a result of any acts or omissions on the part of Mainstay IP, (b) which was already known to Mainstay IP before the time at which it received the information concerned from the Client, or (c) which it received from a third party entitled to provide the information concerned.

4.2 Mainstay IP will oblige others who are engaged in the performance of the work to observe the same confidentiality in respect of information as it is obliged to observe itself. Mainstay IP nevertheless accepts no liability for any breach of the obligations referred to in this article if it can demonstrate that it was not reasonably able to prevent such a breach.

4.3 Mainstay IP does not guarantee the accuracy or completeness of any data with which it is furnished by the client and does not accept any liability whatsoever in this respect. Mainstay IP shall be entitled to dissolve the agreement in the event that the client provides inaccurate and/or incomplete data, even when this is done in good faith.

4.4 In performing its work, Mainstay IP also communicates by electronic means. It cannot be wholly be excluded that errors may occur in this mode of communication, or that the content of communications passed this way may become known to third parties. Mainstay IP shall not be liable for any loss resulting from this mode of communication. The Client may request Mainstay IP not to communicate with it in this way.

4.5 The client is bound promptly to notify Mainstay IP, clearly in writing, of any changes in its address and other details impinging on its accessibility. If Mainstay IP is unable to contact the Client because the Client has not given Mainstay IP this information as described, Mainstay IP may unilaterally terminate the order.

#### **Article 5. Fees and payment**

5.1 Mainstay IP's fee shall be based on Mainstay IP's standard tariffs, and is not dependent on the outcome of the assignment. In addition to its fee, Mainstay IP shall charge the Client the expenses which are not included in the Mainstay IP tariffs. Such expenses shall include, but are not limited to, those of third parties involved, or to be involved, by Mainstay IP, traveling expenses, courier costs, and costs of long international telephone conversations.

5.2 Cost estimates given by Mainstay IP are purely for information purposes and are exclusive of BTW (Dutch VAT).

5.3 Mainstay IP will charge the Client for the work conducted and to be conducted and will charge the Client any costs incurred and to be incurred on the basis of bills, including advance bills, interim and/or final invoices.

5.4 All bills shall be paid to Mainstay IP, without discount or set-off, as soon as possible, and in any event no later than 30 days after the date of sending.

5.5 Each bill from Mainstay IP shall be deemed a separate claim of Mainstay IP against the Client. Non-payment of any bill on the due date shall also result in all other current claims against the client becoming immediately due and payable.

5.6 If any bill is not paid within the period indicated in Article 5.4 above, the Client shall be ipso jure in default without any further notice or warning being required. The client shall then be liable to pay interest for delayed payment to Mainstay IP on the outstanding debt(s) at the rate of 1.5% per month, with any part of a month being considered a full month. In the event of collection, judicial or otherwise, the client shall be liable to pay all extrajudicial and/or judicial costs, with a minimum of 15% of the due amount including interest, in addition to payment of the principal and interest.

5.7 If the Client is in default, Mainstay IP may cease its work on behalf of such Client with immediate effect without this resulting in any liability whatsoever for loss or damage vis-à-vis the Client. In that case Mainstay IP may exercise a right of retention on all objects which it actually holds or has received from the Client in respect of the work, with it being understood that such shall in all cases mean the complete files including all recommendations, reports, overviews and suchlike which Mainstay IP has drawn up or has had drawn up, irrespective of the information carriers on which all such is stored, until the Client has fulfilled its payment obligations in respect of Mainstay IP.

5.8 The Client should take due note of the fact that non-commencement or cessation of work by Mainstay IP in

accordance with Article 5.7 can or will result in the lapse of intellectual or industrial property rights for which the Client is solely responsible and liable.

5.9 Complaints regarding any failure on the part of Mainstay IP to perform work should be received in writing by Mainstay IP within 30 days after the Client might reasonably have discovered the failure or failures. Complaints regarding any bill should be received in writing by Mainstay IP within 30 days after the date on which the bill was sent.

#### **Article 6. Force majeure**

6.1 In the event of force majeure, Mainstay IP may, without judicial intervention, either suspend the performance of the agreement as long as the circumstance resulting in force majeure continues, or terminate the agreement wholly or in part, without being liable in any respect vis-à-vis the Client in either of such cases. For the present purpose, force majeure shall mean any failure of performance not attributable to fault by, or for the account of, Mainstay IP, including, but not limited to, any unexpected or uncontrollable event such as natural disasters, strikes, performance failures of parties outside the control of Mainstay IP, and the death or sickness of employees of Mainstay IP or third parties engaged by Mainstay IP.

6.2 Mainstay IP retains a right to demand payment for the work carried out in the performance of the agreement concerned before the circumstance resulting in force majeure became manifest.

#### **Article 7. Termination of the agreement**

7.1 If the Client fails to perform, fails to perform properly or fails to perform in good time any obligation arising for him under the agreement concluded with Mainstay IP, as well as in case of bankruptcy, suspension of payments, the closing down or winding up of his business, such Client shall be deemed to be ipso jure in default and Mainstay IP shall be entitled, without notice of default or judicial intervention being required, to terminate any agreement or agreements existing between Mainstay IP and the Client, in so far as the same has or have not already been performed, and to demand payment from the Client for any work already carried out and any costs, loss, damage and interest incurred which have been caused by the Client's default.

7.2 Mainstay IP may also terminate the contract if it considers that there has been a breach of trust with the Client, or that there is a conflict of interests with an order from another Client.

7.3 The Client shall be entitled to terminate its contract with Mainstay IP at any time. Termination shall not take effect before receipt by Mainstay IP of written notice from the Client. The Client is bound to pay the fee for work already done, and expenses already incurred, at the time of termination.

#### **Article 8. Applicable law**

8.1 The whole legal relationship between the Client and Mainstay IP shall be exclusively governed by and construed in accordance with the laws of the Netherlands. Only the competent court in the district of The Hague will have jurisdiction over any dispute which may arise between the Client and Mainstay IP.