

General Terms and Conditions Algemeen Octrooi- en Merkenbureau B.V.

Algemeen Octrooi- en Merkenbureau B.V. (hereinafter: 'AOMB') uses the following General Terms and Conditions when issuing quotations and carrying out assignments. These General Terms and Conditions are available at <https://www.aomb.nl/en/terms>.

AOMB is based in Eindhoven, the Netherlands, and is registered in the commercial register of the Chamber of Commerce under no. 17074382. AOMB is a trade name of Algemeen Octrooi- en Merkenbureau B.V. AOMB's aim is to practise patent, trademark and design law, all in the broadest sense.

Article 1 General information

1. Applicability

These General Terms and Conditions (hereinafter: 'General Terms and Conditions') shall apply to all legal relationships between, on the one hand, AOMB and, on the other, any client that commissions AOMB to perform work. The General Terms and Conditions shall also apply to work performed by legal entities affiliated with AOMB and by (their) (former) employees, directors and shareholders.

2. Client

All assignments are considered to be given exclusively to AOMB. This shall also apply in cases where the intention is for an assignment to be carried out by a specific person. The scope of Book 7, Section 404 of the Dutch Civil Code (Burgerlijk Wetboek), which provides for the latter case, and the scope of Book 7, Section 407, subsection 2 of the Dutch Civil Code, which establishes joint and several liability for the cases in which an assignment is given to two or more persons, are excluded.

Article 2 The agreement

1. Conclusion of the agreement

All quotations and offers given by AOMB are subject to contract and shall be deemed to be an invitation to give an assignment, unless agreed otherwise in writing. Agreements between a client and AOMB are concluded once the client indicates, or procures indication, either in writing or verbally, that he wishes to use the services of AOMB and AOMB accepts the assignment concerned, taking into account the provisions of Article 7, paragraph 3 and Article 8, paragraph 3.

2. Acts in relation to performance and agreements

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

3. Validity of assignment and termination

An assignment, once given, shall be deemed to be valid until the work in respect of which the assignment was given is completed. The client is entitled to terminate the assignment early. Notice of such termination must be given in writing. AOMB is also entitled to terminate the assignment early. AOMB shall in any event terminate the assignment in cases where AOMB deems that there is a breach of trust with the client and in cases where a significant conflict of interest exists or could arise during the performance of an assignment by AOMB.

Article 3 Client information

1. Confidential treatment of client information

AOMB will treat all information that is provided by a client in strict confidence. This undertaking shall, nevertheless, not relate to information provided by the client (a) which is or has become generally known other than as a result of any acts or omissions on the part of AOMB, (b) which was already known to AOMB 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.

2. Personal data

AOMB processes personal data in accordance with

the General Data Protection Regulation (GDPR). The Client's personal data are processed exclusively for the purposes of performing the agreement, maintaining the client relationship, and complying with applicable legal obligations. With regard to the personal data provided by the Client in connection with the services rendered, the Client grants AOMB permission to process such personal data insofar as necessary for the performance of the assignment and for the provision of information relating to intellectual property. AOMB implements appropriate technical and organisational measures to protect the Client's personal data against loss, unauthorised access, or unlawful processing. Further information on the processing of personal data is available in AOMB's Privacy Statement, which can be consulted on our website.

3. Information provided to third parties

AOMB 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. AOMB 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. Within the scope of the assignment, AOMB shall be entitled, in so far as necessary, to pass on personal data provided by the client to third parties.

4. Data security and storage of information

AOMB endeavours to protect the data provided by the Client against unauthorised access, loss, misuse or alteration. AOMB applies appropriate security measures, including encryption and secure connections, in order to safeguard the security of the data. AOMB makes use of a data centre. This data centre ensures the security of data by implementing appropriate technical and organisational security measures. AOMB has concluded a data processing agreement with this data centre as referred to in the General Data Protection Regulation (GDPR). In the event of a personal data breach that may have adverse consequences for the Client, AOMB shall notify the Client without undue delay, in accordance with applicable laws and regulations.

Article 4 Performance of the assignment

1. Performance of the work

AOMB shall exercise due care in the performance of the assignment, with due observance of the rules of conduct that normally apply in professional practice, including those of the Netherlands and European Institute of Patent Attorneys and of the Benelux Association of Trademark and Design Law. AOMB does not guarantee the achievement of the intended result. AOMB may reasonably perform more or other work than that for which the assignment was given if it deems that to be appropriate for the proper performance of the assignment.

2. Data provided by the client

The client is responsible for providing documents and data relating to the assignment in good time, and for giving instructions in good time, in other words these must be received by AOMB no later than two weeks before the stated deadline. AOMB 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.

3. Use of Tools and (AI) Systems

In the performance of the assignment, AOMB makes use of various tools and systems, including digital, automated and technological applications. Such tools and systems may include systems that make use of artificial intelligence (AI). AOMB operates in accordance with the so-called human-in-the-loop principle: the outputs generated by such systems are always assessed, reviewed and, where necessary, adjusted by an employee of AOMB or by a third party engaged by AOMB. Notwithstanding the use of such tools and systems, AOMB remains fully responsible for the performance of the assignment and for all advice, documents and other communications provided to the Client, all within the scope of the agreed obligation of best efforts.

Article 5 Liability

1. Exclusion/limitation of liability

The client acknowledges that any work performed by AOMB is consultative in nature. AOMB exercises due care in the performance of the work to be carried out in connection with the assignment given by the client. AOMB does not guarantee the achievement of the intended result. Accordingly, all agreements between the client and AOMB relate exclusively to an obligation on the part of AOMB to perform to the best of its ability. AOMB shall only be liable in the event that there is a fundamental breach of contract on the part of AOMB.

2. Limitation of liability in terms of amount

Should, despite the above, it be found that AOMB may be held liable vis-à-vis the client for loss or damage arising as a consequence of, or in connection with, the work, the total cumulative liability of AOMB, for whatever reason, shall be limited as follows in connection with one or more related assignments:

a) If AOMB is covered for this loss or damage under an insurance policy, in total no more than the amount that AOMB's insurer pays out in a particular case plus AOMB's excess under this insurance policy;

b) If AOMB does not receive a payment under an insurance policy for this loss or damage, AOMB is only liable in the event of a substantive error and the liability is in each case limited to the amount charged by AOMB for the relevant assignment in the relevant year, with a maximum of €100,000.00.

3. All claims of the client

All claims of the client shall lapse if, after discovery of the loss or damage, this was not promptly reported to AOMB in writing at the time when it should reasonably have been discovered by the client and in any event as soon as one year has passed since the event from which the loss or damage has arisen and for which AOMB would be liable.

4. Engagement of external expertise

AOMB may, for the performance of an assignment, engage the services of third parties. AOMB shall exercise due care and attention in selecting these third parties. AOMB excludes any liability for loss or damage caused by work performed by or under the responsibility of said third party.

5. Exclusion of liability in respect of information

AOMB excludes any liability for any inaccuracy and/or incompleteness of literature sources which AOMB has consulted and the registers it has consulted, as

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well as for inaccuracies and/or incompleteness in the information provided by the client.

6. Instructions received

Liability is excluded in case instructions are received within a period of two working days (according to Dutch law) before the ultimate expiration date.

7. Exclusion of Liability of Natural Persons

Any claim of the client to compensation, for whatever reason, vis-à-vis natural persons, employees and/or directors employed by AOMB and/or companies with which it has concluded agreements in connection with business operations, is excluded.

8. No conflict of interest

Where an assignment from a client consists of no more than the translation, certification and/or validation of a granted European patent, this assignment does not constitute a conflicting interest for AOMB that would prevent AOMB from acting against the client on behalf of another client.

9. Wilful Misconduct or Gross Negligence

The limitations of liability included in this article shall not apply if the loss or damage is due to wilful misconduct or gross negligence on the part of AOMB or its managing employee.

Article 6 Fee

1. Rates

The remuneration for work conducted by AOMB is not dependent on the outcome of the assignment and shall be payable according to the following rates:

a) government rates for costs of filing and intervention with regard to patent applications, registrations and other entries in patent, trademark and design registers and any remuneration payable to external service providers (including foreign agents/draughtsmen/translators, etc.);

b) number of hours spent multiplied by the applicable hourly rates;

c) office expenses and travel and accommodation expenses.

2. Indicative nature of cost estimates

Cost estimates given by AOMB to the client are purely for information purposes and are exclusive of BTW (Dutch VAT). AOMB may adjust the agreed fee in the event of any change in government rates after the conclusion of the agreement, but prior to performance of the assignment.

3. Fixed Fee and Additional Work

Where the parties have agreed in writing on a fixed fee, such fixed fee shall relate exclusively to the services expressly described in the quotation or order confirmation. Services falling outside the scope thereof shall be regarded as additional work. Additional work shall be invoiced separately by AOMB at its standard rates. Any inaccuracies or omissions in the information provided by the Client may give rise to additional work and/or an adjustment of the agreed fixed fee.

4. Interim termination of the agreement

Upon interim termination of the agreement, the Client shall remain liable for payment of all services performed, costs incurred and capacity reserved up to the date of termination.

Article 7 Payment

1. Advance bills, interim bills and final bills

AOMB will charge the client for the work conducted and to be conducted on the basis of itemized bills. AOMB is entitled to send advance bills and interim bills. Advance bills will be set off against interim bills or final bills.

2. Periods for payment and repayment

Any excess payments will be returned to the client after completion of the work. Bills shall be paid to AOMB as soon as possible, and in any event no later than 30 days after the date of sending, without the client being able to claim a suspension, discount or deduction. AOMB may also set a shorter period in the case of advance bills.

3. Commencement of work after payment of advance bill

If AOMB has sent an advance bill, AOMB shall be un-

der no obligation until the advance bill has been settled. Accordingly, AOMB will not commence its work until the advance bill has been settled.

4. Separate claim

Each bill from AOMB shall be deemed a separate claim of AOMB against the client.

5. Liable for payment

In the event that the assignment was given by more than one (legal) entity, each of them is jointly and severally liable for payment of the bill. If, at the client's request, the bill is to be sent to another (legal) entity than the holder of the IP right (intellectual property right), AOMB has a right of recourse against both the (legal) entity in whose name the bill is made out and the holder of the IP right. AOMB may require payment from both, and both shall also be subject to the provisions of paragraphs 1 to 4 of this article.

Article 8 Consequences of late payment

1. Client in default in the event of late payment

If any bill is not paid within the period indicated in Article 7 above, the client and/or receiver of the bill (hereinafter: the client) shall be ipso jure in default without any further notice or warning being required.

2. Interest for delayed payment and (extra)judicial costs

The client shall then be liable to pay interest for delayed payment to AOMB 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.

3. Cessation of work

If a client is in default, AOMB may cease its work on behalf of such client with immediate effect or by giving reasonable notice, without this resulting in any liability whatsoever for loss or damage vis-à-vis the client.

4. Right of retention

If a client fails to settle any bill in good time, AOMB may in any event 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 include: the complete files including all recommendations, reports, overviews and suchlike which AOMB has drawn up or has had drawn up in connection with the work, irrespective of the information carriers on which all such is stored.

5. Lapse of intellectual property rights

The client should take due note of the fact that non-commencement or cessation of work by AOMB in accordance with Article 7 paragraph 3, or Article 8 paragraph 3 can or will result in the lapse of intellectual property rights.

6. Payment without discount or setoff

Any bill sent by AOMB shall always be paid without any discount or setoff. Disputes of whatever nature shall never give a client the right to refuse to make or suspend payment of any bill unless a complaint has been received in good time by AOMB.

Article 9 Complaints

Complaints regarding any failure on the part of AOMB to perform work should, subject to forfeiture of the right to do so, be received in writing by AOMB within a reasonable period, in other words within 30 days after the client has discovered or might reasonably have discovered the failure or failures. Complaints regarding any bill should be received in writing by AOMB within 10 days after the date on which the bill was sent.

Article 10 Due care and force majeure

1. Due care

In performing its work, AOMB will exercise due care such as may be expected of a good contractor. In the event of the absence of sufficient data as a result of negligence on the part of the client, or the provision of incorrect data by the client, or the lack of sufficient

co-operation on the part of the client, AOMB shall not be liable for any loss or damage arising therefrom.

2. Consequence

In the event of force majeure within the meaning of Book 6, Section 75 of the Dutch Civil Code, AOMB 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.

3. Entitlement to payment

AOMB 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 11 Termination of the agreement

1. Default

If a 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 AOMB, 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 AOMB shall be entitled, without notice of default or judicial intervention being required, to terminate any agreement or agreements existing between AOMB 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.

2. Data provided by the client

The provision of incorrect and/or incomplete data by the client, even if this is done in good faith, shall entitle AOMB to terminate the agreement.

Article 12

These General Terms and Conditions shall also apply to any additional or subsequent assignments from the client.

Article 13 Applicable law

All agreements concluded between AOMB and a client and/or acts performed shall be solely governed by and construed in accordance with the laws of the Netherlands. The client acknowledges that the characteristic performance of the work to be conducted by AOMB shall take place in the Netherlands, even if such work is partly carried out elsewhere. The competent court in Oost-Brabant shall have sole jurisdiction in all disputes existing between AOMB and the client.