

**LIM CHONG CHUAN & ASSOCIATES  
LIM CHONG CHUAN & ASSOCIATES SDN BHD  
STANDARD TERMS OF BUSINESS**

**TO WHOM IT MAY CONCERN**

These Terms are designed to assist us in providing you with an efficient and effective service, which is the basis of a long term and on-going professional relationship. You are deemed to have accepted these Terms upon due notification.

**CONTENT**

1. Basis of client relationship
2. Scope of services and our obligations
3. Instructions
  - 3.1 Identity of our client
  - 3.2 New clients
  - 3.3 Timing and form of instructions
  - 3.4 Overriding instruction to let rights lapse
4. Instructions to third parties to act on behalf of client
5. Authority and indemnity
6. Fees, charges and expenses
  - 6.1 Government fees
  - 6.2 Professional charges
  - 6.3 Expenses
  - 6.4 Estimates
7. Payment
8. Filing
  - 8.1 Ownership of files
  - 8.2 Destruction of files
9. Confidentiality
10. Indemnity for threat of infringement proceedings
11. Mutual communication
  - 11.1 Updating information
  - 11.2 Electronic communication
12. Conflicts of interests
13. Complaints
14. Termination
15. Force majeure and exclusion of our liability
16. Governing law and jurisdiction

## **1. BASIS OF CLIENT RELATIONSHIP**

- 1.1** These Terms shall apply to all matters in respect of which you issue and we accept instructions to perform professional services (the 'Services').
- 1.2** By sending us instructions and/or sending further instructions and/or allowing us to start performing the Services, you shall be deemed to accept natural consequences and responsibilities of such instructions. Each matter in respect of which we perform the Services may at our option be treated as a contract between you and us.
- 1.3** Any change to these Terms must be agreed by both parties and confirmed in writing in order to be effective. Any decision not to enforce any of these Terms shall not prejudice our rights under these Terms at any time.
- 1.4** **In these Terms, "we", "our" and "us" refer to Lim Chong Chuan & Associates as well as Lim Chong Chuan & Associates Sdn Bhd. "You" refer to our client including your lawful representative being the person, firm, body or company who instructs us and purchases said Services.**

## **2. SCOPE OF SERVICES AND OUR OBLIGATIONS**

- 2.1** We offer search and registration services in Malaysia and outside Malaysia in connection with the following intellectual and industrial property (IP), including patents, trademarks, copyrights and industrial designs.
- 2.1.1 Inbound Services refer to Services provided in Malaysia.
- 2.1.2 Outbound Services refer to Services provided outside Malaysia.
- 2.2** Due to the limitations and occasional error 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 limitation when reporting search results and may recommend extending the search.
- 2.3** It is our responsibilities to:
- (a) practise competently, conscientiously and objectively, put your interests foremost while observing the law of the country and our duty to any court or tribunal;
  - (b) avoid conflicts of interest (Please refer to Clause 12).
- 2.4** The Services will not extend to issuing you with reminders for and processing the renewals of any of the registered rights. However, such services could be purchased from us by instructing us in writing.

## **3. INSTRUCTIONS**

### **3.1 IDENTITY OF OUR CLIENT**

- a) **You shall be deemed to be our client if you are the person (including an individual, firm, body or company) providing us with the initial instructions.** Whether in Malaysia or abroad, if we accept instructions from professionals like managers, directors, lawyers, patent attorneys or agents or accountants; these professionals will be deemed to be our clients.

**Clients are responsible for settlement of all our invoices and for reimbursement of all our legitimate costs and expenses incurred in carrying out your instructions.**

- b) If you wish us to render invoices to and accept payment from another entity, we shall be pleased to do so. However, responsibility to ensure prompt payment remains with you as our client and the responsibility must not be delegated.

### **3.2 NEW CLIENTS**

We welcome instructions from new clients. However, it is prudent international business practice to seek guarantee and assurance of business continuity, before accepting and performing any instructions.

### **3.3 TIMING AND FORM OF INSTRUCTIONS**

- a) **We rely on you to give us timely, complete and accurate information and instructions.** Misunderstandings can occur with oral instructions. Although we will normally act on oral instructions in an emergency, we would require all oral instructions to be confirmed in writing.
- b) IP offices often impose time limits and failure to meet these limits can be fatal to the rights concerned. We accept no liability if you do not provide prompt instructions that are clear, complete and early enough to allow us to act within the official time limits. We will endeavour to inform you of time limits and of actions or instructions that are required. Reminders are provided as part of our quality business practice, but such provisions do not imply that we are liable for consequence.
- c) **If we receive late instructions from you, we may not be able to implement the instructions in time. We shall not be liable for whatever loss and consequence that may arise. In the event of late instructions or late payments to us, urgency or penalty charges may be incurred and will be borne by you.**
- d) **In delivering instructions, you should advise and maintain a valid communication protocol with us. Where an alternative contact person is identified beforehand, you agree that we are entitled to rely upon all the information and instructions given to us by that person. Any change of contact person must be promptly communicated in writing.**

### **3.4 OVERRIDING INSTRUCTION TO LET RIGHTS LAPSE**

**Unless we receive clear and early instruction from you to maintain rights, our overriding instruction is to let rights lapse.**

## **4. INSTRUCTIONS TO THIRD PARTIES TO ACT ON BEHALF OF CLIENT**

- 4.1 As part of carrying out said IP service, it may be necessary for us to instruct third parties (e.g. foreign agents) to act on your behalf. We may either instruct such third parties directly, or require you to sign a power of attorney or similar appointments to engage them directly.
- 4.2 Such third parties are not part of this firm. Whilst we shall endeavour to select and monitor their performance, we shall not be liable for any losses, liabilities, costs or expenses arising as a result of any default or negligence on the part of such third parties.

## **5. AUTHORITY AND INDEMNITY**

For such period as your consultant or agent, you hereby agree to give us express authority to complete and sign such documents as are necessary or desirable. You also agree to indemnify us in respect of all costs, claims, demands and expenses that may result from the exercise of that authority.

## **6. FEES, CHARGES AND EXPENSES**

Government fees, professional charges and expenses correspond to the direction of Services provided:

- a) Inbound Services refer to Services provided in Malaysia – Government fees, our professional charges and expenses are applicable.
- b) Outbound Services refer to Services provided outside Malaysia – Our administrative expenses, Government fees, third party professional charges and expenses are applicable.

### **6.1 GOVERNMENT FEES**

- a) Government fees are stated in respective gazettes and regulations.
- b) In some countries, it is difficult to obtain official receipts of such payments.
- c) These government fees may vary from time to time without prior notice and are beyond our control.

### **6.2 PROFESSIONAL CHARGES**

- a) For our own work components, our professional charges are stated in a Schedule of Charges. At the moment, we do not use hourly rate to compute the charges.
- b) For the work component of third parties, their professional charges are stated in their Schedules of Charges. Many third parties use hourly rates to compute. The hourly rates are based on the seniority and experience of the professional staff involved. These charges are outside our control.
- c) These Schedules of Charges invariably are subject to changes. Some are more prone to change on a yearly basis.
- d) Some third parties levy a fee for closing their files.

### **6.3 EXPENSES**

Beside the fees and charges, you shall undertake to pay all expenses such as incoming and outgoing telephone/facsimile/email calls, travelling, sending of reminders, photocopying, courier costs, general administrative costs, bank charges and so on.

### **6.4 ESTIMATES**

- a) All charges and expenses are given in good faith on knowledge existing at the time. Charges may be affected by matters beyond our control and the amount of work involved often cannot be accurately forecast.
- b) During the course of carrying out the work, if it becomes apparent that the actual charges will deviate significantly from our earlier estimates, we will promptly inform you as our client of this variation and await your decision before proceeding.

## **7. PAYMENT**

- 7.1 **We shall not be obliged to grant you any credit term.** We may require you to make regular payments in advance and on account of our fees, charges and expenses for the provision of the Services. **If we do grant you credit facilities, then you agree that we shall be entitled to do so upon such reasonable terms as we deem appropriate. We reserve the right to terminate with immediate effect any credit facilities at any time and without prior notice.**
- 7.2 **Where credits are not extended, our clients shall make full payment, before we proceed to act on your instructions.**
- 7.3 We shall be entitled to send invoices for fees, charges and expenses (whether incurred or to be incurred) at regular and appropriate intervals as we deem fit and on an interim basis. **Where credits are allowed, you agree to pay such invoices by no later than sixty days after they are issued (the “due date”)** and free from any deductions, set-offs, withholding discount or abatement, including bank charges. Time for payment of our invoices is of the essence.
- 7.4 **If any sum due from you to us is not paid on or before the due date for payment, then all sums owing shall become due and payable immediately.** Without prejudice to any other right or remedy available to us, **we shall be entitled to:**
- a) **cancel or suspend our performance of the Services, until arrangements as to payment or credit have been established which are satisfactory to us;**
  - b) charge you:-
    - i. interest calculated on a daily basis on all overdue amounts at the rate of two percent (2%) per month until payment is made in full; and
    - ii. the cost of obtaining judgement or payment to include all reasonable professional costs (including legal fees) and other costs of issuing proceedings or otherwise pursuing a debt recovery procedure.
  - c) We shall have a first and paramount lien on all materials, inventions and documents in our possession, power or custody relating to any matter touching or concerning the contract for the Services.

## 8. FILING

### 8.1 OWNERSHIP OF FILES

- a) Files remain our property at all times.
- b) If you want to transfer your work to other professional advisors, we will usually release only the government documents in the files once all outstanding charges have been paid, and at your own costs. We shall absolve from future liabilities and consequences.

### 8.2 DESTRUCTION OF FILES

We will destroy our correspondence files, draft documents and other papers which are more than 3 years after the Services are completed. In the absence of contrary instruction, we will assume that you are contented with this arrangement.

## 9. CONFIDENTIALITY

**9.1** While acting for you, we shall gather information and documents which relate to you. We shall keep such information and documentation confidential, except where disclosure is required by law or regulation or in other exceptional circumstances.

**9.2** Invariably, we will not release any information following a telephone instruction or any instruction coming from unknown sources or uncertain identities.

## **10. INDEMNITY FOR THREAT OF INFRINGEMENT PROCEEDINGS**

Before we send any warning on your behalf to an alleged infringing party, we ask you to indemnify us against the risks of we are 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.

## **11. MUTUAL COMMUNICATION**

- a) All notices and forms of written communication between you and us during the provision of the Services shall either be on paper delivered by hand, electronic means or by post.
- b) If such notices and communications are sent by electronic means such as by facsimile and internet, the proper time of receipt of the transmission (without meaning the contents have been opened) shall be confirmed by us. The contents must be able to be opened for effective submission to take place. In the event of a difference between the time of dispatch and the time of receipt recorded on our receiving equipment, the time specified by our receiving equipment will be deemed the time of transmission.

### **11.1 UPDATING INFORMATION**

It is critically important that you as our client informs us promptly of any change of address, email address, any change of ownership, telephone and fax numbers. Many of these changes have to be officially registered. Failure to do so may jeopardise your IP prosecution process.

### **11.2 ELECTRONIC COMMUNICATION**

- a) For quick correspondence, we may use e-mails, followed by facsimile transmission. Mail transmission is used only to convey documents that require original signatures and the like, and for confirmation.
  - i. Where email transmission is not reliable, facsimile transmission will be used.
  - ii. Where facsimile transmission is not reliable, mail transmission will be used.
- b) Given that e-mails may lack security and confidentiality may be jeopardised, we cannot accept any subsequent responsibility arising therefrom. Virus checks will be carried out regularly, we advise our clients to do the same.

## **12. CONFLICTS OF INTERESTS**

Because of the nature of our profession and business, it is not uncommon for us to be acting at any one time for two or more clients who are in the same industry. We will not knowingly act for or against another client in a matter involving an active dispute with you without the written approval of the involved parties.

### **13. COMPLAINTS**

- a) We are committed to maintain a quality professional relationship with you as our client. However, from time to time, difficulties and misunderstandings do arise. If you have any problems, you should feel free to discuss your concerns with the member of our staff responsible for handling your work.
- b) If after such discussion, you feel that the matter has not been dealt with, or any invoice is unreasonable high for the work involved, you should contact our firm.
- c) If we cannot resolve the matter, you may refer the matter to the Malaysian Institute of Patent Agents who will consider your complaint and seek to resolve the issue.

### **14. TERMINATION**

**14.1** We shall continue to work for you until any of the following events occur:

- a) we finish the work you have instructed us to do;
- b) your invoice remains unpaid for more than 2 months;
- c) we consider that it is not in our mutual best interests to continue to work for you;
- d) you decide not to use us any longer;
- e) you lose contact with us despite our communication;
- f) you are about to be acquired by other party.

**14.2** Irrespective of any termination or suspension of the Services in accordance with these Terms, you shall pay us adequately for all Services provided up to and including the date of suspension or termination. The termination of any contract, for whatever reason, shall not affect the rights or remedies of either party in respect of any antecedent breach or in respect of any sum owing or to become owing to the other party. The money to be settled is in respect of all fees, charges and expenses, invoiced and yet to be invoiced, which remain unpaid.

**14.3** Without recourse to us, you will accept responsibilities for making alternative arrangements for compliance with all due dates of action, payment of fees, charges and expenses, taking of any official step necessary to preserve your rights in relation to the matters which we have handled prior to termination.

### **15. FORCE MAJEURE AND EXCLUSION OF OUR LIABILITY**

**15.1** You explicitly agree that we shall have no liability nor shall we be deemed to be in breach of any duties or obligations if at any time we are prevented, delayed or hindered in complying with such duties and/or obligations by whatever circumstance beyond our control.

**15.2** We shall not be liable to you for any indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever (however 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 or

entity for any economic loss, claim for damages or awards howsoever arising from the Services or otherwise.

**15.3** Nothing in the contract shall create or be deemed to create a partnership or joint venture or relationship of employer and employee, or principal and agent between the parties.

**15.4** If at any time any one or more of the conditions, including any sub-condition, of the contract becomes void or otherwise unenforceable for whatever reason, the same shall be deemed to be omitted from the contract, without affecting or impairing the validity and/or enforceability of the remaining provisions of the contract.

**16. GOVERNING LAW AND JURISDICTION**

Malaysian law shall apply to the construction and interpretation of our contract and the Malaysian courts shall have exclusive jurisdiction to resolve any dispute arising therefrom.