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Patents, Trademarks, Designs & More

General Terms & Conditions

On the Provision
of Services

2019 edition

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General Terms & Conditions

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Article 1 Object and Scope

These general terms and conditions (hereinafter referred to as "General Terms and Conditions") specify GEVERS' procedure for intervening for and/or on behalf of the client within the framework of its mission of providing advice, assistance, representation and drafting documents to obtain, maintain, exercise or defend industrial property rights, ancillary rights, and rights related questions or issues.

Article 2 Definitions

GEVERS means the company of the GEVERS Group (a.o. GEVERS Legal SA/ NV, GEVERS Patents SA/NV, GEVERS Belgium NV/SA, GEVERS & ORES SA, GLN SA, GEVERS Suisse SA) with whom the Client has entered into a contract, the intellectual property consultants, their staff and administrative personnel intervening on behalf and for the account of GEVERS.

Client means the physical or legal person to whom GEVERS renders the Services defined in the Contract.

Contract means all the contractual documents governing the rights and obligations of the Parties within the framework of the Services that GEVERS provides to the Client.

Proposal means the written proposal of Services that GEVERS sends to the Client.

Representation means any request for intervention formulated in writing by the Client to GEVERS.

Parties means GEVERS and the Client.

Services means all the services provided by GEVERS.

Article 3 Application and invocation of the General Terms and Conditions

3.1. Every Service provided by GEVERS is governed exclusively by the Contract, which comprises:

- the Proposal or the Representation;
- these General Terms and Conditions;
- where applicable, the hourly billing rates of GEVERS.

3.2. The conditions, rights and obligations mentioned in the Contract are the only terms and conditions applicable to any Service provided by or on behalf of GEVERS, including the services provided by GEVERS jointly with a third party designated by GEVERS. The Contract takes precedence over any other general or specific terms and conditions originating from the Client. Save with GEVERS' prior written agreement, which must explicitly be mentioned in the Proposal



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or the Representation, the Client's general or specific terms and conditions are not applicable and cannot be invoked against GEVERS regardless of the time at which they may have been brought to its attention.

3.3. The fact that GEVERS does not have recourse at any given time to any of the clauses of these General Terms and Conditions cannot be construed as GEVERS waiving the right to have recourse to any such clause(s) at a later stage.

3.4. Acceptance of the Proposal by the Client or of the Representation given to GEVERS to perform a Service, or simple payment of an invoice, marks the Client's acceptance of the Contract, including these General Terms and Conditions.

3.5. In the event that a clause or condition is declared null and void by a court ruling, such nullity shall not entail the nullity of these General Terms and Conditions nor of the Contract.

Article 4

GEVERS' obligations

4.1. GEVERS undertakes to perform the Services conscientiously and properly, in accordance with professional standards and in compliance with the laws and regulations applicable.

4.2. GEVERS shall provide the Services in accordance with the obligation of confidentiality to which all industrial property consultants are subject.

4.3. GEVERS is mindful of situations that may give rise to a conflict of interest. Consequently, GEVERS undertakes to refrain, in the same case, from advising, assisting and representing clients with opposite interests unless all the parties have given their consent.

Article 5

Client's obligations

5.1. The Parties acknowledge that certain Services may require compliance with certain obligatory deadlines imposed by law or by third parties. Consequently, the Client undertakes to provide to GEVERS in good time all the information and instructions necessary to enable correct performance of the Services. More particularly, the Client undertakes to respond promptly to all communications from GEVERS and to provide to GEVERS all the information requested by GEVERS or any other useful information prior to the deadline indicated in the said communications.

5.2. The Client undertakes to notify GEVERS immediately of any change regarding the information supplied to GEVERS.

5.3. The Client shall be solely liable for any damage that may result from wrong, incomplete or belated information. Any lack of complete and adequate response from the Client, where applicable prior to the deadline indicated by GEVERS, GEVERS may suspend the performance of its Services in full or in part and/or may not be held liable for any damage the Client may suffer as a direct or indirect result of such suspension.





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5.4. GEVERS shall submit to the Client any document that it regards as requiring a signature. The Client shall return to GEVERS all the documents required, signed as requested by GEVERS, prior to the deadline indicated by GEVERS. GEVERS cannot be held liable for any damage the Client may suffer as a direct or indirect result of failure to meet the deadline indicated by GEVERS.

5.5. All communication by GEVERS shall be sent to the Client's latest address (email or postal address) as indicated by the Client or one of its representatives. The Client must immediately inform GEVERS of any change of address and/or status. GEVERS cannot be held liable for any loss of rights or any damage suffered by the Client if it has not been duly informed of the changes that have occurred.

Article 6

Term during which the Services shall be provided

6.1. GEVERS shall provide the Services agreed with the Client in the context of a Contract. However, the Client may at any time put an end to GEVERS' intervention by serving it written notice to this effect. Such cancellation is at the Client's risk and entails the immediate payment of fees for any Services commenced. GEVERS has the same option of cancellation, in compliance with the professional obligations defined by applicable law.

6.2. In the event of default or delay of payment by the Client of fees, expenses, charges or dues invoiced by GEVERS, or if the Client fails to meet any of his obligations under the terms of the Contract, GEVERS may cancel the Contract eight days after having served notice of default by registered letter or courier without having received a response, without prejudice to GEVERS' right to claim damages and/or to suspend the performance of its Services.

Article 7

Expenses, charges and fees

7.1. At the Client's request, GEVERS shall provide, indicatively, an estimate of the expenses, charges, dues and fees that the Client will incur when ordering the Services. This estimate shall be communicated subject to the express reservation of variations that may occur such as, for instance, changes in official charges or dues, changes of the fees charged by professional colleagues abroad, variations in exchange rates, costs of intellectual services (e.g. processing of observations made by administrations or of oppositions by third parties) and when the case at hand is more complex than initially envisaged.

7.2. Save if the Parties have agreed a lump sum in writing, the Services provided by GEVERS shall be invoiced on the basis of hourly billing rates which GEVERS has communicated to the Client when it transmitted its Proposal or when GEVERS accepted the Representation or, if no such rates have been transmitted, on the basis of GEVERS' standard hourly billing rates which the Client may ask GEVERS to supply. The hourly billing rates vary according to the qualification and experience of the persons providing the Services. In addition, GEVERS' standard hourly billing rates may be adjusted / indexed annually.





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The services provided by third parties engaged by GEVERS (foreign agents, external service providers, etc.) are not included in GEVERS' fees. If the external service provider invoices the Client directly, GEVERS shall confine itself to forwarding the invoice to the Client and the latter shall directly pay the service provider.

If the charges and dues are not directly invoiced to the Client by the third party concerned, the amount of such charges and dues (charges for filing, research etc.) shall be specified in the invoice GEVERS sends to the Client.

7.3. GEVERS is at all times entitled to charge retainer fees. An invoice shall be issued for this purpose. Retainer fees are not necessarily commensurate with the state of advancement of the Services or of the level of charges and dues incurred at the date of the Client's request. The Client undertakes to pay the retainer fees without delay.

7.4. Invoices other than those for retainer fees are payable within 30 days from the date of the invoice into GEVERS' account indicated on the invoice. Any sum not paid on the due date shall, ipso jure and without prior notice, entail interest for delay of payment and recovery charges pursuant to the legislation in force. Over and above the statutory lump-sum recovery charges, GEVERS shall be entitled to a reasonable indemnity equal to 10% of the amount of the invoice, with a minimum of €150 in respect of all other recovery costs above the said lump sum incurred as a result of the delay in payment, without prejudice to GEVERS' right to claim full compensation for the damage it has suffered.

7.5. Any contestation of GEVERS' invoices is admissible only if it has been notified by registered letter received no later than 14 days after the date of such contested invoice.

Article 8

Liability and guarantee

8.1. GEVERS shall make every effort to ensure the due, timely and proper performance of the Services. However, the obligations assumed by GEVERS are best efforts obligations.

8.2. If GEVERS fails to meet one of its obligations, its liability for any damage caused to the Client and proven by the latter (including the loss of an intellectual property right) shall be limited to the lower of the following amounts: (i) three times the total value of the invoices actually paid by the Client for the Services directly linked to the damage caused to the Client, or (ii) two hundred and fifty thousand euros (€250,000).

In any case, no action, whatever its nature, grounds or procedure, can be instituted by the Client more than six months from the day on which the Client has or should have had knowledge of GEVERS' failure to meet one of its obligations.

8.3. GEVERS cannot be held liable for any damage caused by or due to the intervention of third parties, and in particular any damage caused by the products or services of third parties, if it was not GEVERS who decided to have recourse to these third parties. If it is GEVERS who decided to have recourse to third parties, GEVERS' liability for any damage caused to the Client by the





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intervention of these third parties is limited as provided for in Article 8.2 and 8.4.

8.4. GEVERS can never be held liable for damage caused directly or indirectly by force majeure as defined in Article 9 below.

Article 9 **Force majeure**

9.1. Performance of the obligations of the Parties shall be suspended in the event of force majeure that is of such a nature as to prevent or delay the performance of contractual obligations of either Party.

Force majeure means any event that is beyond the control of the Party invoking it and against which it could not reasonably protect itself. The following in particular (but not exclusively) constitute cases of force majeure: a strike at the Client or at a third party whose help is required to provide a Service (for instance, an intellectual property office), the unavailability of a public IT or logistics service, etc.

9.2. If the case of force majeure has effects beyond a period of three months, either Party may, after sending a registered letter to the other Party, immediately and ipso jure cancel the Contract, without any compensation or notice being due as a result thereof.

Article 10 **Bankruptcy and insolvency**

If the Client's situation changes, e.g. because of death, bankruptcy, dissolution or change of the Client's company or because of any other circumstance impairing the Client's solvency, GEVERS has the right to demand that all sums due be fully paid immediately, even before their due date, or demand guarantees that the commitments will be duly and properly kept (guarantees that are subject to GEVERS' approval), without prejudice to GEVERS' right to suspend implementation of the Contract or to cancel it in accordance with Article 6.

Article 11 **Disputes**

If there is a dispute, controversy or claim about the establishment, interpretation, implementation or termination of the Contract, the Parties shall endeavour to seek an amicable settlement.

If no amicable settlement has been reached within 30 days of the dispute arising, the matter shall be brought exclusively before the courts of the principal place of business of the GEVERS' firm with whom the Client has entered into an agreement. The law of the country of the principal place of business of the GEVERS firm with whom the Client has entered into an agreement is applicable.

