

Chapman Tripp Patents Limited – Terms of Engagement

- 1 These terms of engagement apply to our relationship with you, except where we otherwise agree with you in writing. Chapman Tripp Patents Limited is a private incorporated patent attorney firm and is not a law firm. Legal services provided to you by Chapman Tripp are subject to Chapman Tripp's [standard terms of engagement](#).
- 2 We are bound by the Code of Conduct for Trans-Tasman Patent and Trade Marks Attorneys 2018.

Confidentiality

- 3 We will hold in strict confidence all information that we acquire through our work for you, and which concerns you, your business or your instructions to us. The only exceptions are where you authorise us to disclose such information (including in these terms of engagement) or where we, or our service providers, must do so by law. You consent to us sharing your information between Chapman Tripp Patents Limited and Chapman Tripp.
- 4 We will not disclose to you information that we obtain through acting for other clients.
- 5 You acknowledge that, if we are required by law to make disclosures about you or any person associated with you, we may be prohibited from tell you or such associated person that we have made that disclosure.

Conflicts of interest

- 6 We have policies to identify and respond to conflicts of interest. Where we can do so, we will discuss with you the best way to resolve a conflict of interest or potential conflict of interest.
- 7 We may act for other clients whose commercial or legal interests differ from yours.

Our duty of care

- 8 Our duty of care is to our client named in our confirmation of instruction. We do not owe any duty of care or liability to any other person. If any other person wishes to rely on our advice, they can do so only if we expressly agree. If, during the course of our appointment, we provide services to entities related to or associated with you, then these services will be provided on the same terms as these standard terms (and you will ensure that those entities agree to these standard terms).

Foreign law matters

- 9 We are only qualified to advise on New Zealand and Australian patent law. If we assist you in respect of matters governed by foreign law, we do so on the basis that we do not accept any responsibility, and will not have any



liability, whether in contract, tort (including negligence), equity or otherwise, in relation to your legal position under that foreign law.

- 10 Where we agree with you to engage a patent firm in a different country, you authorise us to incur expenses and engage that patent firms. We will charge such foreign patent firm expenses to you as a disbursement.

Law, jurisdiction and assignment

- 11 These terms of engagement and any other agreement we have with you are governed by New Zealand law and are subject to the exclusive jurisdiction of the New Zealand courts. You may not transfer or assign your rights or obligations under these terms.

Our fees

- 12 Our fees will be charged on the basis that they will be fair and reasonable, having regard to the circumstances of the matter and the nature of our work for you. While the time and resources involved will be important factors, we will also consider the results achieved and the urgency, level of skill, complexity, responsibility and specialist knowledge involved. We may agree fixed fees or other fee arrangements with you.
- 13 For time based invoicing, our hourly rates are reviewed on 1 December annually. This review includes the promotion of our patent attorneys through their respective experience levels.
- 14 We will send interim invoices to you, usually monthly. Our invoices may include an office service charge to cover the cost of routine copying, printing, binding, telephone, fax and courier expenses. The office service charge is 3% of all fees on all invoices.
- 15 Our invoices will include any New Zealand Goods and Services Tax (GST) applicable to our supply of services to you. If you are required under applicable laws to make any withholdings or deductions from any amounts payable to us under our invoices, you will gross-up those amounts so that we actually receive the amounts we would have received if those withholdings or deductions had not been required.
- 16 Our invoices are payable by the 20th of the month following the month of the invoice. Where we do not receive payment by that date, we may charge you interest at the rate of 5% per annum above our principal banker's usual lending rate, compounding monthly.
- 17 All invoiced amounts are payable in New Zealand dollars, unless we agree otherwise.
- 18 Where we have an arrangement with you that we will address the invoice to another person, you will pay that invoice if that other person does not pay the invoice.



Estimates, quotations and rates

- 19 If we provide any estimate or quote, we do so subject to the following assumptions:
- your instructions are complete and accurately describe our role
 - the matter will proceed and be completed in the manner anticipated in your instructions and within any indicated, or a normal, timeframe
 - you will provide any information or instructions we require to do our work in a timely and efficient manner
 - no unforeseen impediments will arise and require additional work
 - all parties and other advisers involved in the matter will be co-operative and will not be unreasonable, and
 - any third party or regulatory consents or approvals will be given in a timely manner and will not involve protracted negotiations.
- 20 Unless specified otherwise by us in writing, GST, disbursements and our office service charge are excluded from any estimate, quotation, schedule of rates or other indication of fees. Any breakdown of costs we provide to support our estimate or quotation is indicative only and we can adjust any component of such breakdown.
- 21 Any work you ask us to do outside the scope of our estimate or quotation will be charged for separately. We will do our best to advise you in the event any of the assumptions underlying an estimate or quotation are no longer valid.

Electronic services and communication

- 22 Where we provide any electronic service to you, or communicate with you by electronic means, we will take every reasonable precaution to ensure that those services and communications are accurate, reliable, adequate, complete, confidential and secure.
- 23 However, we cannot always be certain that those services and communications are error free. Also, because they will in most cases be internet based, certain risks exist that are outside our control. Consequently, despite the other provisions of these terms, we cannot and do not represent or warrant that those services and communications will always be accurate, reliable, adequate, complete, confidential and secure. We will not be liable to you in the event that, despite our reasonable precautions, our systems or services are hacked or subject to attack or other unauthorised access. We also exclude all warranties to the extent permitted by law.

Document destruction

- 24 We retain the files on each matter, and any documents you leave with us, for seven years after completion or termination of the matter. We may then destroy the files and documents. If you wish to make other arrangements, please advise us of those arrangements.



- 25 If you ask us to destroy any matter-related files or other documents, we will do so where it is practicable and we are not otherwise obliged to retain them. If we destroy files or documents at your request, you waive any liability we may have in relation to the matter, files or documents and we will have no liability to you or a third party.
- 26 If you uplift your files or other documents at any time, we may make and keep copies of that material before you collect it.

Limitation of liability

- 27 To the extent permitted by law, our total liability to you in connection with any matter, or series of related matters, on which you engage us will not exceed an amount equal to five times our paid fees (excluding our office service charge, disbursements and GST), up to a maximum of NZ\$10,000,000, including interest and costs.
- 28 This limitation applies to liability of all kinds, whether in contract, tort (including negligence), equity or otherwise. We may override this limitation where it is specifically agreed with you in an engagement letter signed by us.
- 29 If we provide services to any persons or entities associated with you or at your request (whether or not we also advise you) on a matter, or series of related matters, on which you engage us, then our aggregate liability to you and all those persons and entities in respect of that matter, or series of related matters, will be subject to these terms and the limitation of liability. You will ensure that those persons and entities agree to this.

Termination

- 30 Where you give us any instruction and we rely on that instruction (for example, by giving an undertaking to a third party), you may not revoke that instruction. Otherwise, you may end our engagement at any time on any matter or matters. You do not need to give us any notice. We may, on reasonable notice to you, end our engagement at any time.
- 31 Your instructions will be deemed to have ended at the conclusion of our work for you pursuant to that instruction, or three months from the last date that any work was recorded against the file (whichever is the earlier).
- 32 Provided that you have paid all of our invoices on all matters, we will (on request) provide to you all the documents that we have obtained or created through working for you on the matter or matters in question. Before we provide those documents to you, we may take a complete copy of them.
- 33 If our engagement is terminated, these terms continue to apply in respect of your instructions and our relationship with you.

General

- 34 These terms of engagement apply to any current instruction, and to any future instruction, whether or not we send you another copy of them. There is no need for you to sign these terms of engagement in order to accept them;



you will accept these terms of engagement by continuing to instruct us to work for you.

- 35 We can change these terms of engagement, in which case we will notify you of the amended terms of engagement.
- 36 Any dispute concerning these terms of engagement, or our work for you, is to be resolved in the New Zealand courts under New Zealand law.
- 37 In these terms of engagement, "we" and "us" means Chapman Tripp Patents Limited, and "you" means our client. Where you are a company or other corporate or unincorporated entity, we act only for you. We do not act for your shareholders, directors or members, unless we expressly agree otherwise.