



GENERAL CONDITIONS VAN ESSEN PATENT B.V.

1. General

1.1 VAN ESSEN PATENT B.V. (VAN ESSEN PATENT) is a private company with limited liability whose purpose it is to conduct the practice of patent attorney and trademark and design attorney, in the broadest sense of the word.

1.2 All client assignments are considered by VAN ESSEN PATENT to have been given to it as an organization, even if it is the express or implicit intent that an assignment will be performed by a specific person. The operation of article 7:404 of the Dutch Civil Code, which addresses the last mentioned case, and the operation of article 7.407 paragraph 2, which creates a joint or several liability in those cases in which an assignment is given to two or more persons, is excluded.

1.3 These General Conditions are also applicable to all assignments to VAN ESSEN PATENT, supplemental assignments and explicit or implicit further assignments included.

1.4 All quotations and offers by VAN ESSEN PATENT shall be non-binding and shall be considered invitations for placement of assignments, unless otherwise agreed in writing or provided to the contrary in these General Terms and Conditions.

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

1.6 The applicability of terms and conditions of the Client is hereby expressly precluded.

1.7 Not only VAN ESSEN PATENT, but also all those who are involved in the performance of any assignment of a client can invoke these General Conditions. The same applies to former associates including their respective heirs, if they are held liable after they have terminated their practice with VAN ESSEN PATENT.

2. Execution of assignment, information and instructions

2.1 VAN ESSEN PATENT shall execute the placed assignment to the best of its ability and with due diligence and care. In performing its activities, VAN ESSEN PATENT shall exercise the care of a good contractor.

2.2 An assignment can be considered accepted upon written confirmation by VAN ESSEN PATENT, or after VAN ESSEN PATENT has initiated work on said assignment. An assignment implies an assignment to report on the developments regarding the assignment and – if necessary without consultation – to do all that is required to maintain the rights applied for or obtained. However, non-performance by VAN ESSEN PATENT of work that has not been explicitly instructed to be done can never give rise to any liability.

2.3 VAN ESSEN PATENT shall execute the assignment based on the information provided by the Client. To enable VAN ESSEN PATENT to execute the assignment, the Client is bound to provide VAN ESSEN PATENT timely with full, detailed and clear written information on the assignment. This shall include information known to the Client in connection with past patent cases and publications relating the subject of the assignment, or a similar subject.

2.4 VAN ESSEN PATENT is entitled to terminate any assignment with the Client, by means of a single notification, if it turns out, in retrospect, that the client – in good faith or in bad faith – had incompletely or incorrectly informed VAN ESSEN PATENT. VAN ESSEN PATENT cannot be held liable for any damage of any kind, if VAN ESSEN PATENT acted on the basis of the incomplete and/or incorrect information provided by the client.

2.5 The Proprietor and Client declare to be aware that failure to provide an assignment in a timely manner may lead to additional costs and/or damages for which VAN ESSEN PATENT shall not be held liable. Non-limiting examples of providing an assignment timeously are:

- an assignment to file rights in which a priority right is to be invoked, a least one month before the end of the priority year;
- an assignment to enter the national or regional phase of an international (PCT) application at least one month before the end of the 30 month time limit in case of a European regional filing, and at least two months before the end of the 30 month time limit in case of the regional or national phase in another country;
- an assignment to validate a European patent in one or more of the designated state, not later than the day of the grant.

2.6 Client has to ascertain whether an assignment given on or after a term specified by VAN ESSEN PATENT has indeed been received by VAN ESSEN PATENT and can be processed by VAN ESSEN PATENT.



2.7 Client is bound to promptly notify VAN ESSEN PATENT, clearly and in writing, of any changes in its address and other details regarding its accessibility. The proprietor of a registered right in the field of intellectual property, like a patent, a patent application, a trademark registration, etc., is required to timely inform VAN ESSEN PATENT with respect to a change in ownership. Costs relating to a change of ownership in official registers will be charged to the Client. Failure to provide the required information may lead to costs and even damages for which VAN ESSEN PATENT cannot be held liable.

2.8 By entering into a contract with VAN ESSEN PATENT, the Client shall grant VAN ESSEN PATENT power of attorney to involve third parties if VAN ESSEN PATENT considers this desirable for the proper performance of the assignment placed with it. In involving such third parties, VAN ESSEN PATENT shall act as the Client's attorney. Such power shall specifically include authority to accept general terms and conditions and liability limitations of third parties on behalf of the Client.

2.9 A private individual acting on behalf of a corporation, an organization, or any partnership, and giving an assignment to VAN ESSEN PATENT, is reasonably assumed to be authorized to provide this assignment or a similar assignment, or to change, revoke or terminate this or such similar assignment, or to transfer or have transferred a right. In this respect, this person is also deemed to be authorized to perform actions seeking to actively or passively waive intellectual property rights, or to transfer such rights or have such right transferred. The Client is required to establish in a prior written notice to VAN ESSEN PATENT if there are instructions which are restricted to specific individuals within the corporation, organization or within the partnership, and specify these restricted instructions.

2.10 An agreement is only effected after acceptance of the assignment by VAN ESSEN PATENT. At any time, VAN ESSEN PATENT reserves the right to refuse working for a Client or refuse (part of an) assignment or to attach particular conditions to the execution of the assignment. If an assignment is not accepted, VAN ESSEN PATENT will inform the party within fourteen (14) days after receipt of the proposed assignment.

2.11 In particular, VAN ESSEN PATENT is free to refuse an assignment or to end an assignment if the (further) execution of such assignment may lead to a "conflict of interest". Nevertheless, the latter principle shall not cover circumstances where VAN ESSEN PATENT is responsible for a patent for which VAN ESSEN PATENT has not conducted the prosecution, and where VAN ESSEN PATENT is connected to the patent to a limited extent, such as cases where VAN ESSEN PATENT merely executed the translation, authentication and/or validation of a patent. In these instances, acts by VAN ESSEN PATENT on behalf of another client against that patent, or assignments on behalf of another client in a similar field of technology, will not be considered "conflict of interest". In particular, VAN ESSEN PATENT is free to refuse an assignment if the Client and/or the country where the Client is located is not affiliated with the Society for World Wide Interbank Financial Telecommunication (SWIFT) or when on the basis of (inter)national agreements and/or (inter) national law it is not allowed the enter into agreements with the Client and/or the country where the Client is established.

3. Confidentiality

3.1 VAN ESSEN PATENT shall observe total confidentiality concerning any communication of a confidential nature made to VAN ESSEN PATENT in the context of fulfilment of an assignment.

3.2 VAN ESSEN PATENT can not be held liable for any information, transferred by electronic means like e-mail to become known to third parties.

4. Invoices

4.1 Unless agreed otherwise, the Client shall be charged a fee based on hourly rates previously determined by VAN ESSEN PATENT, multiplied by the number of hours devoted to an assignment, and optionally an urgency factor. In addition, VAN ESSEN PATENT also uses fixed fees. All costs (such as official fees, court registry fees, invoices from domestic and foreign associates) in connection with the execution of an assignment shall be charged to the Client. Charging fees and costs does not depend upon the result of the conducted work.

4.2 VAN ESSEN PATENT may at any time require the Client to make an advance payment, or may charge interim and/or final invoices. VAN ESSEN PATENT is entitled to deduct an advance payment from an invoice and/or future costs. VAN ESSEN PATENT is entitled not to start or to discontinue any work before the advance payment by the Client has been made. VAN ESSEN PATENT is never liable for any possible damage due to such non-commencement or discontinuation of work.

4.3 Cost of services induced by third parties as referred to in article 2.8 are charged to the Client. Costs related to services rendered by third parties as mentioned in article 2.7, shall be charged to the Client. In such instances, VAN ESSEN PATENT



will function payment address. The disbursements related to the services of such party indicated in the VAN ESSEN PATENT invoice will be disbursed by VAN ESSEN PATENT to such third party.

4.4 In the case of multiple clients who collectively place an assignment with VAN ESSEN PATENT, each and every client shall be held jointly and severally liable for the entire fee and debt of VAN ESSEN PATENT.

4.5 Invoices of VAN ESSEN PATENT shall be paid in full within fourteen (14) days from the invoice due date by payment of the amount indicated on the invoice, to the bank account indicated on the invoice, unless agreed otherwise in writing. Dispute regarding the amount of the invoice(s) shall not suspend the Client's obligation to pay the entire invoice demand.

4.6 The Client is not permitted to settle the Client's outstanding debt with an outstanding debt of VAN ESSEN PATENT, unless VAN ESSEN PATENT has unconditionally accepted and agreed the same in writing, or unless the client is legally permitted on the basis of *res judicata* or arbitral award.

4.7 If the Client fails to promptly pay in the manner defined above in section 4.5 of this Statement of General Terms and Conditions of Service, the Client shall owe the statutory commercial interest as per Dutch Civil Code Article 6:119a, without the need for warning or service of a Notice of Default. In addition, the Client shall owe all costs reasonably incurred by VAN ESSEN PATENT in ascertaining loss and liability, and in obtaining satisfaction by extra-judicial means. The latter costs shall be reckoned to be at least 15% of the invoiced amount (or part thereof), but as a minimum amount of € 300,- (ex. BTW [VAT]). In case of late payment, VAN ESSEN PATENT shall be entitled to suspend its work for the Client, with immediate effect.

5. Dissolution/Right of retention

5.1 VAN ESSEN PATENT is entitled, without any warning or notice of default being required, to dissolve the contract with the Client out of court, in writing, if the Client is granted a (provisional) moratorium on payments, the Client's involuntary liquidation has been petitioned for or has been ordered, the Client's company is wound up, the Client ceases its current enterprise, a substantial part of the Client's assets has been attached, or the Client must in any other way be deemed incapable of fulfilling its obligations in respect of VAN ESSEN PATENT.

5.2 VAN ESSEN PATENT is entitled to retain the files of the client and all correspondence relating to the files of the Client until the Client has fulfilled its payment obligations in respect of VAN ESSEN PATENT.

6. Force Majeure

6.1 For the present purpose, force majeure shall mean any failure of performance not attributable to fault by, or for the account of, VAN ESSEN PATENT. Force majeure shall in any case exist on VAN ESSEN PATENT's side if, after entering into the contract, it is prevented from fulfilling its obligations under the contract due to illness or other prevention of an VAN ESSEN PATENT employee. Provision of inaccurate or incomplete data by the Client or failure by the Client to afford sufficient co-operation shall, in any case, constitute force majeure.

6.2 Without prejudice to its other rights, VAN ESSEN PATENT is entitled in case of force majeure to suspend the performance of an assignment, or to dissolve the contract for professional services without judicial intervention, without VAN ESSEN PATENT being liable to pay any damages.

7. Suspension

7.1 Disputes of any kind whatsoever shall never entitle the Client to refuse or suspend settlement of invoices.

7.2 If the Client considers VAN ESSEN PATENT in breach of its obligations, it shall notify VAN ESSEN PATENT accordingly in writing within eight days of the reasonable time of detection by the Client of such breach by VAN ESSEN PATENT. Unless such prompt written notice is given, the Client shall forfeit the right to invoke such breach.

8. Liability

8.1 Although VAN ESSEN PATENT commits itself to the Client to execute an assignment to the best of its ability, VAN ESSEN PATENT cannot be held liable for any damage, from whatever cause, that the Client and/or any third party suffers or may suffer as a result of the execution of the assignment due to inadequate execution of an assignment by VAN ESSEN PATENT, with the exception of the Client proving intent and/or deliberate recklessness.



8.2 In case the execution of the assignment implies that VAN ESSEN PATENT engages a third party that is not part of VAN ESSEN PATENT, to perform work in relation the assignment, VAN ESSEN PATENT shall not be liable for any mistake made by this third party.

8.3 Should a situation arise that, despite the stipulation in article 8.1 and 8.2, an event leads to a liability of VAN ESSEN PATENT, such liability shall be limited to a maximum of the amount(s) under the professional liability insurance taken out, including the amount of the policy excess under the policy terms in the relevant case. Further information on the content of the policy terms shall be provided on request. If such liability insurance offers no cover in the relevant case, or no benefit is paid, such liability shall be limited to the sum of €10.000,-. The liability shall never exceed the amount of the invoice issued for the assignment.

8.4 Without prejudice to article 6:89 of the Dutch Civil Code, any claim for damages against VAN ESSEN PATENT shall expire if, after discovery of damage or a real chance thereof, the claimant fails to notify this claim in writing to VAN ESSEN PATENT within a reasonable period of eight (8) days after discovery thereof, and in any event if the claim is not brought before the competent court within twelve months since the appreciation of the injurious event from which the damage ensues.

8.5 The Client shall hold harmless and indemnify VAN ESSEN PATENT regarding all claims by any third party related to the work performed by VAN ESSEN PATENT for the Client. Reasonable costs made by VAN ESSEN PATENT shall be charged to the Client.

9. Termination of contract

9.1 If The Client terminates its contract with VAN ESSEN PATENT, the Client is bound to meet the costs of handover of the file.

9.2 If the Client fails to meet any obligation incumbent upon it under the contract, or does not meet it duly or promptly, and in case of bankruptcy, stay of payments, placement in receivership or closure or winding up of the Client's business, VAN ESSEN PATENT shall be entitled to cancel the contract, in whole or in part, otherwise to end the contract, or to suspend further performance thereof, without any liability to pay compensation and without prejudice to VAN ESSEN PATENT's further rights. All VAN ESSEN PATENT's claims against the Client shall, in such case, fall due immediately. The Client shall be liable for any loss incurred by VAN ESSEN PATENT in this respect, including loss of profit.

9.3 Both Client and VAN ESSEN PATENT are at all times entitled to terminate, if desired without excuse, their agreed cooperation at any time and with immediate effect without resulting legal liability for such termination. The provisions of the preceding sentence expressly deviate from the provisions of Article 7:408 paragraph 2 of the Dutch Civil Code. Nevertheless, Client is obliged to compensate the services rendered by VAN ESSEN PATENT until the time of such termination. This provision also includes termination of work for already filed patent applications, granted patents, or the continuation of advice in cases where professional advice has already been given. In such cases, a reasonable notice period shall be observed. If desired, an alternative provider may be proposed when termination is at the initiative of VAN ESSEN PATENT.

10. Settlement of disputes

10.1 The legal relationship between the Client and VAN ESSEN PATENT shall be governed by Dutch law. Disputes arising from the legal relations between the Client and VAN ESSEN PATENT shall be referred for settlement only to the Court of The Hague, unless VAN ESSEN PATENT states a preference for referring the dispute for resolution to another competent judicial forum, Dutch or otherwise.

11. Versions of the general terms

11.1 In case of discrepancy between the English and Dutch text of these general terms and conditions, the general terms and conditions in the original Dutch text shall be binding.

These general terms and conditions have been deposited at the Chamber of Commerce at Arnhem.

Version 2016-01