

# General Terms & Conditions for AWA

2018

These general terms and conditions apply to all services provided to clients by AWA Sweden AB and AWA Denmark A/S (individually and jointly "AWA", "we", "us" or "our"). Your new or continuing instructions will amount to your acceptance of them. In providing our services we are also required to observe the codes of conduct applicable to the Institute of Professional Representatives before the European Patent Office and/or other relevant national codes of conduct that also apply to the services provided by us.

## 1. Our organisation

1.1 In order to provide you with the expertise and resources required in each matter we often work in teams. Before commencing work on a matter we usually agree on the scope of our services, our commitment, and the individuals who shall perform the work. Over time the scope of services may be altered, expanded or reduced, and we may also change the members of the team.

1.2 Our understanding of your business is of great importance for the quality of our services. To this end we encourage the development of personal relationships, and will always designate one of our attorneys as responsible for our mutual relationship.

## 2. Advice and information

2.1 Our advice in a specific matter will always be tailored to your instructions, the particular circumstances of the matter, and facts presented to us. As such, our advice may not be relied upon in any other matter or used for any purpose other than that for which it was given. Unless expressly stated, our advice in a particular matter never includes tax considerations, or takes into account potential tax consequences for you. Also, we do not – unless agreed with you – undertake to maintain over time, or update, the advice we have provided in relation to later developments or new circumstances.

2.2 Any contract for services entered into is a contract between you and the relevant legal entity of AWA and not with the individual attorney at AWA. Notwithstanding this, all attorneys of AWA and all individuals working for, or engaged by, AWA are covered by these terms and conditions. Under no circumstances will these persons have any personal liability to you, except as provided by mandatory law.

2.3 The attorneys of AWA are qualified to give advice only on the legal position in the jurisdiction in which they are authorised to practice. We do not provide binding advice on the legal position in any other jurisdiction, but we may from time to time express views on legal issues in other jurisdictions based on our general knowledge and experience. Such views

and opinions do not constitute legal advice.

Whenever we find it appropriate or necessary in a particular matter to seek advice pertaining to other jurisdictions, we strive to inform you and will be happy to aid you in obtaining such advice.

2.4 You are responsible for checking the accuracy of the documents prepared by AWA that have been submitted to you for consideration and comments. AWA is entitled to assume that you fully accept the content of such documents unless you state otherwise without delay.

## 3. Fees and expenses

3.1 Normally we will charge for the time spent on the matter. The current hourly rates may be explained and accounted for upon acceptance of an assignment.

3.2 We may offer fixed fees for European filings (EP, CTM and RCD). The required information/documents should be in ready-to-file condition and sent to us by e-mail. Any additional work is charged on an hourly basis.

3.3 If desired and suitable, we may also offer fixed quotes for defined assignments.

3.4 Furthermore, upon request we may, wherever possible, provide you with an estimate of our likely fees at the outset of an engagement, and update you on the fees incurred as work progresses. Estimates are based on information available to us at the time and shall not be regarded as fixed quotes.

3.5 In connection with the filing of an IP application we apply a basic fee. Our basic fee covers the cost of professional liability insurance, maintaining and quality assuring our network of IP attorneys, plus use of our IT systems. In connection with the grant or the registration of an IP application we apply a portfolio fee for the management of the right in our IT systems.

3.6 Depending on the assignment certain expenses in addition to our fees may accrue. These expenses are invoiced including a 15-percent surcharge, with a

maximum of EUR 575, which covers the general handling including checking the expenses, banking costs and capital costs.

- 3.7 All fees and expenses are exclusive of value added tax, which will be charged where appropriate in accordance with applicable law.
- 4. Invoicing and payment**
- 4.1 Our usual practice is to send invoices on a monthly basis. We may also provide you with regular updates of the fees incurred.
- 4.2 We may, at our sole discretion, require a retainer before commencing work on a matter. Such payment will be used to settle future invoices. The final amount of our fees and expenses for the engagement may be more or less than the amount of the retainer payment.
- 4.3 The due date for settling accounts is stated on our invoices. Interest on overdue payments will be charged by default according to applicable law.
- 4.4 In litigation and arbitration, the losing party may be ordered to pay the costs (including legal fees) of the winning party. It is not uncommon, however, that less than all the legal expenses incurred by the winning party are ultimately recoverable from the losing party. Irrespective of whether you should be the winning or losing party, you must pay our fees for services rendered and expenses incurred in representing you in litigation or arbitration.
- 4.5 If our fees and expenses are to be financed by making use of legal costs and expenses insurance, which is limited by e.g. provisions on maximum compensation, you must still pay our fees and expenses to the extent they exceed whatever is paid out under the insurance.
- 4.6 If you ask us to address an invoice to someone else, we may accommodate your request only if it is evident that the arrangement will not violate any laws and that you, on demand, will promptly pay any amounts which have not been paid by the due date. No client relationship is assumed with such a billing addressee.
- 5. Authority**  
You are responsible for ensuring that you are entitled to control the object of the specific matter, including all supporting documents provided to us.
- 6. Conflict of interest**  
We may be prevented from acting for a party if there is a conflict of interest in relation to another client. We therefore check to ascertain whether there is a conflict of interest in accordance with the codes of conduct applicable to us and our own conflict of interest policy. Notwithstanding such controls, circumstances may arise that prevent us from acting for you in an ongoing or future matter. Accordingly, it is important before and during the matter that you

provide us with the information you consider may be relevant for us to determine whether or not there is an actual or potential conflict of interest.

**7. Working with other advisers**

If we instruct, engage and/or work together with other advisers, any such advisers will be considered to be independent of us and we assume no responsibility or liability for recommending them to you or for advice given by them, unless we specifically agree otherwise. We do not accept responsibility for fees or expenses charged by such advisers. Any authority to instruct advisers includes authority to accept a limitation of liability on your behalf.

**8. Communication**

8.1 We communicate with our clients and other parties involved in a matter in a variety of ways, including through the Internet and by e-mail. Although these are effective means of communication, they involve security and confidentiality risks for which we cannot accept any responsibility. If you would prefer us not to communicate through the Internet or by e-mail in relation to any particular engagement, please advise the relevant engagement partner.

8.2 Our spam and virus filters and security arrangements may sometimes reject or filter out legitimate e-mails. Accordingly, you should follow up important e-mails until you receive a confirmation from us.

8.3 We offer our clients a secure way to communicate through our service IPR Forum, with secure access and secure transfer of information.

**9. Intellectual property rights**

The copyright and other intellectual property rights in work products that we generate for you vest in us, although you have the right to use such work products for the purposes for which they were provided. Unless otherwise expressly agreed, no document or other work product generated by us may be generally circulated or used for marketing purposes.

**10. Confidentiality and disclosure**

10.1 We will protect the information you disclose to us in an appropriate manner and in accordance with applicable code of conduct. Other than what is stated in 10.2 and 10.3 below, information will only be disclosed to third parties, if disclosing such information is part of performing the assignment, if you have consented to such disclosure, or if an obligation to disclose such information is required under law.

10.2 If we engage or liaise with other advisers or professionals in the course of an engagement, we may communicate to them all materials and other information which we consider may be relevant in order for them to advise or carry out other work for you. The same applies to materials and other information that we have obtained as a consequence of the checks and verifications carried out by us.

**10.3** When a particular matter has become publicly known we may announce our participation for marketing purposes. Such announcement may only contain information about the matter that is already in the public domain. In those situations, we may also, unless you advise us otherwise, display your logotypes in our publicity material. This also applies if you, in relation to a matter that is not publicly known, have expressly agreed that we announce our participation.

**11. Reporting of VAT registration number**

In some cases, AWA may be obliged to provide information to the tax agency of a specific jurisdiction on inter alia your VAT registration number. By engaging AWA, you are deemed to have given your consent to AWA providing such information to the tax agency in accordance with regulations as in effect from time to time.

**12. Actions against money laundering and terrorist financing**

According to Money Laundering and Terrorist Financing (Prevention) acts, AWA may, with regard to certain kinds of assignments, be obliged to check the identity of a client, their ownership structure, as well as the purpose of the assignment. Therefore, AWA may require you to provide information and certain documents, such as evidence of your personal or corporate identity as well as the identity of any other person involved in the matter on your behalf. Additionally, we may need to verify the information provided by you and for this reason obtain information from external sources. AWA is also obliged to retain said information.

**13. Data Protection Policy**

**13.1** Providing our services entails various types of information, including personal data about you or your physical representatives, being processed.

**13.2** We respect privacy and comply with any applicable data protection legislation.

**13.3** All our processing of personal data will be in accordance with our Data Protection Policy. The policy can always be viewed on our website: [www.awa.com](http://www.awa.com).

**13.4** Our Data Protection Policy describes how and why we obtain, use, disclose or otherwise process personal data. The Data Protection Policy also describes your rights as a data subject in relation to us and how you can assert these rights.

**14. Termination of engagement**

**14.1** You may terminate our engagement at any time by requesting us in writing to cease acting for you. If you do so, you must still pay our fees for services provided and expenses incurred prior to the date of termination.

**14.2** Circumstances may exist either in accordance with law or code of conduct that require or allow us to

decline or withdraw from representing a client. Among other things, this may be the case in the event of inadequate client identification, suspicions of money laundering or terrorism financing, conflict of interest, failure to pay our fees and expenses, failure to supply adequate instructions, or if confidence and trust no longer exist between us. If we decide to terminate our engagement, you must still pay our fees for services provided and expenses incurred prior to the date of termination. An engagement will in any event end when we have fulfilled your instructions in relation to that engagement.

**15. Complaints and claims**

**15.1** We are committed to your satisfaction and to ensuring that our services meet your needs and expectations. If, for any reason, you should be dissatisfied or have a complaint, we ask you to promptly notify the attorney responsible for your account. You may also contact any member of our Management Team (which is presented, along with contact information, on our website: [www.awa.com](http://www.awa.com)). We will investigate your complaint and endeavour to answer any questions you may have.

**15.2** Any claim must be made in writing and be accompanied by an account of our alleged fault or negligence and your loss or damage caused thereby. In order to be enforceable, the claim must be submitted within a reasonable time but not later than twelve months after the date when you became (or, after reasonable investigations, could have become) aware of the loss or damage and that our alleged fault or negligence may have occasioned that loss or damage or the date on which the last invoice was issued as regards the assignment to which the claim refers. Regardless of the foregoing a claim cannot be made under any circumstances after the expiry of the period of limitation that applies according to applicable law.

**15.3** If your claim is based on a claim against you by a third party, we or our insurers shall be entitled to meet, settle and compromise such claim on your behalf, provided that – taking into consideration the limitations of our liability towards you under these general terms and conditions, any engagement letter or due diligence report or other document – you are indemnified by us. If you meet, settle, compromise or otherwise take any action in relation to such claim without our consent we will have no liability for that claim.

**15.4** If you are compensated by us or our insurers in respect of a claim, you shall, as a condition for such compensation, be obliged to transfer the right to recourse against third parties by way of subrogation or assignment to us or our insurers.

**16. Limitation of liability**

**16.1** Our liability for any loss or damage suffered by you as a result of our fault or negligence shall be limited in respect of each assignment to a maximum amount of six hundred thousand (600,000) Euros. AWA shall

have liability insurance with an insurance of at least six hundred thousand (600,000) Euros. If you require higher insurance protection, you shall bear the cost of such protection.

- 16.2** Our liability to you is limited to the actual and final damage incurred to you. Among other things, this means that our liability will be reduced by any amount that may be obtained under any insurance maintained by or for you or under any contract or indemnity to which you are a party or a beneficiary.
- 16.3** AWA has no liability to any third party as a result of your use of documents or any other advice provided by AWA.
- 16.4** AWA will not accept any liability arising from failure to meet any time limit due to events beyond our control.
- 16.5** If AWA, as one of several advisers, is liable for damage caused to you, AWA is not liable for a greater proportion of the total sum than AWA's proportion of the total fee.
- 16.6** As stated in Clause 7 above, other advisers and professionals shall be deemed to be independent of us (irrespective of whether we have engaged them or if you have engaged them directly). Hence, we assume no liability for other advisers or professionals including, without limitation, for choosing or recommending them or for their advice or other services provided. This applies regardless of whether they report to us or to you.

## **17. Amendments**

- 17.1** These terms and conditions may be amended by us from time to time. The latest version can always be viewed on our website: [www.awa.com](http://www.awa.com). Amendments to the terms and conditions will become effective only in relation to matters initiated after the amended version is posted on our website. A copy of the latest version of these terms and conditions will be sent to you on request.
- 17.2** Agreements on deviation from these terms and conditions are valid only if made in writing.

## **18. Governing law and jurisdiction**

- 18.1** These terms and conditions and all issues regarding them or any matter on which we have advised you are governed by and will be construed in accordance with Swedish substantive law when services are provided by AWA Sweden AB and Danish substantive law when services are provided by AWA Denmark A/S. In matters where professionals from both companies are engaged, the law of the country where the person in charge of the matter is employed shall be applied.
- 18.2** Except as stated in Clause 18.3, any dispute, controversy or claim that may arise out of or in connection with these terms and conditions or the breach, termination or invalidity thereof or regarding

any matter on which we have advised or failed to advise you, will be finally settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The place of arbitration will be Stockholm, Sweden. The language to be used in the arbitral proceedings shall be English unless we agree with you to use Swedish.

- 18.3** Any dispute, controversy or claim as defined in Clause 18.2 in connection with the contract between AWA Denmark A/S and you will, at your request, be finally settled according to the Arbitration Rules of the Danish Institute of Arbitration without recourse to the ordinary courts of law unless otherwise provided in Clause 18.4 below. The place of arbitration will be Copenhagen, Denmark. The language to be used in the arbitral proceedings shall be English unless we agree with you to use Danish. If any party requests arbitration pursuant to this Clause 18.3, then all disputes arising between you and AWA arising out of the same matter will be resolved by the same tribunal and in accordance with this Clause 18.3. However, if a dispute between you and AWA is already pending before another arbitral tribunal in relation to the same matter, that tribunal will resolve all disputes in relation to that matter in accordance with the arbitration agreement governing the pending arbitration.
- 18.4** Notwithstanding Clauses 18.2 and 18.3, AWA will be entitled to commence proceedings for the payment of any amount due to us in any court with jurisdiction over you or any of your assets.

