



CAPIP SERVICES GENERAL TERMS AND ONLINE SERVICE USER TERMS

These CAPIP Services General Terms and Online Service User Terms (the “**Terms**”) form a legal agreement between the Client (as defined below) and the Coordinator (as defined below) and are applicable to the provision of CAPIP Services by the Coordinator to the Client, as well as to the use of the CAPIP.EU website and the services made available from time to time via that website (the “**Online Service**”).

WHEREAS

- (1) The Client holds one or several intellectual property rights, in particular within Europe, and has applied or wishes to apply for customs action against goods suspected of infringing these rights in parts or the whole of Europe, Norway and Switzerland.
- (2) CAPIP is a network of law firms present in EU, Norway and Switzerland whose mission is to deliver the best possible support to multinational clients in the area of Intellectual Property, in particular in the area of anti-counterfeiting. The member law firms of CAPIP.EU have gained considerable experience in IP and in particular anti-counterfeiting services. The Client wishes to obtain legal services from CAPIP.EU and the Partners with regard to applications of customs actions and/or subsequent services following upon Customs suspension or seizure of suspected counterfeit goods.
- (3) In connection with the provision of CAPIP Services (as below defined) the Client may be provided access the Web Module.

IT IS HEREBY AGREED AS FOLLOWS:-

PART I - DEFINITIONS

When used in these Terms, the following terms shall have the meaning indicated, unless the context requires otherwise:

“**CAPIP.EU**” means the foundation duly organized and existing under the laws of the Kingdom of the Netherlands whose Registered Office is situated at Bijster 1, 4817 HX Breda, The Netherlands, and which is established to support this EU-wide service of the CAPIP member firms;

“**CAPIP Services**” shall mean one or several of the following services:

Initial Services: Applications for Customs Actions

Basic Services: Sampling and photographing of suspected counterfeits and pirated goods intercepted at EU, Norwegian and Swiss borders; Immediate notification of



suspected consignments; Exchange of CAPIP Cease and Desist letters, Letters of Consent and/or Undertakings with consignees and/or declarants as well as local customs authorities as the case may be; Coordination of destruction procedures with the local customs; Timely reports regarding destructions of counterfeits and pirated goods; provision of access to CAPIP web module, guaranteeing up-to-date information on Client's files

Additional services: Further professional negotiation with suspected infringers and consignees of counterfeit and pirated goods; Coordination of destruction procedures with third party services; Court proceedings; Legal Services relating to parallel trade

"Client" means the contracting party of the Coordinator under the Main Agreement who purchases CAPIP Services from the Coordinator.

"Client Data" shall have the meaning ascribed to it in Section 1.3 of Part IV.

"Coordinator" means such Partner who concludes separate agreement with the Client for the provision of CAPIP Services to the Client and who manages the direct customer relationship with the Client.

"Coordinator General Terms" mean any general terms under which the Coordinator provides its services (including CAPIP Services) from time to time, including without limitation applicable general rules and principles of liability and terms of delivery applied by the Coordinator from time to time.

"Commencement Date" means effective date of the Main Agreement.

"Main Agreement" shall have the meaning ascribed to it in Section 1 of Part II below.

"Online Service" shall have the meaning ascribed to it in the introductory sections of this agreement.

"Operational Partner" means each Partner other than the Coordinator.

"Partner" means partner law firm of the CAPIP network.

"Party" means each of the Client and the Coordinator

"Territory" means the territory of European Union, Norway and Switzerland.

"Terms" shall have the meaning ascribed to it in the introductory sections of these Terms.



PART II – SPECIFIC TERMS APPLICABLE TO THE CAPIP SERVICES

1. Applicability of Terms

These Terms are applicable to the provision of CAPIP Services to the Client by the Coordinator, which services are purchased under a separate agreement (the “**Main Agreement**”) concluded by the Coordinator and the Client. In addition to these Terms, the provision of the CAPIP Services shall be subject to the Coordinator General Terms. In case of any discrepancy between the Coordinator General Terms and these Terms, the Coordinator General Terms shall prevail.

2. Conflicts of Interest

- 2.1 Prior the provision of CAPIP Services, the Coordinator will disclose to the Client possible material conflicts of interest for such Operational Partners it intends to use for the provision of the services. The disclosure is made on “best efforts basis” and is based on information actually available to the Coordinator.
- 2.2 The Client may in its discretion reject the use of any proposed Operational Partner due to possible conflict of interest.
- 2.3 In case Client rejects use of any Operational Partner due to conflict of interest, the Coordinator may propose other local Partner or subcontractor to replace such disqualified Operational Partner.

3. Supply of CAPIP Services

- 3.1 The Coordinator shall be solely responsible for the provision of agreed CAPIP Services to the Client. For sake of clarity, the Operational Partners shall not in any circumstances be responsible for the provision of the said services. The Coordinator shall do such work as is necessary or desirable to deliver the CAPIP Services to the Client. The Coordinator may use Operational Partners and other subcontractors for the provision of CAPIP Services. The Coordinator shall be responsible for the acts and omissions of such Operational Partners and other subcontractors.
- 3.2 The Client hereby expressly agrees to (i) the use of Operational Partners and to other cooperation between the Partners, for the purpose of supplying the CAPIP Services, and the Client further agrees to (ii) the fact that the contact person of each Operating Partner who is used in any relevant country in the Territory for the provision of the CAPIP Services may be designated to act as the Client’s contact person for the local customs authorities.
- 3.3 Coordinator shall furnish the Client with an up-to-date list of Partners and Partner’s contact persons upon Client’s request. The Partner list (including contact person listed on such list) may be amended by the Coordinator at any time in their discre-



tion, which amendments shall become effective immediately. The client is notified of such Amendments in the Web Module or with other means deemed appropriate by the Coordinator.

- 3.4 The Coordinator makes its best efforts to provide the CAPIP Services within the applicable time limits (if any) set forth in Annex 1 or elsewhere in this Agreement.

4. Fees, Payment Terms

- 4.1 Fees charged by the Coordinator for the CAPIP Services are defined in the CAPIP Schedule of fees and the Main Agreement.
- 4.2 Fees shall become due and payable in accordance with the Main Agreement.

PART III - SPECIFIC TERMS APPLICABLE TO THE ONLINE SERVICE

1. Provision of the Online Service

- 1.1 The Online Service is made available to the Client by the Coordinator, who is solely responsible towards the Client for all matters pertaining to the provision and use of the Online Service. In connection with the provision of the CAPIP Services, the Client may be provided access to the Online Service. More information about the Online Service is found in < the Handbook >.
- 1.2 The Coordinator pursues to implement reasonable security measures to safeguard the Client Data and other data stored in the Online Service.
- 1.3 The Online Service (including its contents and information) are provided as a convenience to the Client. The Online Service is provided on "as is" and "as available" basis. Coordinator does not warrant that the Online Service will be uninterrupted or error-free. Coordinator reserves the right to amend or alter the Online Service, or withdraw access to the Online Service at any time for any reason.

No warranty of any kind, either express or implied, including but not limited to warranties of title or non-infringement or implied warranties of merchantability or fitness for a particular purpose, is made in relation to the availability, accuracy, reliability or content of the Online Service. To the greatest extent permitted by applicable law, the Coordinator shall not be liable for any direct, indirect, incidental, special or consequential damages or loss (including without limitation loss of profits or business interruption arising out of the use of or inability to use the Online Service), even if the Coordinator has been advised of the possibility of such damages or losses.



2. Accounts

- 2.1 The Client must provide the Coordinator with accurate and complete information about the Client for the purposes of opening and maintaining account in the Online Service. The Client must ensure that its account information is true and accurate at all times and it is the responsibility of the Client to inform the Coordinator of any changes to its account information.
- 2.2 The Client is responsible for the security and proper use of all of its user accounts and passwords used in connection with the Online Service. The Client must take all necessary steps to ensure that such account particulars are kept confidential, secure, used properly and not disclosed to any unauthorised people. The Client is responsible for all activities that occur under Client's account. The Client must inform the Coordinator immediately if there is any reason to believe that the Client's password has, or is likely to, become known to someone not authorised to use it or is being or is likely to be used in an unauthorised way.

3. Use of the Online Service

- 3.1 The Online Service may be used only in accordance with applicable laws, rules and regulations. The Online Service may be used only for the internal use of the Client, and to access only Client's proprietary Content.
- 3.2 Use of the Online Service may be subject to system requirements relating to hardware, third party software and internet access. The Client acknowledges and agrees that such system requirements, which may be changed from time to time, are the Client's responsibility.

4. Intellectual Property Rights

- 4.1 The Client acknowledges and agrees that the Coordinator (or the Coordinator's licensors) own all legal right, title and interest in and to the Online Service (including content and information in the Service other than Client's material and information), including any intellectual property rights which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist).
- 4.2 The Client retains all legal right, title and interest in and to Client Data (as defined below).
- 4.3 The Client shall have the non-exclusive, non-transferable, non-sublicensable right to use the Online Service subject to the provisions of these Terms (in particular provisions of Section 1.2 above, including without limitation the Coordinator's right to withdraw the Client's access to the Online Service at any time for any reason) during the term of the Main Agreement solely for its internal business purposes.



- 4.4 In connection with any termination or expiry of this Agreement or the Main Agreement, the Client shall immediately destroy any software, content or information it has downloaded or otherwise obtained from the Online Service, with the exception of its own Client Data.

PART IV - OTHER TERMS

1. Confidentiality

- 1.1 Coordinator agrees to keep confidential all confidential information directly or indirectly disclosed by the Client and shall ensure that the Operational Partners and CAPIP.EU is bound to corresponding confidentiality obligations. This confidentiality obligation shall survive the termination or expiry of these Terms. Without limiting the foregoing, the Coordinator and Operational Partners may be bound by statutory confidentiality obligations (Attorney-Client Privilege) as provided by applicable laws, rules and regulations, and the Coordinator may be further bound by the confidentiality obligations set forth in the Main Agreement.
- 1.2 The Client acknowledges and agrees that its confidential information may be disclosed to Partners and CAPIP.EU in such extent and as may be required or may be advantageous for the provision of CAPIP Services and/or the Online Service to the Client.
- 1.3 The Client acknowledges and agrees that information and data (together “**Client Data**”) relating to the Client, Client’s business and the matter(s) in relation to which the CAPIP Services are provided to the Client and which information may contain Client’s confidential information, may be stored in the Online Service to such extent as may be required or advantageous for the provision of the CAPIP Services and/or the Online Service to the Client. The Client further acknowledges and agrees to the fact that all Partners have access to all information stored in the Online Service.

2. Amendments

Notwithstanding the foregoing, these Terms may be amended by Coordinator at its discretion with at least ten (10) days’ prior notice. The notice may be posted in the Service or provided to the Client by other means deemed appropriate by the Coordinator. For sake of clarity, the Coordinator may amend the CAPIP.EU handbook at its discretion without any need for Coordinator to provide notice to the Client.



3. No Waiver

No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

4. Governing Law, Resolution of Disputes

- 4.1 These Terms shall be deemed to be construed in accordance with and shall be solely and exclusively governed by the laws of the country in which the Coordinator is established.
- 4.2 Any dispute arising out of or in connection with these Terms may be settled in the District Court at the domicile of the Coordinator.



ANNEX I DELIVERY DATES FOR THE SERVICES

Task	Delivery date
Incoming notification	(if applicable) Submission by receiving Supplier to the Coordinator / Attorney within 2 hours of receipt of the notification.
Submission of notification to the Company	Submission to the Company within 24 hours of receipt of the notification by the Coordinator / Attorney from CAPIP.
Exchanges with customs prior to sending C&D letter	To be finished latest prior to the expiry of the first term of 10 working days as set forth in (EC)Regulation 1383/2003
Exchanges with the Coordinator and/or Company prior to sending C&D letter	To be finished latest prior to the expiry of the first term of 10 working days as set forth in (EC)Regulation 1383/2003
Drafting and sending of C&D letter (when applicable)	To be finished latest prior to the expiry of the first term of 10 working days as set forth in (EC)Regulation 1383/2003
Exchanges with the declarant and/or infringer as the case may be	To be finished latest two working days prior to the expiry of the second term of 10 working days as set forth in (EC)Regulation 1383/2003
Follow up with customs	To be finished latest two working days prior to the expiry of the second term of 10 working days as set forth in (EC)Regulation 1383/2003
Any other business	To be finished latest two working days prior to the expiry of the second term of 10 working days as set forth in (EC)Regulation 1383/2003
Expiry of term	Possible commencement of proceedings