

## Terms of Business

Zacco consists of Zacco A/S and all its subsidiaries as well as Zacco Advokatanpartsselskab, Zacco legal Rechtsanwalts GmbH, and Advokatfirmaet Zacco AS. For more information about these entities, please see the [regulatory](#).

These Terms of Business apply to all assignments accepted by any of the above entities, unless otherwise explicitly agreed in writing, and form an integral part of the agreement between the relevant entity and the client.

### 1. Conflicts of Interest

In accordance with the applicable laws and regulations and in accordance with our internal procedures we ensure that to the best of our knowledge no conflict of interest exists before we finally accept an assignment.

Should a conflict of interest arise during the performance of an assignment we will immediately inform the client thereof. We may choose or be under an obligation not to disclose the nature of a conflict of interest.

Due to the size and breadth of our practice we may act for clients with similar areas of business if there is no actual conflict of interest. Regarding services, where no counseling is involved, like the payment of renewal fees, there is no risk for conflict of interest, even if the service is provided for clients within related areas. This is also true for validations and we do in general not consider these services as a reason for conflict of interest.

Further, as our technology services within software development and cyber security are performed under direct instruction from the specific client and without any counterparty, we consider such services as exempt from any conflict of interest.

### 2. The Assignment

It is important that we are able to identify who is formally the client. We assume, unless otherwise explicitly agreed in writing, that the person (individual, firm or company) providing us with the instructions relating to an assignment, and not the person (-s) for whom they act, is our client and responsible for payment of our fees and the disbursements incurred in performing the assignment.

We will perform an assignment until it is completed and perform the tasks which we in our discretion deem necessary or appropriate, including with regard to the maintenance of an application for patent, trademark or other intellectual property right until finally granted or rejected, subsequent filings with priority claim, and with regard to the administration of the

intellectual property rights for which we are registered as attorney of record, unless otherwise instructed by the client.

If we are required to act within a certain due date set by an intellectual property office, other public authority or court and we in our discretion deem that the explicit instructions of the client is required, we will notify the client of the due date and request instructions. If the client fails to provide us with the requested instructions, including information or material, and advance payment in order to be able to meet the due date, we may choose not to meet the due date and disclaim liability for any direct or indirect loss resulting from not doing so.

To perform the assignment it may be necessary for us to instruct foreign agents and other third parties. You are entitled to select such third parties, but if you do not, you allow us to select them on your behalf. In either case you accept that such third parties are not part of Zacco. While we endeavour to select third parties whose expertise and performance is of good quality, we disclaim liability for any losses, liabilities, costs or expenses arising as a result of any default or negligence on part of any such third party.

Zacco works with a number of preferred foreign agents. Where appropriate we make the instruction of these foreign agents conditional of the foreign agent being subject to our quality assurance program, which involves ongoing reviews of the foreign agent's capabilities, processes, tools and pricing policies. Foreign agents may pay us in consideration of being subject to our quality assurance program.

### **3. Fees and Disbursement**

Our fees take into consideration several factors, including time spent, required expert knowledge, urgency, importance of the assignment to the client and the responsibility associated with the assignment.

For certain standardized assignments we apply basic or flat fees. A list of the relevant services and the corresponding basic or flat fees is available upon request. When we act as representatives, we apply a representation fee.

All actions and attention in performing the assignment are chargeable to the client, including telephone conversations, travelling, receiving and reporting communications that we receive from any intellectual property office, other public authority or court and foreign agents, sending of reminders, as well as acting for the client generally.

Disbursements, including official fees and costs to foreign agents may be charged separately with a surcharge covering administration, financing and currency fluctuations. Information on such surcharges is available upon request.

Upon request we provide an estimate of the fees and disbursements associated with performing an assignment. If, during the performance of the assignment, the scope of the assignment is changed or we for other reasons expect that the total costs and disbursements will exceed our most recent estimate, we will as soon as possible inform the client thereof and provide a revised estimate.

We reserve the right to amend our fees, e.g. in relation to changes in the relevant consumer price index. For subscription services, or for an agreed project duration, any adjustment will not take effect until the end of the agreed period.

#### **4. Invoicing and Terms of Payment**

We invoice monthly, unless otherwise agreed with the client.

Terms of payment are as stated on the invoice.

#### **5. Advance Payments**

We generally request advance payment of larger disbursements and we always request advance payment of fees and disbursements when our invoices have remained unpaid after one or more reminders, the performance of an assignment will exceed the client's credit limit or the client's credit status is negative.

#### **6. Retention of Title**

Any result created by Zacco in performing the assignment, including any documents and information, shall – to the widest possible extent permitted by the applicable law – remain the property of Zacco until the performance of the assignment has been paid for in full.

The title in the results created by Zacco shall pass to the client as payment takes place.

Until the title in the results created by Zacco in performing the assignment has passed to the client, the client shall not be entitled to dispose over the property of Zacco, which means that the client shall not be entitled to assign, pledge as a security or use the property as well as not change or merge or combine the property of Zacco with its own property or the property of third parties.

In case of late payment, the client shall upon request immediate return the property of Zacco to Zacco.

#### **7. Confidentiality**

7.1 All our people are under an obligation to confidentiality. Any confidential information received from or relating to a client, which is received or discovered in connection with the

performance of an assignment will be kept in confidence and not disclosed to a third party except as required in order to perform the assignment.

7.2 From time to time Zacco may provide clients (or potential clients) with confidential information regarding Zacco's business. Such confidential information includes e.g. prices, calculations, contracts, details on agents and/or any other information which the client expressly and in writing has been informed is designated as confidential. Such confidential information may not be disclosed to any third party or used outside the purpose of disclosure.

7.3 If Zacco or the client are under an obligation by law to disclose confidential information received from or relating to the other party, they may comply with this obligation, but only after having given the other party prior notice and reasonable opportunity to obtain a protective order.

## **8. Communication via email**

Upon Zacco's confirmation of the assignment the client is responsible for providing Zacco with a valid email address to serve as its main way of communication between the parties. If no separate information is provided by the client in this regard, Zacco is entitled to consider the email address(-es) used by the client for conclusion of the assignment as the chosen valid email address dedicated for future correspondence.

The dedicated email address will be recorded in Zacco's client file and will be considered by Zacco as a full legally binding way of communicating all information and documentation between the parties, including, but not limited to, information on official deadlines, request(s) for instruction(s) and ending of the business relation between the parties.

Should the client wish to change the dedicated email address at a later stage the client is solely liable for clearly informing Zacco hereof in writing in advance. Any change of the dedicated email address will first be effective upon written confirmation from Zacco that Zacco's client file has been updated accordingly.

## **9. Contact information**

The client shall provide Zacco with its full name, business registration no., VAT/EIN no., physical address, main e-mail address and phone number. The client must also provide a contact person and the contact person's email and telephone number. The client must ensure that Zacco is kept apprised of any changes to the above information.

## **10. Termination of an Assignment**

We reserve the right to terminate an assignment if our invoices are not paid in time, the client's credit status becomes negative, a conflict of interest arises during the performance of the assignment, or if we in extraordinary circumstances cannot take responsibility for the performance of the assignment. Termination of an assignment may include withdrawal of representation as attorney of record with respect to an intellectual property office, other public authority or court. If we choose to terminate an assignment, we will give reasonable notice enabling the client to avoid any loss of rights.

## **11. Files**

Original documents, such as certificates of registration and contracts, will be delivered to the client no later than in connection with the completion of the assignment unless otherwise agreed upon, and providing our fees have been paid for in full.

Files will be kept at least 5 years from the date of the last invoice.

## **12. Limitation of Liability and Insurance**

We are responsible for the services provided in accordance with the applicable law (see Section 13 below) and we have professional indemnity insurances with reputable insurance companies. Our liability for each assignment is limited to an amount corresponding to twice Zacco's professional fee for the assignment with an overall maximum aggregate liability towards the client of € 500,000 per calendar year.

The client has to inform Zacco of any potential damage or incident that the client will hold Zacco liable for immediately after the actions or inactions by Zacco has come to the knowledge of the client and, in any case, within 12 months from the date of the actions or inactions by Zacco.

Zacco is entitled to exercise redress or repair the damages towards the client at Zacco's sole discretion.

In accordance with applicable law, the client must make reasonable good faith efforts to limit damages.

In the event of a claim by the client, the client may raise such claim against the liable legal entity or entities only. The individual Zacco entities thus only assume liability for services that they themselves have rendered. The client cannot raise a claim against any individual employee at Zacco.

We disclaim liability for indirect and consequential losses, damages, costs or expenses, including lost profits and loss of goodwill. We further disclaim liability for advice and services rendered by other advisers to the client, irrespective of such advisers having been engaged with the assistance of Zacco.

The above limitations of liability will not be applicable if they are contrary to mandatory statutory provisions.

### **13. Force Majeure**

Force majeure means an event or circumstance that is beyond either party's reasonable control including, without limitation, any acts of God, war, flood, embargo, natural disaster, pandemic, mobilization, rebellion, confiscation, changed or new legislation, national strike or lockout, failures by telecommunications carriers, internet service or bank systems, any nationalization, confiscation, or any other act of government.

If any party is prevented from, or delayed in, performing any of its obligations under any assignment by a force majeure event, then that party shall be excused from performance of, and not be liable for any delay or failure to perform under the assignment for so long as the force majeure event continues and to the extent that party is so delayed or prevented.

A party may not claim force majeure unless it has provided written notification without undue delay upon learning of the event constituting force majeure. Such party must use all reasonable means available to prevent and reduce the damage or delay resulting from force majeure.

If the circumstances constituting the force majeure continue for more than six (6) months, either party shall have the right to terminate, by written notice, the assignment with immediate effect.

### **14. Applicable Law and Venue**

Any dispute arising out of or relating to our performance of an assignment shall be governed by the substantive laws of the country where the entity performing the assignment has its principle place of business and the courts of the same country shall have exclusive jurisdiction over the dispute.

### **15. Language**

These Terms of Business are written in English but translations may be made available for the convenience of the client. In case of any conflict, the English version shall prevail.

## 16. Changes

These Terms of Business may be changed from time to time. The latest version will be available on [zacco.com](https://zacco.com). Changes will apply to assignments received after publication of the revised version.

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*ver 2023-01*