

General Terms and Conditions v2018-12-17

uptoIP® ABP PATENT NETWORK GmbH

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1. AREA OF APPLICATION

The following general terms and conditions form a part of all of the contractual relationships concluded between ABP PATENT NETWORK GmbH (hereinafter "ABP") and you as the Client (hereinafter "CLIENT") relating to

- services associated with searches, monitoring and the provision of data for the software DISIS and/or for uptoIP®
- services associated with the extension of intellectual property rights
- licensing of the software uptoIP®
- continuous supply of data.

These general terms and conditions are divided into special provisions for respectively named, individual services and general provisions which apply to all services. In case of doubt, special conditions shall take precedence over general conditions.

The acceptance of services by the CLIENT or instructions of the CLIENT to ABP for the provision of services shall be deemed to be an unrestricted recognition of said conditions.

Any amendment to said conditions shall only enter into effect once it has been signed in writing by ABP.

Non-enforcement or a delay in the enforcement of one of these conditions by ABP or the rights arising from the latter for ABP shall not be considered to be an abandonment of said condition or the corresponding right and any partial or one-off application of the rights derived from said conditions shall be performed irrespective of the future application of such rights or other rights.

2. SPECIAL PROVISIONS FOR INDIVIDUAL SERVICES

2.1. Special provisions for services associated with searches, monitoring and the provision of data for the software DISIS and/or for uptoIP®

2.1.1. SEARCH INSTRUCTIONS

A request to conduct a search shall be considered binding upon the actual delivery of the confirmation of instructions to ABP. The confirmation of instructions needs to be sent in writing, by fax or e-mail. Verbal instructions shall only be considered valid if they are confirmed in writing by fax or e-mail, by ABP or by the CLIENT.

If ABP requires confirmation of instructions from the CLIENT by a specific date, ABP shall inform the CLIENT of this in a suitable notification. If the required confirmation of instructions is not delivered to ABP by the specified date or if the instructions are ambiguous or incomplete, ABP shall not be responsible for any possible damage caused by this and shall not be obliged to undertake steps to protect and safeguard the rights of the CLIENT. If the search is required within a specific time period, this is to be made clear by the CLIENT. The delivery by the requested date shall be considered approved if this is confirmed by ABP in writing, by fax or e-mail.

The CLIENT shall inform ABP of any changes of address. Up until the receipt of such a notification by ABP, notifications shall be considered to have been delivered when they have been sent to the original address (cf. item C.5. of the present general terms and conditions).

If a request to conduct a search is withdrawn, ABP shall be entitled to payment for all services rendered up to the time of withdrawal.

2.1.2. SUBCONTRACTORS

ABP shall be entitled to use the services of subcontractors to perform services (e.g. database providers, patent offices, external search offices etc.).

2.1.3. COMMUNICATION

All communication for the duration of the contractual relationship shall be conducted in writing, by fax or by e-mail. If a message is delivered after 17:00, it shall only be considered to have arrived at 9:00 the following business day. If searches are carried out abroad (e.g. searches on legal status by representatives abroad) the respective time differences shall be taken into consideration. Should confirmation of the receipt of instructions arrive within said business hours, but outside the business hours of subcontractors abroad, ABP shall not be responsible for ensuring that the search has been performed in good time.

2.1.4. LONG-TERM SEARCHES

Long-term searches or ongoing searches, such as in particular the monitoring of the legal status or recurring search services according to a standard instruction (e.g. searches for disclosures of inventions), shall be carried out according to the instructions until a written notice of termination is submitted.

The value stability of the fee relating to this shall be agreed on explicitly. The basis for calculating the value stability of the flat-rate amount shall be the consumer price index 2015 agreed on every month by the Austrian Office for Statistics or another substitute index shall be used. The starting point for said indexation clause is the index figure calculated for the month in which the instructions are issued. Any changes to the index shall be rounded up to the nearest EURO in accordance with commercial practice.

Termination shall be possible at any time with a four-week notice period and shall be requested in writing, with writing by e-mail or fax being sufficient. Within this four-week notice period, search services shall be carried out according to the instructions and ABP shall be entitled to the agreed fee. Separate notice periods agreed on in writing shall apply for monitoring and the supply of data for the software DISIS and/or for uptoIP®. Once the termination comes into effect, the search services shall be stopped without further notice.

The CLIENT and ABP shall reserve the right to request immediate written termination for an important reason; ABP shall be entitled to claim remuneration for all services performed up to that date in any case.

2.1.5. LIABILITY

ABP shall be liable for personal damage and gross negligence as well as intentionally caused damage in accordance with the legal provisions. Apart from this, the liability for damage, which is caused to the CLIENT from the culpable infringement of responsibilities by ABP, shall be restricted to 5-times the fee amount of the respective instructions and any type of consequential damage, such as in particular damage caused by defects, damage caused by the consequences of defects and/or collateral damage, indirect damage, pure financial losses and also loss of profit and/or comparable claims shall be excluded. The level of liability of ABP shall be limited to a maximum of the respective cover of ABP's pecuniary damage liability insurance.

Should ABP be hindered from performing services for the CLIENT by force majeure, ABP shall give notice of this at the earliest opportunity. The term "force majeure" includes events or circumstances which deprive ABP of its capabilities to exert influence. In this case ABP shall not be liable for ensuing damage.

As the services of ABP are based on materials published by patent offices or databases or documents provided by the latter or which are publicly accessible, ABP shall not be liable for any damage caused by the incorrectness, ambiguity, incompleteness or untimely transmission of such materials and/or information derived from the latter.

In this connection ABP also notes that during a search only material can be located that has already been published at the time of the search and provided in the databases or by the patent offices. For patent applications in countries with an early publication, e.g. Austria, Germany, France, Japan, European and international applications etc., the first publication is made 18 months after the date of the application or the priority application at the earliest. In countries without early publication, publication only takes place at the time of notification/grant of the protective right and therefore in many cases only after 3 to 5 years. For this reason and due to general language problems in patent literature and potential errors, e.g. in translations or classifications, a complete search result is not possible, and no guarantee or liability can be assumed in such cases.

2.2. Special provisions for services associated with the extension of intellectual property rights

2.2.1. PAYMENT INSTRUCTIONS

The instruction to make a payment shall become binding on the actual delivery to ABP of the confirmation of instructions from the CLIENT. The confirmation of instructions needs to be sent in writing, by fax or e-mail. Verbal instructions shall only be considered valid if they are confirmed in writing by fax or e-mail.

If ABP requires confirmation of instructions from the CLIENT by a specific date, ABP shall inform the CLIENT of this in a suitable notification. If the confirmation of instructions is not delivered to ABP by the required date or if the instructions are ambiguous or incomplete, ABP shall not be responsible for any possible damage caused by this and ABP shall not be obliged to undertake steps to protect and safeguard the rights of the CLIENT. Without written confirmation of instructions ABP shall not request an extension and the protective rights will lapse irrevocably.

The CLIENT confirms that ABP can rely on the instructions of a responsible person instructed by the CLIENT and disclosed to ABP, unless ABP receives a written cancellation of this from the CLIENT.

2.2.2. SUBCONTRACTORS

ABP shall be entitled to use the services of subcontractors to perform services.

2.2.3. FEES

When submitting an offer relating to the extension of a specific protective right ABP shall notify the CLIENT of the total fees for the extension as estimated by ABP. The estimated costs are based on the assumption that the extension can be carried out at the estimated cost as expected and that there are no special circumstances. After sending confirmation of the receipt of instructions for the extension it shall be assumed that the CLIENT consents to the payment of the estimated fees and to the payment of additional, subsequently accrued fees or other fees for unexpected further services. This shall also apply to changes in the fees charged by subcontractors used by ABP and to changes of official fees.

Foreign currency amounts which are invoiced to ABP by subcontractors or offices, shall be converted using the internal conversion rates employed by ABP.

In the absence of instructions to extend a protective right, ABP shall charge for the cost of the actual time taken.

2.2.4. COMMUNICATION

All communication for the duration of the contractual relationship shall be made in writing, by fax or by e-mail. If a message is delivered after 17:00, it shall only be considered to have arrived at 9:00 the following business day.

2.2.5. TERMINATION

The contractual relationship may be terminated in writing by both parties observing a notice period of 3 months from the last day of a month.

If the contractual obligations have been infringed, in the case of the liquidation or bankruptcy of the CLIENT and in case of a default in payment of more than 3 months, ABP shall be entitled to terminate the contractual relationship in writing without observing a notice period.

After termination, all of the amounts owed by the CLIENT shall become due with immediate effect. ABP shall no longer be obliged to provide services.

If annular fees or extension fees are due for protective rights of companies that have already been closed in the company register, the following procedure shall be agreed on:

Information about the pending extension shall be passed on to the registered liquidator. As the latter is usually no longer responsible for such decisions, the Director recorded in the company register shall be informed (by registered mail with receipt of delivery). If the latter cannot be contacted, ABP shall not take any further action and the protective right shall be allowed to lapse.

2.2.6. LIABILITY

ABP shall be liable for personal damage and gross negligence as well as intentionally caused damage in accordance with the legal provisions. Apart from this, the liability for damage, which is caused to the CLIENT from the culpable infringement of responsibilities by ABP, shall be restricted to 5-times the fee amount of the respective instructions and any type of consequential damage, such as in particular damage caused by defects, damage caused by the consequences of defects and/or collateral damage, indirect damage, pure financial losses and also loss of profit and/or comparable claims shall be excluded. The level of liability of ABP shall be limited to a maximum of the respective cover of ABP's pecuniary damage liability insurance.

Should ABP be hindered from performing services for the CLIENT by force majeure, ABP shall give notice of this at the earliest opportunity. The term "force majeure" includes events or circumstances which deprive ABP of its capabilities to exert influence. In this case ABP shall not be liable for ensuing damage.

As the services of ABP are based on materials published by patent offices or databases or documents provided by the latter or which are publicly accessible, ABP shall not be liable for any damage caused by the incorrectness, ambiguity, incompleteness or untimely transmission of such materials and/or information derived from the latter.

In this connection ABP also notes that during a search only material can be located that has already been published at the time of the search and provided in the databases or by the patent offices. For patent applications in countries with an early publication, e.g. Austria, Germany, France, Japan, European and international applications etc., the first publication is made 18 months after the date of the application or the priority application at the earliest. In countries without early publication, publication only takes place at the time of notification/grant of the protective right and therefore in many cases only after 3 to 5 years. For this reason and due to general language problems in patent literature and potential errors, e.g. in translations or classifications, a complete search result is not possible, and no guarantee or liability can be assumed in such cases.

2.3. Special provisions for the licensing of the software uptoIP® - software license (ongoing licensing fee)

The following provisions govern the rights and obligations of ABP and the CLIENT with respect to the licensing of the "uptoIP®" software for local use by the CLIENT or the provision of access to the "uptoIP®" portal solution, depending on which variant is ordered by the CLIENT and is cited in the corresponding purchase order.

2.3.1. DEFINITION OF TERMS

2.3.1.1. "ABP"

ABP PATENT NETWORK GmbH, Rosenauerweg 16, 4580 Windischgarsten, Austria

2.3.1.2. "CLIENT"

is the company named in the purchase order.

2.3.1.3. "Order"

means a purchase order made by the CLIENT together with a document denoted as an "offer" and signed by ABP and the CLIENT, which is subject to the present general terms and conditions and which contains detailed information specific to the purchase order, in particular details on invoicing and a description of the licensed products. All of the purchase orders are subject to the present general terms and conditions.

2.3.1.4. "uptoIP® portal solution"

An Internet portal solution developed by ABP for managing data and for communication purposes, to which the CLIENT is granted access in return for payment on the basis of and in accordance with the present general terms and conditions, the use of which is permitted according to a non-exclusive license and in which the CLIENT is provided with memory space.

2.3.1.5. “uptoIP® software”

A software solution developed by ABP for local use by the CLIENT, which is used for the management of data and for communication purposes and for the use of which the CLIENT is granted a restricted license in return for payment on the basis of and in accordance with the present general terms and conditions.

2.3.1.6. “uptoIP®” or “product”

Name of the uptoIP® portal solution and the uptoIP® software together.

2.3.1.7. “Documentation”

means the documentation of ABP, which is delivered with the product or provided online, regarding the range of functions, consisting of the main document and release notes or other additions in a respectively updated form.

2.3.1.8. “Standard product”

Product, which has been developed without necessarily corresponding to the individual requirements of a single CLIENT but is provided or licensed in the same form or a similar form to a plurality of CLIENTS.

2.3.1.9. “Add-Ons”

Additions to the product that are provided to a CLIENT that are individual and client-specific, e.g. different types of statistical functions, reporting functions or evaluation functions.

2.3.1.10. “Program updates”

Program updates are updates and/or extensions to the standard product or are used to remove potential errors in the standard product. Program updates include patches, hotfixes, updates and/or upgrades. Program updates can also lead to a new version of the product, which is also subject to these general terms and conditions. Program updates can also be implemented with respect to add-ons, if separately agreed on and remunerated.

2.3.1.11. “Maintenance”

Maintenance is the modification of the standard product after delivery by program updates. The standard product is subject to continual maintenance by ABP, wherein program updates are made available by ABP either with or without a specific reason, whereby the CLIENT shall be informed about available program updates. Program updates or the changes effected by the latter shall be described in release notes.

2.3.1.12. Support”

Support is a problem-oriented consultancy activity.

The work is divided into two areas: “Customer service” for all non-technical queries and “Technical support”.

“Customer Service” is available to the CLIENT for general queries about the product – by phone or e-mail – during office hours Monday to Thursday from 9 to 12 and 13 to 17, and on Fridays from 9 to 12.

Hotline: +43 (0) 7562/5440 or +43 (0) 676/5524477;

support@uptoip.com. Customer service is included in the price of uptoIP®.

“Technical support” is not included in this agreement and should be governed by a separate offer/purchase order, under a definition of the actions to be performed.

2.3.1.13. “Standard additional module”

is a completed unit, which has been developed without necessarily corresponding to the individual requirements of a single CLIENT adding to the functionality of the product. For the product that is the subject matter of this agreement, a series of such additional modules is available. The standard additional modules ordered by the CLIENT are specified in the offer or in the purchase order and are subject to these general terms and conditions.

2.3.2. PRODUCT

2.3.2.1. Subject matter of the agreement

The scope of the product and the subject matter of the agreement are determined by the respectively valid purchase order(s). The scope of function of the product is defined in the documentation of the scope of function, consisting of the main document and release notes or other additions, and can be added to by ABP in support of the CLIENT. Add-ons are finally defined by the specification sheet which is to be prepared and signed by the CLIENT and ABP.

The provision of data by ABP is not the subject matter of the provision of the uptoIP® software product without an additional relevant agreement.

2.3.2.2. Changes

ABP shall reserve the right to make changes to the product which may also result from program updates. The CLIENT shall be obliged to implement program updates (Article 5). It shall also be solely the decision of ABP to continue to offer individual modules, to develop them and to cease to offer other modules. The no longer current development status of the product shall remain available in its existing scope; however, this shall not be taken into consideration with regard to program updates or maintenance. ABP shall inform the CLIENT of any changes.

2.3.2.3. Delivery

The products shall be delivered electronically and online, namely by making them available for download (uptoIP® software) or by sending access codes to the uptoIP® portal solution.

ABP shall make every effort to provide the CLIENT with the access data or the download at the agreed time. ABP shall not be made responsible for a potential delayed delivery, if this is due to the CLIENT not having met the eligibility criteria required by clients (e.g. the necessary system environment). If the CLIENT claims that there has been a delay on the part of ABP, the CLIENT shall be obliged to prove that he/she has met all of the eligibility criteria required by the client at the agreed delivery time. Any claim for demonstrable damage caused by delay shall be capped by the maximum annual fee for the product.

If delays on the part of the CLIENT, specifically due to not meeting the eligibility criteria for clients, results in additional costs, these shall be borne by the CLIENT.

The CLIENT himself/herself shall be responsible for the implementation of the product. If the CLIENT claims that there has been a problem with the delivery of the product, unless there is evidence to the contrary it shall be assumed that implementation errors have been made by the CLIENT and/or that the eligibility criteria have not been met by the client.

On request ABP shall offer the CLIENT start-up assistance in return for payment, by phone or on site, if arranged in good time in advance.

The product shall be considered to have been delivered when the access data has been sent to the defined users of the product.

2.3.3. DOCUMENTATION

Documentation of the scope of function relating to the version defined in the purchase order and in the separately agreed scope shall be provided along with the product. The documentation includes a description of the product and the ordered modules. In case of program updates the documentation shall be supplemented by release notes or other individual descriptions. The documentation in the current version defines the scope of the service obligations of ABP, wherein the specific scope is dependent on the status of the product of the individual CLIENT.

Furthermore, ABP shall provide training to the CLIENT on how to use the product. The content of the training material shall only be included in the service obligations if described in the documentation or is otherwise explicitly agreed on.

2.3.4. CONDITIONS OF USE

The product that is the subject matter of the agreement has been developed for use with specific Internet browser solutions or for use in specific system environments. The supported browser programs include: Microsoft Internet Explorer from Version 10, Mozilla Firefox, Google Chrome and Apple Safari. With respect to the communication function: Lotus Notes/Domino and Microsoft Exchange are supported. Special solutions are excluded from support.

If and when the product that is the subject matter of the agreement is used in a different "environment" or the communication function is used via other programs, any guarantee and/or liability for the product and/or modules shall be excluded, in particular the security and/or availability of the functions.

Any further system environment parameters to be observed by the CLIENT are defined in the documentation or the release notes for the respective program updates ("Client system parameters"). System environment parameters for add-ons are defined in the respective functional specification.

2.3.5. SOFTWARE SUPPORT AND OTHER SERVICES

Separate written agreements shall be concluded for actions and services that go beyond the delivery of the product that is the subject matter of the agreement and maintenance in the form of program updates. In particular, this relates to technical support, programming that relates to the maintenance of client-specific add-ons, setting up interfaces and staff training etc.

However, program updates which relate to the general section of the uptoIP® portal solution and thus consist of maintenance content shall be automatically made available to the CLIENT during the term of the agreement.

ABP shall inform the CLIENT of program updates that are provided as part of the maintenance support by means of release notes, which shall be sent to the CLIENT by email. The release notes contain all of the information relevant to the respective changes and instructions for the CLIENT which are relevant to the functionality and/or availability. In order to maintain the functionality and security of uptoIP®, the CLIENT shall be obliged to install or activate program updates within 14 days of their delivery. Failure to comply with this will mean that any guarantee and/or liability for the product and/or modules shall be excluded, in particular the security and/or availability of the functions.

As part of the general maintenance service the CLIENT shall not have the right to implement specific requirements. However, ABP shall try to implement the proposals of the CLIENT, provided that they appear necessary or practical for a plurality of users and are economically viable.

2.3.6. OWNERSHIP RIGHTS

The ownership and all rights, specifically copyright, intellectual property and industrial property rights, to the product and/or its components, in particular also its source code and/or object code and all relevant documentation, shall belong exclusively to ABP – with the exception of licensed third-party products. Also all rights to and/or the right of disposal of know-how connected with the product and/or its use shall belong exclusively to ABP. Regarding the authorization granted explicitly as part of an agreement on the basis of the present general terms and conditions and/or the right to use the product, no rights shall be assigned and/or granted to the CLIENT; furthermore, the CLIENT shall observe the conditions relating to licensed third-party products. Any developments and/or inventions which are created during the term of the agreement in connection with or with respect to uptoIP®, shall belong exclusively to ABP, corresponding intellectual property rights shall belong to ABP and ABP shall have the exclusive right to file corresponding applications for protective rights. The CLIENT shall not claim any right of prior use from knowledge of such developments and/or inventions.

Data which is supplied by ABP to the CLIENT for the use of the product shall on receipt be at the disposal and under the control of the CLIENT. Data which is entered by the CLIENT shall remain under the control of the CLIENT. Said data shall be referred to in the following as "CLIENT's own data".

2.3.7. LICENSE FOR uptoIP®

ABP shall grant the CLIENT, in an agreement for uptoIP® concluded for this purpose, a time-limited, non-transferable, non-sublicensable, non-exclusive right to use uptoIP® and the documentation and/or other descriptions in the version defined in the purchase order for the purposes of managing the protective rights of the CLIENT using the available functions.

For the purposes of the present general terms and conditions, the prohibition of sublicensing in particular also means that the CLIENT may only install the uptoIP® software on the servers at his/her disposal and/or may only grant access to uptoIP® to persons who are assigned and attributable to the company of the CLIENT, either on the basis of a service agreement or another comparable contractual relationship, which gives the CLIENT control over the activities of said persons. This excludes one-off access or use by service providers of the CLIENT to perform the tasks of the CLIENT. Actions of said persons which infringe the rights and interests of ABP and are contrary to the agreement and/or otherwise the rights or interests of ABP shall be attributed to the CLIENT as his/her own actions.

The uptoIP® software may therefore only be set up and used in particular on the IT infrastructure used by the CLIENT; access to the uptoIP® portal solution may only be granted to authorized persons by means of corresponding individual access data. It shall not be permitted to allow the software to be used by a third party or to otherwise make it available for use by a third party, such as by renting it out. The CLIENT shall not have the right to duplicate the documentation or hand it over to third parties.

The CLIENT shall not be entitled to duplicate, disseminate, make available, send, process or change the software, regardless of the manner in which this is done, whether known or not known at the time of concluding the agreement, on any medium and regardless of whether it is done as a whole or in portions. It shall only be permitted to duplicate, disseminate or make the software available for use within the company of the CLIENT for specified purposes and for the duration of the license; furthermore, the CLIENT shall only be entitled to rights prescribed by law in Secs. 40d, 40e Austrian Copyright Act [öUrhG] under corresponding conditions. Specifically, the CLIENT shall refrain directly or indirectly from decompilation and/or any other use of uptoIP® for the purposes of competition.

Under no circumstances shall the CLIENT be entitled to receive any source code.

ABP shall explicitly not transfer more rights than ABP itself holds and is entitled to transfer. This relates in particular to implementable standard software products and/or interfaces of third-party providers. The CLIENT shall take note of the fact that uptoIP® uses or addresses the software of third-party providers. Such programs or parts of programs of third-party providers are defined, to the required extent, in <https://my.uptoip.com/Info/ThirdPartyComponentsLegal> and are licensed to the CLIENT in accordance with the conditions of the license agreements of third-party providers. The CLIENT shall explicitly confirm that he/she has taken note of the following specific provisions relating to individual parts of the software of third-party providers used in the software and the CLIENT shall be obliged to adhere to said provisions.

2.3.8. USE OF uptoIP®

With regard to the portal solution uptoIP®, ABP shall provide the CLIENT for the time period defined in the purchase order with a specific volume of storage and processing capacity as well as the virtual infrastructure and functions of the uptoIP® portal solution and shall give the CLIENT the right to use the latter for the management of various data for the available functions and the volume agreed on. Any further rights that go beyond this shall not be granted. It shall be explicitly noted that ABP shall have no obligation beyond the simple provision of the portal solution to manage or organize the CLIENT's data.

The CLIENT shall therefore be entitled to fill the available volume with data of his/her choice and to manage and organize it using the existing functions. The CLIENT shall be entitled to grant persons access to the portal solution uptoIP® who are assigned and attributable to the company of the client, either on the basis of a service agreement or other comparable contractual relationship, which gives the CLIENT control over the activities of said persons.

In part, the CLIENT may be exempted from independently setting up specific management/organization settings. Within and as part of said "open area" the CLIENT shall be entitled to perform personalized settings. With the exception of the CLIENT's own data, the CLIENT shall otherwise not be entitled to make changes, adaptations, deletions etc.

The CLIENT shall note that the portal solution uptoIP® is based on a "fair-use" principle. Said fair-use principle is based on the concept that in order to ensure that increased capacities are available for short periods, the actually used data volume does not exceed 90% of the rented data volume. The CLIENT shall be notified by ABP if the used data volume reaches 90% of the rented data volume. The CLIENT shall then reduce the data volume used within 30 days or purchase an additional data package.

Technical support by ABP for reducing data shall be covered by section 1.14. "Technical Support" and is not covered by maintenance services and requires a separate submission of an offer.

The CLIENT shall also note that ABP shall also provide the CLIENT as part of the "fair-use" principle with their Internet bandwidth for the use of uptoIP® on a non-exclusive basis. ABP shall retain the right to extend the bandwidth or in case of above-average use of the available bandwidth shall restrict the latter for the CLIENT, if this is deemed to be necessary to maintain proper functioning.

The CLIENT shall ensure that his/her uptoIP® users are only human persons and not by automated programs. This excludes software modules, which are made available to the CLIENT explicitly in connection with the uptoIP® software package. ABP shall retain the right to block and exclude access to IP addresses, from which automated access uptoIP® is suspected or found and/or which endanger the proper functioning of the platform.

2.3.9. DATA BACKUP

The uptoIP® portal solution runs on servers managed by ABP. On Tuesdays to Saturdays at the latest by 05:00 CET ABP backs up on said servers all of the CLIENT's data which is managed and organized at the relevant time point via the uptoIP® portal solution ("backup point"). In this connection ABP shall ensure that the CLIENT's data is backed up regularly adhering to the client's obligations. More extensive backups shall be the responsibility of the CLIENT.

Said backup point shall be used to recover the CLIENT's data in case of data loss due to software or hardware defects at the time of the backup.

ABP shall retain the right to carry out backups of the data more frequently and to provide several backup points of the data that the CLIENT shall be informed of upon request.

Recoveries that go beyond recovery at the backup point due to a software or hardware defect can be requested from ABP in return for payment.

ABP shall no longer be responsible for said backup if the CLIENT exceeds the data volume of the "fair-use" framework or operates the portal in his/her own infrastructure. Furthermore, the content and form of organization or management of the data, contents and/or documents of the CLIENT shall remain solely with the CLIENT. ABP shall not take any responsibility for the latter, specifically not for deleted, displaced or otherwise affected data, contents and/or documents.

ABP shall be obliged to provide the CLIENT within 90 days after the termination of the agreement with the CLIENT's own data at the time of the last backup point carried out before the legal termination of the agreement on suitable data carriers. If the CLIENT wishes to have a particular form of preparation or arrangement of the CLIENT's own data, the latter should inform ABP of this at the latest at the time of terminating the agreement and ABP shall provide the CLIENT with a separate offer for the expected cost.

For the use of the uptoIP® software the data backup shall be the responsibility of the CLIENT and corresponding measures shall not be put in place by ABP.

2.3.10. AVAILABILITY

In principle, the uptoIP® portal solution is designed for operation 24 hours / 365 days a year. If there is no separate SLA agreement, availability is provided within the specified support period, with a reaction time of 4 hours to a fault after this is reported by the CLIENT. The hours are Monday to Friday from 9:00 to 12:00 and 13:00 to 17:00, on the hotline: +43 (0) 7562/5440 or +43 (0) 676/5524477 or support@uptoip.com.

The availability excludes the time required for the installation of program updates or maintenance or updates or short-term faults. The CLIENT shall note and confirm that temporary faults are unavoidable when using online services.

If faults or breakdowns in the agreed availability period exceed 6 hours continuously or exceed a period of 12 hours in total over three successive days, the CLIENT shall be entitled to receive back a proportion of the annual user fee appropriate to the breakdown period. Otherwise, the CLIENT shall confirm that he/she shall not make any claims against ABP for faults or breakdowns of uptoIP®, regardless of the trigger or cause of said faults or breakdowns.

If faults or breakdowns exceed the period of a total of 24 availability hours on five consecutive availability days, the CLIENT may terminate the agreement for an important reason and request a refund of the user fee already paid in advance which is proportionate to the remaining term of the agreement.

The CLIENT shall be required to prove that faults or breakdowns are not the result of his/her sphere or system environment. For faults which are caused by the sphere or system environment of the CLIENT or are due to not observing the "fair-use" principle or faults or breakdowns caused by force majeure and/or faults which do not lie within the field of influence of ABP, specifically those caused by third parties, the CLIENT shall not be entitled to make a claim against ABP.

2.3.11. USER FEE

The user fee shall be payable to ABP quarterly in advance, on receipt of an invoice and observing the terms of payment. The total user fee shall be defined in the respective purchase order.

The user fee agreed on shall be secured in value by linking to the consumer price index 2015 specified by the Austrian Office for Statistics or the successor index taking its place. If no successor index is specified, the value guarantee shall be calculated so that

it corresponds to a reduction in purchasing power. The starting point for the value guarantee is the index figure reported for the month in which the agreement is concluded.

The agreed user fee changes to the extent by which the said index changes relative to the starting basis. The adjustment shall be made annually in March on the basis of the index set for January of the respective year. The index adjustment shall be rounded up to exactly one decimal point in accordance with commercial practice.

2.3.12. ADD-ONS

The CLIENT shall be able to request provision of client-specific add-ons from ABP, and in this case the CLIENT shall make his/her requests to ABP in writing. ABP shall verify the feasibility of the latter and send an offer to the CLIENT.

If ABP agrees to provide a client-specific add-on, ABP shall make an effort to implement the latter in good faith but shall not be responsible for its success. If the desired add-on should turn out not be implementable, the CLIENT has the right to claim a refund of the fee paid for the add-on only if ABP has failed to provide a warning.

All rights and the ownership of the add-ons, including the source and object code, shall remain the property of ABP; the CLIENT shall have the same rights of use as for the standard products according to the present general terms and conditions.

2.3.13. WARRANTY

The CLIENT shall agree to check and test the software immediately after delivery (accessibility) for completeness and functionality. If errors are discovered at this point or later, the CLIENT shall be obliged to immediately send a complaint to ABP – with a precise description of the defects, which allows ABP to verify a warranty obligation, otherwise he/she shall lose his/her warranty rights.

ABP shall ensure that the product and/or the modules of the respective documentation correspond with one another and enable the functions specified therein. Furthermore, ABP shall guarantee that on delivery the product and/or the modules are free of known malware and/or known computer viruses. Any further properties can be neither be expected nor promised.

It should be explicitly noted that the product does not run free of errors and/or without any interruptions. The assumption of Sec. 924 of the Austrian Civil Code shall not apply. ABP shall only be responsible for a claimed defect if the CLIENT can prove that the claimed defect has not been caused by circumstances in his/her environment. Such circumstances include in particular for example improper use, the use of unsuitable data carriers and/or system components, other non-compliance with the defined system environment parameters, unsuitable anti-virus software or security measures which do not correspond to the prior art, and also the use of unsuitable staff. Furthermore, warranty shall only be provided for reproducible defects.

The product shall allow the CLIENT to enter and manage data by using and by means of the existing functions. The available functions can only be fully used with correct handling. ABP shall guarantee the basic availability of the functions according to the relevant documentation, but not the specific success or the actual implementation of specific program functions.

ABP shall confirm that ABP has no knowledge of the rights of third parties which the product would impinge upon. Should a claim be made against the CLIENT due to the use of uptoIP® by third parties, ABP shall at the discretion of ABP (a) provide the CLIENT with a right of use, (b) provide the CLIENT with an adequate alternative solution, (c) provide the service without infringing any rights, if necessary also by a workaround, or (d) withdraw the service by reimbursing the payment made by the CLIENT (minus an appropriate compensation for use), if ABP is not able to achieve any other remedy with a reasonable amount of effort. ABP shall not assume any warranty beyond that.

In case of a functional defect that is covered by warranty, ABP shall be obliged to choose either to replace the product or to improve it within an appropriate period. The improvement by a workaround or the provision of a replacement product, which functions essentially in the same way or in an equivalent way to the faulty product shall remain explicitly reserved. If said measures are not suitable for removing the defects or two attempts at improvement fail or are not undertaken within an appropriate period, the CLIENT shall be entitled to reduce the payment or – unless it is a minor defect – terminate the agreement.

All warranty claims shall be voided if unauthorized modifications and/or changes have been made to the product or if the client's system parameters have changed substantially.

2.3.14. LIABILITY

ABP shall be liable for personal damage and gross negligence as well as intentionally caused damage in accordance with the legal provisions.

Apart from this the liability on the one hand for damage, which result from reproducible errors of the product and on the other hand relating to the portal solution shall be restricted to the replacement of damage or adverse effects, including the loss of the data managed therein and relating to the software to the damage to the product itself. Thus, any type of consequential damage shall be excluded, such as in particular damage caused by defects, consequential damage and/or collateral damage, operating failure, indirect damage, pure financial losses and also lost profit and/or comparable claims.

In any case, ABP shall only be liable for loss or damage to data, caused by software errors, if on the one hand the CLIENT has performed system checks and data backups at regular intervals and on the other hand only for that reasonable effort which is necessary for the recovery of the data with correct data backup by the CLIENT.

The amount of liability shall be limited in any case, i.e. also in cases of data loss and legal defects, to five times the annual price as per the purchase order, at most however to the respective cover and the amount of coverage of ABP's pecuniary damage liability insurance.

In any case claims are excluded which are due to errors and/or damage which is caused by malware, computer viruses and/or a breach of the law by a third party. Claims shall also be excluded which are due to errors and/or damage which are the result of improper use or lack of appropriate and suitable care of the CLIENT of the technological options required for the product. This relates in particular e.g. to the use of unsuitable data carriers, browsers and/or system components, lack of suitable anti-virus software or backup systems, which do not correspond with the prior art, the use of unsuitable staff or not adhering to the eligibility criteria required by the client and/or infringements of the "fair-use" principle.

2.3.15. FORCE MAJEURE

Apart from the contractual obligation to pay the agreed amounts and fees when due, neither contracting partner is considered to be in default of this agreement, if the contracting partner is delayed in meeting his/her obligations for reasons beyond his/her control due to "force majeure" or is not able to fulfil them and take appropriate steps to mitigate the default or non-compliance.

2.3.16. OBLIGATIONS OF THE CLIENT

uptoIP® can only function correctly on the basis of and within specific system environments. The CLIENT shall note that compliance with said client-specific system parameters is a prerequisite for the contractual functioning of the product, any change to which results in the loss of warranty and/or related liability claims against ABP.

It shall be noted explicitly that ABP shall only be responsible for the virtual infrastructure and the functions of uptoIP®, but not for the content managed in the latter.

The CLIENT shall manage business data and documents exclusively via uptoIP®. Furthermore, the CLIENT shall not introduce any immoral or illegal content and in case of an infringement shall indemnify ABP with respect to all consequences.

2.3.17. TERMINATION FOR A SPECIAL REASON

Unless otherwise agreed on in the respective purchase order, the CLIENT and ABP shall abandon their right to proper termination for the duration of 48 months. After the expiry of this period or a deadline agreed on in the purchase order the termination of this agreement shall be possible observing a three month notice period to the end of a contractual year – calculated respectively from the date of termination of the agreement.

Regardless of the provisions in the preceding paragraph, both ABP and also the CLIENT shall have the right to terminate the contractual relationship at any time for an important reason. In this case, the affected party shall inform the defaulting party of such a breach of agreement in writing and threaten with the termination for an important reason. If the cautioned party does not stop the defaulting conduct within 30 days or a longer period granted in the caution letter, the contractual relationship shall be considered to be terminated automatically after the expiry of the last day of the deadline.

On the expiry of the date of termination of the agreement the CLIENT shall not be entitled to use uptoIP® in any form. The CLIENT shall uninstall the software within 7 working days after the termination and destroy the access data to the portal solution uptoIP® and demonstrate this to ABP accordingly.

ABP shall provide the CLIENT, in the absence of any agreement to the contrary, within 30 days after the termination with all of the CLIENT's own data on a suitable data carrier in a suitably structured form and send it to the CLIENT at the expense of the latter by registered and insured mail.

The obligations defined in Article 13 shall remain unaffected by the termination of the contractual relationship.

2.4. Special provisions for ongoing data delivery

The following provisions, together with any potentially existing software license agreements, support service agreements and individual contractual regulations in purchase orders, regulate the conditions for the delivery of data by ABP PATENT NETWORK GmbH to the CLIENT.

2.4.1. DEFINITION OF TERMS

2.4.1.1. "Supplier"

is in the terms of this agreement ABP PATENT NETWORK GmbH, Rosenauerweg 16, 4580 Windischgarsten, Austria.

2.4.1.2. "CLIENT"

is the aforementioned company cited above as the CLIENT.

2.4.1.3. "Order"

means a purchase order made by the CLIENT together with a document denoted as an "order" and signed by both parties, which is subject to this agreement and which contains in detailed form information specific to the purchase order of the CLIENT, in particular details on invoicing and the description of the deliveries, data sources and times of provision. Said purchase order(s) shall hereby be included by reference into said agreement.

2.4.1.4. "Data"

is electronically saved information, mostly regarding the field of industrial property rights, that the supplier provides electronically individually to the CLIENT or sends on physical storage media. The data shall be obtained by the supplier directly from the relevant patent offices or from third parties (data providers).

2.4.1.5. "Profile"

defines database queries, which supply the data for automatic provision. The profile shall be agreed on with the CLIENT and approved by the latter. A profile can include several classes of protective rights and names and also combinations of the latter.

2.4.1.6. "Support Services"

are services which are to be provided by staff of the supplier in order to provide the delivery defined in the purchase order in the assured quality, if due to an error the standard process of the provision does not deliver the agreed results. Likewise, advisory and/or technical work are considered to be support services, if the latter are used or requested by the CLIENT. "Support Services" are both: complimentary and chargeable.

2.4.1.7. "Provision"

means saving data on an electronic memory accessible to the CLIENT or saving data on a physical data carrier, which is sent to the CLIENT by mail or handed over in person. The provision is carried out according to a cycle defined in the purchase order and is generated automatically with reference to a "profile".

2.4.1.8. "Trial delivery"

is the provision of data for a limited time period according to an agreed profile. Said delivery enables a CLIENT to verify the quality of the data and the form of provision as part of the procedures in his/her company. The delivered data needs to be deleted at least after the end of the trial delivery, unless a purchase order is made with this or a greater scope. A license shall be granted exclusively for the set time period.

2.4.1.9. "Backlog"

is the provision of data published in the past by the relevant offices. For a backlog, a profile can be agreed on with the CLIENT. Alternatively, the basis for the provision of data can be an existing database of the CLIENT.

2.4.1.10. "Proprietary information backlog"

is the provision of subsequently added or newly acquired documents, which were provided in principle at least partly to the CLIENT. The profile should be determined separately in such a case.

2.4.2. DATA

2.4.2.1. Scope and use

The scope of the provided data shall be defined by the respective purchase order(s) and by the approved profile. The provided data may be used by the CLIENT exclusively for creating or updating his/her own data collection (for example in the form of a database). The CLIENT may only use the data internally for determining, managing and verifying data, in particular protective rights information, or making it electronically accessible. A separate agreement is required for granting electronic access for a third party. It is in any case prohibited to grant access to the data collection to an undefined number of persons and this can also not be granted by the supplier.

2.4.2.2. Changes

The supplier shall also retain the right to make changes to the transmission of data, the processing of the latter and to the timing of the delivery. The supplier shall give notice of such a change at the latest four weeks before the adjustment.

2.4.2.3. Provision

The supplier shall be obliged to make every reasonable effort to adhere to the timing of the provision agreed on in the purchase order. Due to entirely possible delays in the delivery of raw data to the supplier himself/herself there may be a delay in the provision of several months from one country to another.

2.4.2.4. "Formation of families"

uptoIP® uses INPADOC data of the European Patent Office (EPO) for the formation of families of protective rights and supplies the latter in processed form to the portal. However, on the basis of the data used for this ABP cannot guarantee the completeness of the latter.

2.4.3. LICENSE

The CLIENT shall receive, when this agreement comes into effect, the simple, non-exclusive right, which cannot be assigned to third parties, to use the data in terms of item 2 of this agreement.

The supplier shall not assign more rights than he/she himself/herself holds and is entitled to pass on.

2.4.4. USER FEE

The user fee shall be payable to ABP quarterly in advance, on receipt of an invoice and observing the terms of payment. The total user fee shall be defined in the respective purchase order.

The user fee agreed on shall be secured in value by linking to the consumer price index 2015 specified by the Austrian Office for Statistics or the successor index taking its place. If no successor index is specified, the value guarantee shall be calculated so that it corresponds to a reduction in purchasing power. The starting point for the value guarantee is the index figure reported for the month in which the agreement is concluded.

The agreed user fee changes to the extent by which the said index changes relative to the starting basis. The adjustment shall be made annually in March on the basis of the index set for January of the respective year. The index adjustment shall be rounded up to exactly one decimal point in accordance with commercial practice.

2.4.5. EXTENSION AND COMMITMENT

The agreement shall be concluded for an indefinite term. This shall amount to one year, unless a different term is agreed on in the purchase order. The agreement shall enter into force when signed. The CLIENT shall enter into a commitment for the period of

provision defined in the purchase order. It shall not be possible for the CLIENT to terminate the agreement in this period. The period of provision shall extend automatically by another year unless the agreement is terminated in due time or is dissolved for another reason.

2.4.6. TERMINATION

The agreement may be terminated observing a notice period of three months to the end of the current duration of the provision.

2.4.7. OWNERSHIP

All industrial property rights and the ownership of the data shall remain with the respective owner. No claim to the rights or ownership shall be transferred to the CLIENT.

2.4.8. LIABILITY

The liability for damages of the supplier shall be limited to damage which is caused deliberately or by the gross negligence of the client, the representative or management staff of the latter. The supplier shall not be liable for the gross negligence of a single employee.

The liability shall be restricted in any case to five times the amount that the supplier has received for the provision of information, which is the subject matter of the disputes. Furthermore, in any case liability shall be restricted to any cover and the sum insured by the pecuniary damage liability insurance of the supplier.

The data to be provided shall be compiled with the greatest possible care but shall be subject to certain restrictions as with all compilations of data and documents. Due to the numerous sources from which the information forming the data originate and the risks associated with electronic provision, there may be delays, omissions and inaccuracies in the deliveries. The use of data by the CLIENT shall be performed without warranty of any kind by the supplier. The supplier and the companies, agents and licensors connected with the latter shall not be responsible for the correctness, completeness, up-to-dateness, legal conformity, tradability or suitability of the information provided by the data supply. The supplier shall always only be obliged to make every reasonable effort to supply the data.

The supplier shall explicitly reject any liability for the correctness of information which originates from different patent, trade mark and copyright offices, from which publications, data suppliers or other data sources originate and for any error or gaps in the databases which result from the use of said information or publications. Neither the supplier nor the companies associated with the latter and the agents or licensors of the supplier shall be liable to the CLIENT or third parties for personal or material damage, which is fully or partly the result of negligence or circumstances beyond their control, in the procurement, compilation, interpretation or provision of information via the data supply, the creation of reports or the delivery of data.

The supplier shall not accept any liability for claims which are made more than six months after the data has been provided to the CLIENT – which are the subject matter of the disputes.

2.4.9. DATA LOSS

The foreseeable damage as a result of data loss are restricted to the costs, which would have arisen if the CLIENT had ensured sufficient backup and means for data recovery.

2.4.10. FORCE MAJEURE

Apart from the contractual obligation to pay the agreed amounts and fees when due, neither contracting partner is considered to be in default of this agreement, if the contracting partner is delayed in meeting his/her obligations for reasons beyond his/her control due to "force majeure" or is not able to fulfil them and take appropriate steps to mitigate the default or non-compliance.

The CLIENT shall give his/her revocable consent that all of the data relating to him/her and which becomes known as part of the contractual relationship may be automated and for reasons of creditor protection and for making the claim may be passed onto a debt collection agency or an attorney.

2.4.11. TERM AND COMMITMENT

The agreement shall be concluded for the time period defined in the purchase order.

2.4.12. TERMINATION FOR A SPECIAL REASON

In case of an infringement of a provision of this agreement, specifically with respect to an expressly prohibited use of data, the supplier may terminate this agreement with immediate effect and cease the data provision. Thus, there is no restriction of possible additional claims of the supplier against the CLIENT.

3. GENERAL PROVISIONS WHICH ARE APPLICABLE TO ALL SERVICES PROVIDED BY ABP PATENT NETWORK GmbH

3.1. CONFIDENTIALITY

In connection with their collaboration, ABP and the CLIENT shall make confidential information of various kinds available to one another. Confidential information includes all information, documents, drawings, data, data on electronic data carriers, processes, processing parameters and sequences, formulations, formulae, machines, installations, patterns, objects, market and marketing information, customer lists, technical and commercial information, business and company secrets, financial information, business models and business processes as well as other information which is worth protecting, in particular company secrets of one of the contracting partners, e.g. data managed by the CLIENT, the financial conditions of the agreement concluded, software source code and/or object code, the associated documentation and/or all information in written or other codified form, which have been clearly marked by the disclosing party as “confidential” or “protected” or – if they are not marked in this way – have been marked as confidential at the time of disclosure and are later listed in a letter delivered to the recipient within ten days of disclosure and are confirmed as confidential.

The respective recipient shall protect the confidential information of the respective disclosing party in the same way as he/she protects his/her own, similarly important confidential information, but in no circumstances with less than an appropriate level of care. Both the CLIENT and ABP have to keep confidential information which is passed on from the respective other party and instruct their employees, agents and contractors to also treat it as confidential.

The confidential information shall remain the sole property of the respective disclosing party and may not be made accessible to a third party without the explicit written consent of the respective disclosing party. Only those employees, associated companies and subcontractors are excluded which need to know said confidential information to fulfil a purchase order of the CLIENT or exert the rights and obligations of the present general terms and conditions and which are obliged to keep it confidential in a manner that is in accordance with this agreement by written agreement with the recipient and/or on the basis of existing professional rules.

The use of confidential information and/or its transfer to a third party shall only be permissible for fulfilling a possible assignment of the CLIENT and for exercising the rights and obligations according to the present general terms and conditions. The use of confidential information on the basis of the access of third parties, to whom the CLIENT has provided the access data, does not represent an infringement attributable to ABP against the obligation to maintain confidentiality; however, infringements of confidentiality by such third parties at the expense of ABP shall be attributable to the CLIENT.

Confidential information does not include information which is or will be publicly accessible, without the recipient infringing any of his/her obligations towards the disclosing party; which are known to the recipient before they are made accessible to the recipient by the disclosing party; which are known to the recipient of the other side as the disclosing party, without the latter infringing his/her obligation to maintain secrecy due to the disclosing party or are developed by the recipient independently and independently from the secret information of the disclosing party.

Furthermore, the CLIENT shall be obliged to keep confidential all information, developments and inventions arising from the collaboration that is the subject matter of the agreement, which are not the CLIENT’s own data, apart from revocation by ABP. The exercising of rights granted to ABP with regard to such information does not represent an infringement of the confidentiality obligation which is subject matter of the agreement.

Irrespective of the above provisions, ABP shall be entitled to publicize that the CLIENT is one of their clients, in particular ABP shall be entitled to include the CLIENT in its list of references and publish this on its homepage.

3.1.1. RECORDS, PUBLICATION

All of the files that ABP creates during the contractual relationship in order to provide services are the property of ABP. Unless there are mandatory legal provisions in place to the contrary, ABP shall be entitled to destroy files associated with the business relationship within one year after the termination of the latter.

If after the termination of the business relationships the CLIENT wishes to have copies of the files, ABP shall be entitled to withhold the latter until all remaining legally recognized debts from the business relationship have been settled by the CLIENT. ABP shall invoice for the cost of preparing and issuing copies. The documents shall be provided in electronic form, according to the file management system of ABP on a suitable data carrier.

Special provisions provided in these general terms and conditions relating to the surrender or provision of the CLIENT’s own data shall remain unaffected by this provision.

3.2. DATA PROTECTION

3.2.1. PERSONAL DATA

ABP shall collect, process and use the CLIENTS’s personal data only with the consent or mandate or instructions of the latter or for the purposes agreed on with the client or if there is another legal basis in conformity with the GDPR; observing data protection and civil law provisions.

Only those items of personal data shall be collected which are necessary for conducting and implementing the services of the attorney or that the CLIENT has voluntarily made available to the attorney or which can be found in public registers (e.g. company register, land register etc.).

Personal data includes all data which contains individual details about personal or factual circumstances, for example, name, address, email address, phone number, date of birth, age, gender, social security number, video recordings, photos, voice recordings of persons as well as biometric data such as finger prints.

3.2.2. INFORMATION AND DELETION

The CLIENT shall have the right at any time to information about his/her saved personal data, the origin and the recipient thereof and the purpose of the data processing as well as the right to correction, data transfer, objection, restriction of the processing and blocking or deletion of incorrect or inadmissibly processed data.

The CLIENT shall be asked to notify the attorney accordingly of any changes to his/her personal data.

The CLIENT shall have the right at any time to revoke granted consent to the use of his/her personal data. A request for information, deletion, correction, objection and/or data transfer, in the latter case, provided that this does not involve disproportionate effort, can be directed to the address of the external data protection officer given in item 3.9. of this agreement.

If the CLIENT is of the opinion that his/her personal data is being processed by ABP in a manner that is contrary to the current Data Protection Act or that his/her data protection rights have been infringed in a different manner, a complaint may be submitted to the responsible regulatory authority. In Austria, the Data Protection Authority is responsible for this.

3.2.3. DATA SECURITY

The protection of personal data is provided by corresponding technical and organizational measures (TOMs). Said precautions relate specifically to protection from unauthorized, illegal or accidental access, processing, loss, use and manipulation.

Regardless of efforts to continually maintain an appropriately high level of diligence, it is not possible to preclude the fact that information that the client sends to ABP over the Internet may be looked at and used by other persons.

ABP shall not be liable in any form for the disclosure of information as a result of errors that have not been caused by ABP with regard to the transfer of data and/or unauthorized access by a third party (e.g. hacking of email account or phone, interception of faxes).

3.2.4. USE OF DATA

ABP shall not use the data made available to it for other purposes than those covered by the contractual relationship or by consent or otherwise by a provision in accordance with the GDPR.

If necessary, suitable agreements shall be concluded regarding the processing of personal data.

3.2.5. TRANSFER OF DATA TO THIRD PARTIES

In order to fulfil the instructions, it may also be necessary to forward the data of the client to third parties (e.g. service providers that ABP uses and to whom it provides data etc.) or authorities. Data shall only be forwarded in accordance with the GDPR, specifically for the implementation of the instructions or on the basis of earlier consent.

Furthermore, the CLIENT shall be informed of the fact that for client representation and support also factual and case-related information shall be regularly obtained from third parties.

Some of the aforementioned recipients of personal data are also located outside of Austria or process personal data there. The level of data protection in other countries might not always correspond to that of Austria. ABP shall however only send personal data to countries that the EU Commission deems to have an appropriate level of data protection or shall take measures to ensure that all recipients have an appropriate level of data protection, which is why e.g. standard contractual clauses (2010/87/EC and/or 2004/915/EC) are attached.

3.2.6. NOTIFICATION OF BREACHES OF DATA

ABP shall make efforts to ensure that breaches of data are identified at an early stage and that the CLIENT or responsible supervisory body are informed of this immediately taking into account the respective data categories that are affected.

3.2.7. DATA STORAGE

ABP shall not keep data any longer than is necessary to fulfil its contractual and legal obligations and to avert possible liability claims.

3.2.8. SERVER LOG FILES

To optimize the websites <https://www.abp-patentnet.com> and <https://www.uptoip.com> with regard to system performance, user-friendliness and provision of useful information about services, the provider of the website automatically raises and saves information in so-called server log files, that the browser sends to the CLIENT automatically. These include the Internet protocol address (IP-address), browser and language settings, operating system, referrer URL, Internet service provider and date/time.

This data is not merged together with personal data sources. ABP shall reserve the right to check this data subsequently, if specific indications of illegal use become known.

3.2.9. CONTACT DETAILS

Data protection is of particular importance to ABP.

Please address any queries or a request for cancellation to the external data protection officer:

Anwälte Burger und Partner Rechtsanwalt GmbH
 Attn. Attorney-at-Law Mrs. Mag. Esther Humpl-Wagner
 Rosenauerweg 16
 4580 Windischgarsten | AUSTRIA
 Tel.: +43 7562 20531
 E-Mail: e.humpl@abp-ip.at

3.3. INVOICES AND PAYMENT

Services for which an invoice has been issued shall be paid for within 14 days after the receipt of the invoice. Payment must have been paid into the ABP account on the 14th day after receiving the invoice. Discounts shall not be permitted.

Objections to the content of an invoice must be raised within 14 days of receipt of the invoice and shall not be recognized after the expiry of this term.

For the second (and also final) reminder, reminder fees shall be invoiced in an amount of EUR 20.00. The amount of interest for late payment shall be 9.2 % above the

respective basic interest rate pursuant to Sec. 456 of the Austrian Commercial Code. Interest for delayed payment shall be calculated from the date of sending the last reminder.

In accordance with Sec. 1333 para. 2 of the Austrian Civil Code, the creditor apart from the statutory interest shall also claim the reimbursement of other damage owed by the debtor and due to him/her, specifically for the necessary costs of appropriate in court or out of court operation or collection measures, provided that the latter are in an appropriate ratio to the claim made.

The CLIENT shall give his/her revocable consent that all of the data relating to him/her and which becomes known as part of the contractual relationship may be automated and for reasons of creditor protection and for making the claim may be passed onto a debt collection agency or an attorney.

3.4. COMMUNICATION

All communication shall be made in writing to the address provided most recently in writing, unless another form of communication is legally mandatory. The written form can consist of a fax or e-mail.

The contracting partners shall be obliged to inform the other contracting partner of any change of address without delay, otherwise communications to the last known address shall be considered to have been delivered effective in law.

3.5. GOVERNING LAW AND COURT OF JURISDICTION

Austrian law shall apply to all legal relationships with ABP excluding the UN CISG and conflict of laws rules.

If the CLIENT is permanently resident in an EU member state, Iceland, Norway or Switzerland, all legal disputes arising from and/or in connection with the contractual business relationship of the CLIENT and ABP and/or the present agreement, specifically their occurrence, effectiveness, infringement and/or termination shall be decided exclusively and competently for the place of residence, Austria.

If the CLIENT is permanently resident in another country, all legal disputes arising from and/or in connection with the current contractual business relationship of the contracting partners and/or the present agreement, specifically also their occurrence, effectiveness, infringement and/or termination according to the Rules of Arbitration of the International Chamber of Commerce (ICC) shall be finally decided by an arbitrator appointed mutually by the CLIENT and ABP, in the case of lack of agreement regarding this legal system. The place of arbitration shall be Zürich, Switzerland. The language of arbitration shall be German.

The decision of the arbitrator shall be considered final and binding and the parties shall not have the right to contest the decision of the arbitrator before national, supranational or international, ordinary and/or other courts. Regardless of the present arbitration agreement, ABP shall retain the right to assert claims for injunctive relief, claims for preliminary legal relief and/or other suitable claims for securing the rights of ABP before authorities of all kinds – including state courts –, whichever legal system and in which area ABP considers it suitable.

3.6. SALVATORY CLAUSE

Should one or more provisions of this agreement be or become legally ineffective, the validity of the remaining provisions shall remain unaffected. The invalid provision shall be replaced by another provision which is closest to the content of the legally ineffective provision.