

## Terms and conditions for the loan and use of the Online Filing software (OLF)

The European Patent Organisation ("the Organisation") is prepared to grant Users the right to use the software supplied by the European Patent Office (EPO) for the online filing with the EPO of European patent applications and other documents (hereinafter referred to, together with all the relevant data, as "the software"), free of charge and without prejudice to the conditions in sections 4.2, 5.1 and 5.2 below, for an unlimited period, subject to the following terms and conditions. By downloading the software from the EPO's website, the User or his agent signifies that he has read and unreservedly accepts the following terms and conditions of the Organisation and that a contract for loan and use is thereby concluded between the User and the Organisation. For the purpose of these terms and conditions, "the User" is any natural person who, as a patent applicant, representative or other authorised person, has been registered at his request with the EPO for the online filing of patent applications. Users who do not accept these conditions must refrain from downloading the software from the EPO's website.

To file online with the EPO, Users need a smart card and smart card reader with additional software. These are supplied by the Organisation under a separate agreement. Requests for smart cards and readers may be submitted via the EPO's website.

The terms and conditions for the loan and use of the Online Filing software are as follows:

1. The User shall be granted a revocable right to use the software for his own needs only, to prepare and file application documents online with the EPO. All other rights in the use of the software shall remain with the EPO and/or the manufacturer of the software.
2. The User shall not pass the software on to third parties, unless the latter are his employees or are employed by the same company as he. The "same" company may not be a different legal person.
3. The User undertakes not to use the software other than for its intended purpose, ie
  - the preparation of forms and application documents in procedures under the European Patent Convention (EPC)
  - the online filing with the EPO of documents and statements which may under certain circumstances require an advanced electronic signature.
- 4.1 The software is intended to enable users to comply with the prescribed technical standard for the electronic filing of European patent applications and subsequent documents according to the decision of the President of the EPO dated 7 December 2000 (supplement to EPO Official Journal No. 4/2001).
- 4.2 When a new version of the software is released, the User may download it from the EPO's website, under the terms and conditions of this contract. Within six months of the release of a new version of the software, Users shall cease using the previous version and - provided that they have the technical means to do so - delete or otherwise destroy the previous version of the software, including any copies made by them or on their behalf, irrespective of whether these are on CD-R or any other medium.
- 5.1 Should any User contravene any of the conditions of loan and use in sections 1 to 4 above, the Organisation may, after giving seven days' notice, terminate the contract and hence the User's right to use the software.
- 5.2 In the event of termination of the contract, the User shall immediately delete and/or destroy the software as laid down in section 4.2. This is without prejudice to the Organisation's right to claim damages.
6. The User irrevocably accepts that the software is supplied by the Organisation "as is". The User also accepts that the Organisation gives no warranty whatsoever, expressed or implied, as to the content and accuracy of the software and/or its fitness for a particular purpose.

- 7.1 Further warranty claims or claims for damages on the basis of deficiencies or defects in the software, including damage caused by viruses, shall be ruled out, unless the Organisation has caused the damage wilfully or through gross negligence, in which case only compensation in respect of direct damage shall be due.
- 7.2 Any claims on the basis of obvious defects shall be made immediately, or at the latest within one month of delivery of the software to the User.
- 8.1 This contract shall be governed by German substantive law.
- 8.2 If a dispute arises out of or in connection with this contract, the parties shall undertake in good faith to use all reasonable endeavours to settle the dispute by negotiation. Should this fail, any such dispute shall be finally settled by binding arbitration with one single arbitrator in accordance with the provisions of the German Code of Civil Procedure (ZPO). The venue for arbitration shall be Munich, Germany.
- 8.3 Notwithstanding the aforementioned, if the Organisation waives its immunity from national jurisdiction, the courts of Munich shall have jurisdiction for any such dispute.
- 8.4 Where under applicable patent law an event arising out of or in connection with these terms and conditions of use allows a party to seek resolution, the judicial means provided thereunder shall take precedence over the afore-mentioned dispute resolution provision.
- 8.5 This contract shall be interpreted in such a way that the rights of the Organisation and the EPO arising from the European Patent Convention (EPC) including the Protocol on Privileges and Immunities of the European Patent Organisation, signed in Munich on 5 October 1973, are in all cases preserved.