

General Conditions for Consulting Assignments in Product Development – ABP 20

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These general conditions for consulting assignments in product development (ABP 20) have been drafted by the Federation of Swedish Innovation Companies. ABP 20 is intended to be used in consulting assignments where the main scope of the assignment is product development.

1. Scope of Application

- 1.1. These general conditions apply where the parties have in writing or otherwise agreed thereon. In the event the parties wish to deviate from the conditions herein, such deviations must be set out in writing in order to be valid between the parties.

2. Definitions

- 2.1 The following terms have the meanings set out below unless the circumstances or context clearly indicate otherwise.

Contracted Delivery Day

The contracted date for delivery of the Result.

Client

Purchaser of the Assignment.

Budget

An estimate of the costs for performing the Consultant's Assignment. A budget is not binding, entailing that the Consultant does not forfeit the right to payment on the basis that the budget has been exceeded.

Actual Delivery Date

The day on which the Consultant has delivered the Result to the Client or otherwise completed the Assignment.

Tender Documents

Documents the Client delivers to the Consultant for the preparation of a tender. Such documents may include, for example, Technical Specification, a preliminary time schedule and Test Specification.

Construction Drawings

Drawings and/or other construction documents regarding the Product or Product Prototypes.

Contract Agreements

The Contract and any attachments to the contract as well as any documents referred to in the Contract or its Attachments as concerning the Assignment.

Consultant

The contractor.

Zero series (0 series)

The final Product Prototype with the objective to be used in tests.

The Product

The Product(s) that the Consultant is to develop in the Assignment.

Project Plan

Plan regarding how the Assignment is to be carried out including a time schedule with, for example, checkpoints, decision and meeting dates.

Prototype

A sample or model of the Product.

The Result

The final result of the completed Assignment. The Result can consist of the Product, Prototypes, Zero series and/or

Construction Drawings or other contracted technical documentation, or other contracted Result.

Technical Specification

A detailed description of the Product the Consultant is to develop during the Assignment, containing for example, performance and/or functional requirements. The description can encompass all or a part of a development stage.

Test Specification

Specification as to those tests that will be performed by the Client with respect to the Result or partial delivery of the result, describing the test methods and parameters for acceptance on the basis of those criteria stemming from the Technical Specification.

Non-performing Time

Time when the Consultant works for the Client without actually performing the Assignment; for example, when the Consultant, for reasons not due to the Consultant, has to wait at the Client's premises in order to gain access to the Client's equipment.

The Assignment

All the services to be performed pursuant to the agreement between the parties.

Modifications of the Assignment

Modifications or additions affecting the scope of the Assignment or its schedule, for example due to additions or amendments to the Technical Specification and/or the Project Plan.

3. Scope of the Assignment

- 3.1 The scope of the Assignment is determined by the Contract Agreements. In the event the Contract Agreements contain contradictory information, the documents apply in the following order, unless otherwise agreed or obvious:
- contract
 - assignment confirmation
 - order
 - tender
 - tender documents
 - ABP 20
 - other documents
- 3.2 The Consultant is to draft, if so agreed, the Project Plan pursuant to Section 5 below, on the basis of the Technical Specification designated by the Client and the preliminary time schedule. The Project Plan is to be approved by the Client.
- 3.3 The Consultant is to develop, if so agreed, a manufacturing method for the Product. It is the responsibility of the Client to inform the Consultant of the Client's existing production methods, machines and other circumstances of importance to the Client in the development of a manufacturing method.
- 3.4 The Consultant is to draft, if so agreed, construction drawings for those tools that are necessary for the production of the Product.
- 3.5 The Consultant's Assignment includes drafting the technical documentation of the Result. It is the responsibility of the Client to provide instructions to the Consultant as to which Product information is to be included in the documentation.

4. Execution and Organisation

- 4.1 The Consultant is to comply with the Technical Specification and the Project Plan in the execution of the Assignment. The Consultant is to carry out the Assignment professionally and with care.
- 4.2 The Parties are to consult and cooperate in the execution of the Assignment.
- 4.3 Each Party is to designate a contact person or contact persons for the Assignment. Such person(s) is to be authorised to represent the Parties with binding effect in financial and other issues related to the Assignment.
- 4.4 The Consultant has the right to use sub-contractors. The Consultant is as liable for the work of any sub-contractors as if its own.

5. Project Plan

- 5.1 It is the responsibility of the Client to ensure that the Consultant can adhere to the dates specified in the Project Plan by providing information and answers to the Consultant to the extent required and within a reasonable time.
- 5.2 The Parties are without delay to inform the other Party in writing of any circumstance that may result in any changes as to the times specified in the Project Plan. Based on such information, the Consultant is to submit proposals to modifications of the Project Plan within a reasonable time. In the event a Party fails to provide such information, that Party cannot invoke that circumstance unless the other Party realised or should have realised that this circumstance would affect the time schedule.
- 5.3 The Consultant is entitled to an extension of time in the event the Consultant has been delayed due to circumstances that it did not cause or to consequences it reasonably could not have avoided.

6. Modification of the Assignment

- 6.1 If the Client wishes to modify the Assignment, the Client is to make any such request in writing to the Consultant. The Consultant may not refuse the Client's request, unless the Consultant can show reasonable grounds for such a refusal. Reasonable grounds include the Consultant lacking the necessary skills or resources to carry out the requested modifications of the Assignment.
- 6.2 If the Client requests a Modification to the Assignment pursuant to section 6.1, the Consultant is entitled to an extension of time and the right to adjusted remuneration pursuant to section 7.7, and where applicable, other compensation pursuant to section 7.1.

7. Remuneration

- 7.1 The Consultant's remuneration consists of fees and compensation for travel time, Non-performing Time and compensation for expenses as follows, unless otherwise agreed:

- a) travel and per diem expenses
- b) accommodations
- c) model and/or prototype production
- d) material purchases
- e) other costs specified in the agreement

An administrative surcharge is to be invoiced calculated as a percentage of the costs under (a)-(e) above, excluding value-added tax. If the parties have not explicitly agreed on what percentage is applicable, a reasonable administrative surcharge is to be applied.

- 7.2 Unless otherwise agreed, the Consultant's fees are hourly.
- 7.3 The Parties may also agree on a fixed fee or other form of fee, such as an incentive-based fee and/or bonus.
- 7.4 In the case of hourly fees, the fees are paid for time spent and at the agreed hourly rate.
- 7.5 It is the responsibility of the Consultant in the case of an agreed hourly fee to present a Budget. The Consultant is to notify the Client without delay if there is a risk that the Budget cannot be kept for any reason.
- 7.6 In the case of a fixed fee, the agreed remuneration is to be paid for the Assignment.
- 7.7 The Consultant is entitled to an adjusted fee in the event of Modifications of the Assignment pursuant to section 6.1.
- 7.8 When adjusting the fixed or hourly fees pursuant to section 7.7, the Parties are to apply the agreed hourly rates unless otherwise agreed. In the event that an agreement on the hourly rates has not been concluded, remuneration is to be paid, unless otherwise agreed, as per the Consultant's current price list for the services, provided that the fees are reasonable.
- 7.9 Unless otherwise agreed, the Consultant is entitled to an annual index regulation of the agreed fixed and/or hourly fee according to the Factor Price Index for consulting services, K84.
- 7.10 The Consultant is entitled to remuneration for overtime work ordered by the Client as stated below, unless otherwise agreed. For overtime work performed outside of normal working hours, but after 06:00 and before 20:00 on non-holiday weekdays, the agreed hourly rate as multiplied by a factor of 1.5 will be charged. Overtime work performed at other times will be charged at the agreed hourly rate multiplied by a factor of 2.0. In the case of a fixed fee, in the event that an agreement on an hourly rate has not been reached, remuneration will be paid as per the Consultant's current price list for the services concerned provided that the fees are reasonable, and otherwise in accordance with that which is herein stated.
- 7.11 The Consultant has, in addition to the above stated remuneration, the right to compensation for statutory value-added tax.

8. Payment

- 8.1 Payment is to be made pursuant to the payment plan agreed upon between the parties. In the event a payment plan has not been agreed upon, the Consultant has the right to receive payment once a month for work performed and reported as well as for costs incurred.
- 8.2 Payment is to be made against invoice, no later than thirty days from the invoice date.
- 8.3 In the case of late payment by the Client, the Client is to pay interest at the current reference rate as set by the Swedish Central Bank plus eight percentage points until full payment has been made.
- 8.4 The Consultant is entitled to cancel the Assignment in the event the Client is delayed with payment and payment has not been made within fourteen (14) days after a written demand.
- 8.5 In the case of hourly fees, reporting of the work performed is to occur monthly and the Consultant is to specify the nature and scope of the work performed during the period of time the report concerns, including incurred expenses and the total billed fees for the Assignment. The number of hours worked is to be stated. In addition, the hourly rate applicable for those persons involved in the Assignment is also to be stated.

9. Information

- 9.1 The Client is to provide, or in another manner make available, those documents and any information that the Consultant needs to carry out the Assignment. The Client is responsible for ensuring that such documents and information is correct.
- 9.2 The Client is to provide written information about third-party software or other components (such as circuit boards or electronics) to be used in the Assignment or Result and, where relevant, specify the supplier. The Client is to have all the necessary rights to such software and/or components.
- 9.3 The Parties are to keep each other informed of circumstances that may be of importance to the Project Plan, Technical Specification or the Assignment in general.
- 9.4 The Client's approval does not discharge the Consultant from liability. The Consultant is discharged from liability for technical solutions, however, in the event the Consultant provided information regarding the risk with that specific proposed solution and the Client thereafter gave its approval. The Client, at the request of the Consultant, is to provide a written answer as to the approval request.

10. Meetings

- 10.1 Status-meetings are to be held as often as agreed and are to be documented in writing. Each Party is responsible for ensuring that authorised persons participate in such meetings.
- 10.2 Unless otherwise agreed, the Parties are to discuss issues related to the project status and the possible coordination of the project with other projects at the status-meeting. Examples of other issues that can be addressed include modifications to the Assignment, the fees incurred to date for the Assignment and modifications to the Budget.
- 10.3 The requirement of documented "in writing" is fulfilled between the parties by notes in the minutes of the meeting.

11. Rights to Use

- 11.1 The Consultant owns and retains all intellectual property rights, such as copyright, design protection and/or other intellectual property rights to the Result of the Assignment, including but not limited to computer programs, texts, models, construction drawings and/or Prototypes excepting such software or other components falling under section 9.2.
- 11.2 The Client receives a non-exclusive right, unlimited in time, to use the Result of the Assignment for the intended purpose. The Client thereby has the right, for the intended purpose, to freely transfer or assign this right to use to any other party, and in its utilisation to modify, change and reproduce the Result.
- 11.3 As regards third-party rights to the software and/or other components included in the Result and/or Product, section 9.2 above is to apply. The Consultant is not responsible for infringements as to such software or components.
- 11.4 The Consultant cannot be held liable for infringement of third-party rights to the Result delivered by the Consultant, unless the Consultant has been grossly negligent. It is not incumbent on the Consultant to perform an audit of existing patents or other rights unless the Parties specifically agree to this.
- 11.5 In the event a claim or lawsuit is brought against the Client for the infringement of third-party rights within the Result of the Assignment, it is incumbent on the Consultant at the request of the Client and for reasonable remuneration assist the Client in its defence with respect to the circumstances existing at the time of the performance of the Assignment. In the event an infringement has occurred due to gross negligence or wilfulness on the part of the Consultant, it is to pay the Client for the costs associated with the claim or lawsuit and for such

compensation that the Client must pay to the third party. The Client is to consult therewith the Consultant as to those issues concerning the defence against such an action, or negotiations regarding settlement or conciliation.

- 11.6 The Consultant is only liable pursuant to section 11.5 above if the Client within reasonable time notifies the Consultant of such claims in writing.
- 11.7 In the event an invention is made essentially as a result of the Assignment, the Client has the right to enter as the rights holder provided that the Consultant was given the Assignment under the Parties' agreement to develop a technical solution and the invention is a result of the Assignment. It is the responsibility of the Consultant to notify the Client without delay when such an invention has been made. It is the responsibility of the Client to without delay, and no later than three (3) months after receipt of such notice, state whether the Client intends to exercise this right. The Parties are thereby without delay to consult with one other concerning safeguarding against the disclosure of the invention to third parties.
- 11.8 The Consultant owns all rights to inventions that have been made in connection with the Assignment other than those referred to in section 11.7 above.
- 11.9 The Client is entitled to freely use rights to the invention referred to in section 11.7 above regardless of whether the Client has been designated the rights holder or not. Unless otherwise agreed, the Client is entitled to freely use the rights to the invention referred to in section 11.8 above for agreed reasonable remuneration. The right to use referred to in this section 11.9 includes the right to modify, change and reproduce the invention, as well as grant the use of and assign the right to use.
- 11.10 Whether an invention has been made pursuant to sections 11.7 or 11.8 above, the Client when designated the rights holder or with the use of the invention is to pay the Consultant such reasonable remuneration that the Consultant may have to pay by reason of law or collective agreements to those employee(s) or contractors that have developed the invention.

12. Delivery and Delays in Delivery

- 12.1 Delivery of the Result and other partial deliveries during the execution of the Assignment are to take place in accordance with the dates set out in the Project Plan.
- 12.2 The risk for the Result or partial result is transferred to the Client on delivery. Delivery is ex-works Client's premises in Sweden, unless otherwise agreed.
- 12.3 The Assignment is completed on the Actual Delivery Date.
- 12.4 A delay occurs in the event the Actual Delivery Date is after the Contracted Delivery Date, unless otherwise agreed.
- 12.5 The Consultant is entitled to an extension of time in the event it is delayed due to circumstances as stated in section 6.2, or due to circumstances for which others are responsible according to section 5.3.
- 12.6 The Client has the right to damages for any delay for which the Consultant is responsible. The Consultant is not liable for indirect damage or loss, such as loss of profits or loss of information, unless caused by the Consultant's gross negligence or wilfulness. In the case of a fixed fee, the Consultant's total liability for damages is limited to ten per cent of the fixed project fee. In the case of hourly fees, the Consultant's total liability for damages is limited to ten per cent of the agreed Budget for the Assignment.
- 12.7 In order to avoid being barred from making a claim, the Client is to make any claim for damages due to delay in writing at the

latest three (3) months after the Actual Delivery Date or from the day the Assignment otherwise is terminated.

13. Testing and Acceptance

- 13.1 This section 13 is not applicable to the Assignment where the Result consists simply of construction drawings or other documents or documentation.
- 13.2 If agreed upon, the Consultant is to draft a Test Specification. The Test Specification is to be approved by the Client.
- 13.3 It is the responsibility of the Client to perform the tests as specified in the Test Specification within a reasonable time after the delivery or partial delivery of the Result. The Consultant is entitled to participate in such tests.
- 13.4 The results of the tests are to be communicated to the Consultant in writing as soon as possible and at the latest within one (1) month from the Actual Delivery Date or with a partial delivery, at the latest one (1) month from the delivery.
- 13.5 If the Consultant does not have the task of developing a Test Specification, the Client is to examine whether the Result or partial delivery of Result meets the requirements in the Technical Specification on the basis of its own test as to acceptance. The Consultant is to approve in advance the Client's acceptance test and be given the opportunity to participate in such a test.
- 13.6 When the test result meets the conditions in the Test Specification, delivery is approved.
- 13.7 The cost of the test is to be borne by the Client unless otherwise agreed.
- 13.8 In the event the Client fails to communicate the result of the test in writing within one (1) month from the Actual Delivery Date according to this section 13.8, the Result or partial delivery of Result will be deemed to have been approved.

14. Liability for defects

- 14.1 Defect refers to a deviation from the Technical Specification or from a professional performance of the Assignment, to the extent that the deviation is not insignificant.
- 14.2 The Consultant's liability for defects pursuant to section 14.1 above does not include:
- defect(s) in third-party software or other components or defects caused by third-party information as to such products, or
 - defect(s) caused by information supplied by the Client by reason of this Assignment, or
 - defect(s) caused by the Client, such as changes or interference regarding the Result, or the Client's incorrect use of the Result, or
 - defect(s) that the Client has discovered or ought to have discovered with the approval test but has not notified the Consultant of in accordance with section 13.8.
- 14.3 The Consultant has both the right and the obligation to rectify any defect(s) for which the Consultant is responsible. The defect(s) is to be rectified without cost to the Client if the Consultant has received remuneration for the improperly executed work. In the event the Consultant cannot cure the defect, the Client has the right to a price reduction comparable to the price paid for the defective part of the Assignment. The responsibility to rectify defect(s) is incumbent on the Consultant only if notice of the defect(s) is given within three (3) months from when the Client had discovered or ought to have discovered the defect, however, at the latest one (1) year from the Actual Delivery Date or from the date the Assignment was otherwise terminated.

- 14.4 The Consultant's liability for defects is limited to that stated above in this section 14 and the Client cannot make any other claims against the Consultant on the basis of a defect unless gross negligence or wilfulness exist.

15. Liability for Damages

- 15.1 Subject to the limitations below, the Consultant is liable for damages caused to the Client due to negligence in the Consultant's execution of the Assignment.
- 15.2 The Consultant's total liability is limited to the fee for the Assignment, but with a maximum of 120 statutory price base amounts, unless otherwise agreed. The Consultant is not liable for indirect damage or loss, such as loss of profits or loss of information.
- 15.3 In order to avoid being barred from bringing a claim for damages, the Client is to make any claim for compensation for damages in writing at the latest three (3) months after the Client discovered or should have discovered the damage, but no later than one (1) year from the date the Assignment was completed or otherwise terminated.

16. Termination of the Assignment

- 16.1 The Client is entitled to terminate the agreement in respect of one or more non-performed segments without needing to state a reason.
- 16.2 The Consultant is thereby entitled to remuneration for the executed Assignment, reasonable costs for winding up, incurred and verified costs, an administrative surcharge, compensation for travel time and non-performing time according to section 7.1, as well as loss of reasonable profit for such part of the Assignment that is not executed.
- 16.3 In the case of cancellation pursuant to section 16.1, the Consultant is to deliver the Result of any work performed already completed for the cancelled part to the Client at the latest when the Client has completed its payment obligation.
- 16.4 The agreement can also be terminated with immediate effect as follows:
- In the event the other party has materially breached the commitments that follow from the agreement, and has not remedied the situation within thirty (30) days after written request thereof with reference to this section 16.4.
 - In the event the other party is declared bankrupt, initiates debt renegotiations or is otherwise insolvent.
- 16.5 A notice of termination must be in writing in order to be valid.
- 16.6 In the event the Client terminates the contract on the basis of sections 16.4(a) or (b), the Consultant is entitled to remuneration for work performed, reasonable costs for winding up, incurred and verified costs, according to the contract as well as reasonable lost profits with respect to those part of the Assignment not performed.
- 16.7 In the event the Client terminates the contract on the basis of sections 16.4(a) or (b), the Consultant is entitled to remuneration equivalent to the value of the Result of the work as well as any claimed and verified costs.
- 16.8 In the case of termination pursuant to section 16.4, the Consultant is to submit the Result of work already completed to the Client, provided that payment is made pursuant to this section 16.

17. Insurance

- 17.1 The Consultant is to have the required professional indemnity insurance equal at least to the amount of liability arising from these general conditions. At the request of the Client, the

Consultant is to demonstrate that such professional indemnity insurance exists.

18. Force Majeure

- 18.1 In the event a party is prevented from fulfilling its obligations under this agreement due to circumstances beyond the party's control not foreseeable upon the execution of the contract, such as labour disputes affecting one of the parties, amended government regulations, government interventions, lightning, fire or defects or delays in service from a subcontractor or a supplier as designated by the Client, due to any of these circumstances as herein specified, this will constitute grounds for release that allow postponement of the date for completion of the Assignment and relief from damages and other penalties on account of such a delay. In the event the performance of the Assignment to substantial parts is delayed for longer than three (3) months as a result of such circumstances as herein provided, a party has the right to terminate the contract in writing with immediate effect. Upon such termination, the Consultant is entitled to remuneration for work performed, reasonable costs for winding up, as well as incurred and verified costs, an administrative surcharge, and compensation for travel and non-performing time according to section 7.1. The Client is entitled to the Result of the work completed to date after payment has been made.

19. Confidentiality

- 19.1 During the execution of the Assignment and for a period of three (3) years thereafter, each party undertakes not to divulge

any information to third parties about the other party that may be considered a business secret without the other Party's written consent. This is always the case with respect to information that a Party has designated as confidential.

- 19.2 Confidentiality does not apply to such information that a party can prove has become known to that party in ways other than through the Assignment, or information that is generally known. Nor does confidentiality apply when information is given to third parties who need the information to execute the Assignment or when a party is required by law or stock exchange regulations to disclose certain information.

20. Assignment

- 20.1 The agreement between the parties may not be assigned to a third party without the other party's consent.
- 20.2 The Consultant, however, can assign the right to payment on account of the Assignment without the Client's consent.

21. Governing Law and Dispute Resolution

- 21.1 Swedish law is to apply to these general conditions.
- 21.2 Disputes are to be settled by a general court, unless the parties agree otherwise.
- 21.3 The parties, however, always have the right to apply to an authority for the payment of undisputed and past due claims regarding the Assignment.