

## **General Conditions for commissions handled by members of the Association of Intellectual Property Law Firms in Sweden (SEPAF)**

### **1. The Commission**

The Contractor shall with due care safeguard the Principal's interests and shall carry out commissions received in a professional manner and in accordance with good professional ethics.

The Contractor shall obtain such authorisations necessary to enable the Contractor to perform the Commission in a satisfactory manner.

The Contractor shall only conduct a background search into older rights, prior art or designs if a separate agreement has been concluded.

Advice provided is based on the information and instructions provided for the individual Commission, and cannot thus be used in other situations.

The Contractor's obligation to take measures after the registration of an intellectual property right has been granted is limited to forwarding communications received in connection with this registration. The Contractor is entitled to compensation for its services, and expenses in conjunction therewith.

The Contractor is entitled to destroy material on file relating to the Commission at the earliest one month after the cessation of the Commission.

### **2. The Contractor**

'Contractor' means the firm that is a member of SEPAF and the employer of the person(s) dealing with the Commission. The contractual parties are the Contractor and the Principal. Individual consultants are not personally liable in relation to the Principal.

### **3. Powers of the Principal**

The Principal is responsible, to the extent required by the Commission, for ensuring it is entitled to control the object of the Commission (invention, design, trademark, etc.) including all supporting documents provided to the Contractor, such as drawings and other documentation.

The Principal shall provide the Contractor with the necessary powers of attorney.

### **4. Conflict of interest**

The Contractor may be prevented from undertaking or completing a Commission if there is a conflict of interests or other circumstances as referred to in Clause 4.3-4 of SEPAF's Guidance Rules concerning Ethics and Professional

Diligence for Patent Agents and the Patent Firms. It is therefore of great importance that prior to the Commission the Principal furnishes the Contractor with information that might be considered relevant to the Contractor's assessment of whether such circumstances prevail as referred to in the regulation.

### **5. Confidentiality**

The Contractor shall keep information received from the Principal confidential to the extent that professional diligence so requires.

When engaging or cooperating with another party as a result of the Commission, the Contractor is entitled to disclose to such party information that the Contractor considers relevant for the performance of the Commission.

If the Contractor withdraws from the Commission, the Contractor is entitled to notify their successors of the reason for their withdrawal and also provide the information required to perform the Commission.

### **6. Personal Data Regulations**

The Principal hereby declares that it is aware and approves that its name, address, telephone number, fax number, email and other relevant personal data be compiled, processed and stored by the Contractor by means of electronic data processing, on electronic or other media, online or manually according to the relevant and current Personal Data regulations, among others but not limited to the General Data Protection Regulation (EU) 2016/679 (GDPR).

### **7. Time limits**

Both the Contractor and Principal shall monitor official time limits of which they have been informed. If a time limit is to be observed in the Commission, the Principal shall provide all relevant information in a timely manner so that the work can be carried out with due care. If this is not done, the Contractor should, for a reasonable fee and compensation for disbursements, apply for an extension of the time limit where possible and unless circumstances suggest otherwise.

The Principal shall, on its own initiative and in good time before the expiry of the time limit, provide the Contractor with appropriate instructions for maintaining the intellectual property rights even if the Principal has not received a reminder from the Contractor in respect of maintenance or renewal. The Principal's instructions for maintaining or waiving

Intellectual Protection Rights shall be complete and clear. If a Commission and the payment requested are not received on time, the Contractor may assume that the Principal wishes to waive the Intellectual Property Rights.

#### **8. Sub-contractors**

The Contractor is entitled to engage another party to execute the Commission or parts thereof, subject to the same level of confidentiality that applies to the Contractor. Those parties engaged shall be selected with due care. The Contractor is not responsible for work performed by a third party. If the Principal has selected a third party for the performance of the Commission or parts thereof, the Contractor is not responsible for the choice of the party selected. The Contractor shall inform the Principal of any mistakes or any negligence on the part of the other parties engaged and of which that the Contractor becomes aware. When the Contractor engages in its own name a third party to perform the Commission, the Contractor shall take such measures as are necessary to enable the Principal to make claims directly against the party engaged (i.e. by assignment of claims).

#### **9. Information and communication**

The Contractor shall keep the Principal informed about the handling of the Commission. Close cooperation and quick feedback from the Principal represents a precondition for enabling the Commission to be performed in the best possible way. The Principal is responsible for the Contractor receiving the information required to enable the Contractor to deal with the Commission. If the Commission relates to the filing of an application for Intellectual Property Rights, the Principal shall inform the Contractor of the scope of the Commission, previous matters of a similar nature and previously filed applications and publications that relate to the same or a similar subject field.

The Principal is responsible for checking the accuracy of the documents prepared by the Contractor that have been submitted to the Principal for consideration and comments. The Contractor is entitled to assume that the Principal fully accepts the content of such documents unless the Principal states otherwise without delay.

The Principal is obliged to keep the Contractor informed about its current address. All communications from the Contractor to the Principal shall be sent to the last address provided by the Principal. If a change of address has not

been notified, the Contractor is not responsible for the future performance of the Commission unless the Contractor is nonetheless able to establish the necessary contact with the Principal.

The Parties can communicate via electronic transfer in those cases where this is considered to be appropriate. If the Principal sends important information via electronic transfer, the Principal should follow this up by telephone or email to ensure that the communication has reached the Contractor. The Contractor is not responsible for any damage that may arise owing to communications via electronic transfer.

#### **10. Intellectual property rights**

All material on file prepared by or in the possession of the Contractor relating to a Commission given shall be the property of the Contractor. Copyright to drawings, text or other work, including computer programs created by the Contractor or its sub-contractors shall belong to the Contractor.

#### **11. Fees and expenses**

If the fee has not been agreed in advance, the Contractor's fee shall comprise what the Contractor normally charges for commissions of a similar nature. The Contractor is entitled to require advance payment. In addition to the fee, the Contractor is entitled within the framework of the Commission to compensation for travel costs and other expenses.

#### **12. Interest for delay**

Interest for delay shall be charged under Section 6 of the Interest Act (1975:635) in the case of late payment unless otherwise agreed.

#### **13. Premature cessation of the Commission**

The Contractor is entitled to resign from the Commission if it is significantly changed or extended in respect of its content or scope. The Contractor is also entitled to resign from the Commission if the Principal makes a request to the effect that the Contractor should act in a way that is not in compliance with professional diligence. The Contractor is then under no obligation to forward communications in the matter (which it may still receive), study them or respond to them. The same applies if the Principal has given instructions to the effect that the matter should be concluded or removed from the Contractor's register.

The Contractor may withdraw from the Commission in the event of a suspension of payments or refusal to pay on the part of the

Principal while taking due notice of the risk of a possible loss of rights.

#### **14. Complaints and claims**

If the Principal claims that the Contractor has neglected its obligations under this Agreement, it shall notify the Contractor of this within a reasonable period of time after having observed or after it ought to have observed the negligence (complaint). Unless otherwise agreed between the Parties, the right of the Principal to make a valid claim against the Contractor for a complaint will lapse unless a complaint is made in the manner referred to above and the Contractor has not commenced legal proceedings as referred to below no later than within one year counted from the point in time when the work covered by the complaint was completed or, if it has not been performed, should have been completed. If the Principal has a valid excuse for its delay, the time limit will commence from the period thereafter.

In the event that the Principal makes a claim against the Contractor based on a claim by a third party, the Contractor is entitled to respond to, regulate and settle the claim on behalf of the Principal, provided the Principal is held harmless. If the Principal takes measures relating to a claim from a third party without the consent of the Contractor, a claim cannot subsequently be made against the Contractor. If compensation is paid by the Contractor to the Principal as a result of a claim from a third party, a right of subrogation is simultaneously assigned to the Contractor.

#### **15. Limitation of liability**

If a Commission or instructions reach the Contractor too late (e.g. if there is a time limit for a Commission), the Contractor is discharged from all liability for not having dealt with the matter.

The Contractor's liability is limited to a maximum amount of five million Swedish kronor per Commission. The Contractor shall have liability insurance with an insurance limit of five million Swedish kronor. If the Principal would like higher insurance protection, the Principal shall bear the cost of such protection.

If the Contractor, as one of several contractors, is liable for damage incurred by the Principal, the Contractor is not liable for a greater proportion of the total sum than the Contractor's proportion of the total fee.

#### **16. Interpretation**

The Swedish version of these conditions applies to principals resident in Sweden. The English version shall apply to other principals. Agreed commissions and these General Conditions are governed by Swedish substantive law.

#### **17. Dispute resolution**

Any dispute resulting from this Agreement may not be referred to a court, but shall be finally settled by arbitration in accordance with the Arbitration Rules of the Stockholm Chamber of Commerce. The arbitration proceedings shall take place in Stockholm.

Disputes relating to claims, whose value corresponds to less than half the price base amount under the Social Insurance Code, or as regards the Contractor's invoice claims for work carried out, may instead at the option of the party be referred to a general court or an enforcement authority. In such cases, claims that are to be settled by arbitration under the first paragraph shall not be presented as counterclaims (set-off).