

Form of agreement for agreement on technical consultancy and assistance

This form is used together with General Conditions for Consulting Services, ABR 89.

Prepared by the Danish Association of Architectural Firms (DANSKE ARK) and the Danish Association of Consulting Engineers (FRI).

1. Parties

1.1 The undersigned

represented by Anni Veske
Asia Jankowska

1.2 in the following referred to as the Client and
The co-signer

represented by Malene Knudsen

in the following referred to as the Consultant
have entered into the following agreement.

2. Project

2.1

This agreement comprises technical consultancy and assistance regarding renovation and extension works on J. M. Morksgade 9 in Aarhus C, Denmark.

2.2 The following sub-consultants are engaged in the project:

Engineers – represented by Per Charles Jensen

Administrator/lawyer – represented by Ana Maria Herforth

Architect – represented by Torben Clausen

2.3 The Client has also engaged the following consultants in the project

Engineers – represented by Per Charles Jensen

Administrator/lawyer – represented by Ana Maria Herforth

Architect – represented by Torben Clausen

2.4 The appointed Design manager is Anni Veske

The project manager/building manager shall not assume liability for errors and omissions in the work of the individual consultant.

In the event that the client refers the decision to the consultants, the decision of the project manager shall be final.

3. Basis of agreement

- 3.1 General Conditions for Consulting Services, ABR 89, with the addenda and amendments stipulated by this agreement.

DANSKE ARK's and FRI's description of services for building and planning 2012.

- 3.2 The following client documents
- Outline proposal – rev. on 26.01.2015
 - JMM Extraction of Brief – rev. on 19.08.2015
 - JMM Preliminary registration - rev. on 19.08.2015
 - JMM Scenario – rev. on 26.01.2015
- 3.3 Other

4. Services provided by the Consultant

A construction manager is appointed before the building process commences. The construction manager monitors the overall progress of the building project in terms of programming, quality and costs and manages relevant documentation. The construction manager is also responsible for coordinating general building site activities.

The scope of construction management is defined in an agreement between the client and the construction manager.

The construction manager draws up a construction management plan.

5. Services provided by the Client

Before construction phase consultancy is provided, an organisational chart must be drawn up, listing the competences and responsibilities of the person or persons duly authorised.

The client manages project review meetings, but may delegate such responsibility to the construction manager.

The client assesses and approves any alterations in writing or authorises the construction manager to perform such tasks.

The client pays payment requests presented by the construction manager.

Unless otherwise agreed, the client undertakes working environment coordination during the construction phase.

The client transfers the log to the operations manager.

The client appoints an independent energy consultant to prepare an energy certification report and submits it to the building authorities before statement of completion.

The client participates in the handing-over meeting and signs the handing-over documents.

The client convenes the 1-year inspection process.

6. Deadlines

5th of October – Project meeting

30th of October – SDP end/Examination

6th of November – DD1

14th of January – DD2

18th of January – Building site start

00th of Month – Building site end

7. Financial basis for the completion of the project

Check Appendix 3.

8. Fee

Check Appendix 1.

9. Expenses

Expenses include:

- a) Costs in connection with transportation by car, necessary travel, including any away-from-home allowance, and any costs in connection with the necessary stationing of personnel from the consultant's office as stipulated in the agreement.
- b) Expenses for reproduction of drawings, exclusive of costs of reproduction of drawing for the consultant's own use up to the production of tender documents. Expenses for reproduction of material for mutual information of consultants in the case of split-consultancy, unless otherwise agreed. Expenses for printing of specifications, account extracts, minutes of meetings, etc.
- c) Expenses for models, photographs leased drawings and other material used for clarification of the assignment and produced by arrangement with the client.
- d) Charges made for the certificates and other official documents etc. required for carrying out the assignment.
- e) Expenses for special consultants engaged in accordance with a previous agreement with the client.

10. Payment of fee and expenses

Fees owing to the consultant for work performed by him shall become payable in accordance with the percentage distribution of the fee as specified in the consultant agreement.

The consultant shall be entitled to demand fee for the work performed by him paid on account in monthly instalments arrears.

In the event of overdue payment, default interest and a fee will be charged according to the provisions of the Danish Interest Rate Act (see Executive Orders nos. 601 of 12 July 2002 and 743 of 4 September 2002).

11. Liability

Regardless of the extent and volume of damage, the Consultant's overall liability in relation to this agreement cannot exceed DKK 2,500,000 (GC 89, 6.2.6.1.).

12. Insurance

The Consultant has taken out professional liability insurance with liability insurance policy (GC 89, 6.2.2).

The liability of the consultant shall cease 5 years after the completion of the consultation assignment in which the error or negligence occurs.

If the client fails to submit a written complaint to the consultant as soon as he becomes, or ought to become, aware of the possible liability of the consultant he shall forfeit his right to raise claims against him.

The consultant shall not be liable for working deficits, loss of profits or other indirect loss.

13. Disputes

According to ABR 89, 9. disputes are generally to be brought before the Court of Arbitration for Building and Civil Engineering Works.

As regards the dispute over architect fees, the dispute may be settled by the rules committee of the Architects Association of Denmark (AA). If the dispute concerns engineer fees, the dispute may be brought before the rules and opinions committee of the Society of Danish Engineers.

In the event that the consultant's fee is claimed set off against a claim for compensation by the client for delays, errors of defect in performing the work, disputes over remunerations can be settled only by the court of Arbitration.

14. Special provisions

In the event that the consultant considers the carrying out of the task will require special kind of consulting, services beyond those he undertakes to provide, he shall notify the client accordingly before entering into the agreement.

15. Appendix

Appendix 1 – Fee Calculations

Appendix 2 – GC 89

Appendix 3 – Total cost of the project

Date	Client	Date	Consultant
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Instructions for form of agreement for agreement on technical consultancy and assistance

Prepared by the Danish Association of Consulting Engineers (FRI) and the Danish Association of Architectural Firms (DANSKE ARK).

General

The form of agreement and the following instructions have been prepared for the purpose of agreements on split consultancy and full-service consultancy. The instructions explain matters to be particularly observed in that connection. If the provisions of ABR 89 are to be dispensed with, this must be stipulated in the agreement (see ABR 89, 1.0.3 and 2.1.3). However, the Client and the Consultant should be very cautious about doing so (see the Danish Ministry of Housing and Building's circular letter no. 30 of 28 February 1990 for ministries, agencies and local councils, Executive Order no. 1226 of 14. December 2011 and circular letter no. 9099 of 3 March 2004 about conclusion of partnering agreements).

Re 1.1

If the parties agree that one or more persons are responsible for the agreed services (see ABR 89, 2.1.1), the name(s) must be stated here.

Re 1.2

In the event of split consultancy (see ABR 89, 2.2.1), name and address must be stated.

In the event of full-service consultancy (see ABR 89, 2.2.2), the names and addresses of the full-service consultant/group/consortium and the group manager must be stated (see ABR 89, 6.2.8).

Re 2.1

Information about individualisation of the project such as project name, location and gross floorage must be stated.

Indication of the definition of the professional scope of consultancy such as services rendered by architects or, as regards engineers, clarification of whether the services relate to plumbing/heating, electricity, structures, environment, etc.

Re 2.2

Names of any sub-consultants with whom the Consultant has entered into an agreement in connection with the project.

Re 2.3

Names of other technical or other consultants engaged by the Client in the project (see ABR 89, 2.4.1).

Re 2.4

Appointment of design manager (see ABR 89, 2.4.1, 2.4.2 and 2.4.3).

Re 3.1

Reference has been made to DANSKE ARK's and FRI's description of services for Building and Planning 2012 in the form of agreement, but other descriptions of services may also be relevant.

Re 3.2

Indication of the basis such as appraisal or building programme for the project given by the Client to the Consultant at the same time as the agreement.

The basis must be precisely indicated.

If the Client is to provide additional material, this must be stated under 5.

Re 3.3

If the agreement comprises a tender, this must be stated, as must the consultancy phase and any form of tender to serve as the basis for tender.

Re 4

The services to be rendered by the Consultant (see ABR 89, 2.3.1, with reference to relevant sections in DANSKE ARK's and FRI's description of services for Building and Planning 2012 as mentioned under 3.1 of the agreement). The description must be specific and accurate. In the event that requirements are advanced for additional services such as consultancy services in the operational phase in connection with fittings, fixtures and equipment, in connection with planning or other services mentioned in sections 5, 6, 7 or 8 in DANSKE ARK's and FRI's description of services for Building and Planning 2012, this must be specified. Otherwise, such services will not be covered by the agreement.

If the fee for the assistance provided by the Consultant is calculated according to two or more different principles (see 8), the services calculated according to the same principles must be listed together.

If the Client is able to predict, but yet to meet, a demand for an increase in the assistance provided by the Consultant, a provision may be included on any increase in assistance. The provision must also state whether the increase is to be effected by endorsement on this agreement or by other written document.

Re 5

Client services are accurately described in the description of services for Building and Planning 2012, but it may be necessary to list specific client services if other descriptions of services are used.

Re 6

Agreed deadlines for Consultant services and the Client information on which such services are based must be stated.

Deadlines (see ABR 89, 5.1) may be included in the design timetable to be prepared by the design manager (see ABR 89, 2.4.1). If this is the case, the timetable should be enclosed as an appendix.

If penalties have been agreed (see ABR 89, 6.1.1), the amount must be stated here.

Re 7

Indication of any financial limits agreed in advance within which the project should be completed (see ABR 89, 2.1.1 and 2.1.2). The index of the limits and the regulation of the limits must be specified.

Hence, each estimate must state what it covers and whether it is based on current prices or contains a forecast of price trends until a given time. A fluctuation limit for the estimate may be fixed in the agreement.

Re 8

In the event that the agreement is drawn up with a view to a possible increase in assistance, an agreement should also be made about the payment of fees, if possible.

Fees for services (see clause 4 of the agreement) calculated according to the same principle must be listed together.

Any fee fixed for time of transport is to be included here.

Re 9

Expenses appear from ABR 89, 3.2. Any requested changes/additions must be stated in the agreement.

Re 10

Payment of the fee on account monthly in arrears may be demanded (see ABR 89, 3.4). In the event of overdue payment, interest and a fee will be charged according to the provisions of the Danish Interest Rate Act with Executive Orders nos. 601 and 743 of 2002.

ABR 89, 3.4, stipulates that a payment plan must be prepared in some cases.

Re 11

In the event that ABR 89's rules on liability in case of defects are invoked, no further liability provisions need to be inserted in the agreement. Any indication that the Consultant is liable according to Danish law's general provisions on damages is not in keeping with ABR 89, 6. on liability.

Financial liability is determined and indicated here (see ABR 89, 6.2.2). The limit of liability should always be indicated by a maximum amount.

Re 12

The Client should make sure that it appears from the agreement that the project is covered by a liability insurance policy (see ABR 89, 6.2.2).

Re 13

According to ABR 89, 9. disputes are generally to be brought before the Court of Arbitration for Building and Civil Engineering Works.

However, disputes exclusively over fees (see ABR, 9.0.3) may be settled by a rules, fees or opinions committee appointed by one of the organisations. As regards the dispute over architect fees, the dispute may be settled by the rules committee of the Architects Association of Denmark (AA). If the dispute concerns engineer fees, the dispute may be brought before the rules and opinions committee of the Danish Association of Consulting Engineers (FRI).

Re 14

Listing of provisions that could not be inserted above or of explanatory comments.

A provision on any security (see ABR 89, 3.4) may be stated here.

Any need for special consultancy services deemed necessary must be determined (see ABR 89, 2.1.5). Moreover, it is to be agreed whether this assistance is paid for directly by the Client or on an expense basis (see ABR 89, 3.2.2 e).

Any agreements on reuse (see ABR 89, 3.1.3) and the fee thereof must be stated here.

Any agreements on transfer of fee must be stated.

Any special agreement on computer software must be stated.

Re 15

Any appendices should be dated and enclosed with the agreement.