

GENERAL TERMS AND CONDITIONS FOR REQUISITIONED SERVICES



1. Liability

1.1 The institute shall be liable to the client in conformity with the rules concerning compensation in Danish Law, subject to such limitations as follow from the provisions in sections 1.2 through 1.11 hereinafter.

1.2 Any advice, tests, issue of test certificates or reports, investigations and control work furnished or carried out by the Institute – irrespective of the kind and nature thereof – will be provided or carried out on the basis of such knowledge and such techniques as are available to the Institute at the time of the advisory services being provided or at the time of the testing, investigation or control work being carried out. The institute shall not accept any liability in the case of any subsequent developments indicating that the Institute's knowledge and techniques are suffered from shortcomings or were incorrect.

1.3 Where any advice, test certificate or report or control report furnished by the Institute is used for any purpose falling outside the scope of the information that has been used as a basis for the Institute's advisory service, testing or control work, cf. the reports issued, the Institute shall not accept any liability therefore.

1.4 In the case of the client's products causing damage, the Institute shall accept no liability for any damage thus caused

1.4.1 where the tortious act was committed by the client prior to the Institute's test certificate or report or control report having been submitted by the Institute,

1.4.2 where the tortious product has not specifically been tested by the Institute, unless it be substantiated by the client that the tortious product is in every respect identical with a product specifically tested by the Institute and

1.4.3 where the damage caused is due to any property of the product, or to any use of the product which either has not been tested and described in the test report or which deviates from the Institute's description in the test report of product properties or a possible use of the product.

1.5 The Institute accepts no liability for such damage or any other losses which occur in connection with any use of any statements made by the Institute, if it is stated by the Institute that the said statements are evaluations or opinions based on best estimates.

1.6 Where the Institute has undertaken to control whether or not a service or work furnished is in conformity with a contract, and if the result of such control shall be available within a specific time, the client shall be liable to call attention hereto expressly at the time of the control being requisitioned. For such control, the Institute's liability shall be so limited that it applies solely to lateness notice, if applicable, of the service or work concerned not being in conformity with the contract.

1.7 The Institute shall not be held liable for any delay in connection with the performance of any services for the client.

1.8 Where the Institute has leased out any equipment or has sold any products, the Institute's liability in the capacity of lessor or vendor shall be limited to cases where it is substantiated that a default or damage caused by the product is due to error(s) or negligence committed by the Institute.

1.9 Where the Institute has received samples and equipment in regard to which it has been agreed with the client, or it has been assumed, that the sample(s) or the equipment shall be returned to the client, then the Institute shall not be liable for any loss or damage to the received item(s) unless it is substantiated that an error or negligence has been committed on the part of the Institute. The liability incumbent on the Institute shall be limited to the value of the received sample or equipment. Where the return of samples and equipment has not been agreed upon, nor assumed, storage thereof at the premises of the Institute shall be limited to a period not exceeding 1 month from the completion of the requisitioned services, where after the items concerned may be scrapped or returned to the client at his expense. Any samples or equipment submitted to the Institute are not covered by the Institute's insurances, wherefore the client shall take out the usual insurances covering damage by fire, damage by water, theft and malicious damage.

1.10 In addition to the cases referred to in sections 1.2 through 1.9, the Institute may be held responsible where it is substantiated that damage is due to errors or negligence on the part of the Institute. However, the liability of the Institute in respect of property shall in no case exceed Dkr. 500.000 for each claim. The Institute shall in no case be liable for loss of production, operational losses, loss of profit nor for any other indirect loss. The Institute shall not be held liable for any claims which are not set forth in writing within 3 years of the Institute having furnished the service alleged to constitute the basis for the liability.

1.11 Where any suffering party other than the client institutes an action against the Institute, alleging a liability exceeding the limits referred to in sections 1.1 through 1.10, the client shall be liable to take over such action, if so desired by the Institute. The client shall, moreover, indemnify the Institute for any liability of compensation that may be incurred by the Institute and/or for any other expense incurred by the Institute in connection with the damage caused, and which is in excess of the limits referred to in sections 1.1 through 1.10.

2. Secrecy

2.1 The Institute shall observe secrecy as regards solutions to problems, agreements made, and the contents thereof. Disclosure to any third party shall be subject to written consent having been granted by the client.

2.2 Where an experimental work or development work leads to results of common interest, the Institute shall not let such results be published unless infringement of the client's rights be avoided.

2.3 Where the Institute undertakes the performance of a service including assessment of a service furnished by a third party, the client shall respect that the Institute may contact such third party and any other relevant instances, in order to obtain information for the purpose of performing the task entrusted to it, unless otherwise agreed in writing with the client.

3. Publishing of Certificates, etc.

3.1 The certificates and reports furnished by the Institute may only be published in their entirety. Any publishing of extracts shall be subject to the Institute having consented thereto in writing.

3.2 The client shall not mention or refer to the Institute or to the Institute's personnel in any publicity or marketing activities, unless the Institute's prior permission to do so has been obtained in writing in each individual case.

4. Conditions for use of DBIs identification number 0845

4.1 The client (the manufacturer or his authorised representative) is responsible for the affixing of the CE marking. Where DBI is involved as the notified testing laboratory in determination of the product-type (for construction products under AVCP system 3), this requires that DBIs identification number 0845 shall accompany the CE marking as laid down in the harmonised standard applied. For construction products documented under AVCP system 3 the reports of the institute are provided with DBIs identification number 0845.

4.2 In the above mentioned context, it shall not be allowed to use DBIs identification number in any misleading or deceptive advertising activity – e.g. suggesting DBI to be warranting the manufacturer's products.

4.3 It shall not be allowed to use DBIs identification number for purposes, activities or arrangements incompatible with DBI.

4.4 DBI shall not be held responsible for any loss or damage which, directly or indirectly, might arise from the use of DBIs identification number.

4.5 DBI shall not be held responsible to third parties in connection with claims arising from the manufacturer's application of DBIs identification number – claims arisen due to his actions or neglect.

4.6 In the event of a recall of the reports constituting the basis for the permission to use DBIs identification number, all applications of DBI identification number shall immediately be discontinued.

4.7 DBI may, at its own discretion and if it is deemed expedient, take any further action towards manufacturers not conforming to the codes herein.

5. Rights to the Results of the Requisitioned Services

5.1 The tangible results produced by the Institute within the scope of an agreement concerning requisitioned services and the right to utilize such results shall belong exclusively to the client.

5.2 Any common knowledge and experience (including inventions) which might be developed by the Institute in connection with work with the requisitioned services an which do not fall within the scope of the requisitioned services, shall be the property of the Institute, and the Institute shall be entitled to use the same for the purposes of common research work and for the purpose of any other requisitioned services.

6. Subcontractors

6.1 The Institute is entitled to entrust, wholly or partly, other parties with the performance of the requisitioned services, whereby responsibility shall remain with Institute, after agreement in writing with the client.

7. Terms Relating to Invoicing and Payment

7.1 The client shall pay for the work done by the Institute, irrespective of the anticipated results being attained or otherwise.

7.2 Where the investigations are of long duration, the Institute is entitled to on account invoicing, and likewise the Institute may invoice in advance, at its own discretion.

7.3 The terms of payment are net cash, at 30 days.

7.4 In the case of arrears of payment, penal interest is charged at the bank rate plus 1,5 per cent per month, as from the due date.

7.5 Written quotations are valid for 3 months from date of quotation.

8. Storage of records

8.1 Records on a requested service are kept by DBI for at least 10 years after the requested service has been completed unless otherwise agreed in writing with the client.

9. Disputes

9.1 Disputes, if any, which could not be through negotiation, shall be settled on the basis of the rules of Danish Law, whereby the venue shall be the Court in Glostrup.

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