

Service Agreement  
for issuing of a European Technical Assessment (ETA) for .....,

to be used for ....

according to Art. 26 of the Regulation (EU) № 305/2011<sup>1</sup>

This agreement is made between the  
Technical Assessment Body

**Österreichisches Institut für Bautechnik (OIB)**  
**Schenkenstraße 4**  
**1010 Vienna**

(in this Service Agreement referred to as "TAB")

and

.....  
[name of the applicant]<sup>2</sup>

.....  
[address of the applicant]  
(in this Service Agreement referred to as "applicant")

For issuing a European Technical Assessment (ETA) according to Art. 26 of the Regulation (EU) № 305/2011 for the product ..... [Trade name] based on application № OIB-205-xxx/xx [Reference Number of the introduced application].

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<sup>1</sup> Regulation (EU) № 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC, Official Journal of the European Union № L 88/5 of 4 April 2011, amended by Commission delegated Regulation (EU) № 568/2014 of 18 February 2014, Official Journal of the European Union № L 157/76 of 27 May 2014 and Commission delegated Regulation (EU) № 574/2014 of 21 February 2014, Official Journal of the European Union № L 159/41 of 28 May 2014

<sup>2</sup> Manufacturer or his authorised representative according to Art. 12 of Regulation (EU) № 305/2011 as amended

## **1. Services for the issuing of the European Technical Assessment (ETA)**

1.1 The tasks and costs, agreed between the applicant and TAB, include:

- Check of documentation (Manufacturers Technical File)
- Procedural steps on level of the European Organisation of Technical Assessments (named EOTA thereafter) and the European Commission, to be initiated by the TAB
- Elaboration of the Work program
- Elaboration of the European Assessment Document (EAD) according to Art. 19 of the Regulation (EU) № 305/2011 (free of charge)
- Elaboration of the evaluation report
- Elaboration of the draft ETA
- Elaboration of the details regarding the implementation of the relevant system of assessment and verification of constancy of performance of the construction product in the factory production control system and by the notified body, where relevant (in co-operation with manufacturer and, as far as relevant and requested by the manufacturer, the product certification body/factory production control certification body)
- Consultations on European and national level as far as scheduled
- Issuing of the ETA in German and English

1.2 Costs according to clause 1.1 of this Service Agreement, including service charge, for the ETA: In the range of € xxx,- --- yyyy,- (this is a non-binding cost estimate).

1.3 Other tasks and related costs (including travel expenses etc.) for inspection of manufacturing plant, inspection of the factory production control system, sampling, testing institute, test site and participation in test procedure: According to actual expenditure (case-to-case).

1.4 Publication (in the publication medium of OIB) of the ETA and related costs and publication of the ETA according to the general policy of EOTA, respectively as far as relevant.

1.5 Costs resulting from the national rules in Austria: according to actual expenditure.

## **2. Declaration regarding the management of technical and procedural issues**

2.1 The applicant declares herewith that he:

- agrees that the content of this application is made known to the EOTA, the EOTA members and the European Commission according to the agreed rules of the procedure;
- will support the TAB in its duty of preparing the draft ETA according to cl. 1 of this agreement; in particular, the TAB will be provided with the Manufacturers Technical File, including all necessary details, the TAB will be supported in the elaboration of the Work program according to Annex II of the Regulation (EU) № 305/2011 by providing all the necessary information on that issue;
- accepts that this agreement does not give any anticipation on a positive result in the assessment;
- accepts that the TAB is allowed to refuse an application in case the request is not considered as an subject suitable for a ETA according to Art 21 (1, b or c) of the Regulation (EU) № 305/2011;
- accepts that the TAB is allowed to refuse an application in case of not manageable difficulties which are disproportionate with regard to the extent of documentation and testing procedure;
- agrees to inform the TAB about application of CE marking on basis of the ETA according to this Service Agreement;
- agrees to the publication of the European Assessment Document (EAD), elaborated for this product and adopted by EOTA, by EOTA and publication by the European Commission in the Official Journal of the European Union according to Art. 22 of the Regulation (EU) № 305/2011;

- agrees to the publication of the ETA elaborated for this product (see also clause 1.4 in this Service Agreement);
- transfers unconditionally his author rights for any contribution made to the European Assessment Document (EAD) to the TAB and EOTA and permits the TAB and EOTA full exploitation rights of this document;
- transfers unconditionally his author rights for any contribution made to the European Technical Assessment (ETA) to the TAB and EOTA and permits the TAB and EOTA full exploitation rights of this document;
- is aware about the fact that changes in the product or the production process, which may be of influence on the content of the European Technical Assessment (ETA) and the performances of the product according to this European Technical Assessment (ETA), shall be addressed to the issuing TAB and, if relevant, will result in an adaptation of the European Technical Assessment (ETA) as the basis for the declaration of performance for the changed product;
- is aware about the fact that any revision of the concerned European Assessment Document (EAD), which will be published according to the rules of the EOTA and according to Art. 22 of the Regulation № 305/2011, may be of influence on the content of the European Technical Assessment (ETA) and the performances of the product according to this European Technical Assessment (ETA).

## 2.2 The TAB declares herewith that:

- it is going to undertake the necessary actions in order to clarify with EOTA and the EC services the applicability of a European Technical Assessment (ETA) for the concerned product according to Art. 21 (1, b or c) of the Regulation (EU) № 305/2011 and to inform the applicant about the result;
- it is going to undertake the necessary actions in order to elaborate in cooperation with EOTA a European Assessment Document (EAD) for the concerned product according to Article II of the Regulation (EU) № 305/2011 and the related rules of EOTA and to inform the applicant on the result;
- technical information related to the specific product design, for which the manufacturer has requested confidentiality, will be kept within the TAB and is not to be transferred to other manufacturers or agents of manufacturers, according to the rules laid down in the Annex II of the Regulation (EU) № 305/2011;
- it respects commercial secrecy as defined by the manufacturer regarding all issues related to the product, production and factory production control, subject of this ETA, according to the rules laid down in the Annex II of the Regulation (EU) № 305/2011, unless they are part of the required consultations at European and national level;
- it will support the applicant in the evaluation of revisions of the concerned European Assessment Document (EAD), published according to the rules of the EOTA;
- this Service Agreement does not give any legal right for the use of the logo of the TAB and the logo of EOTA.

## 3. Declaration regarding payment

### 3.1 The applicant declares herewith that:

- he shall transfer an advance payment of € .... to the account of the TAB after the signing the Service Agreement within 14 days from the invoice date; if the applicant does not pay this advance payment by the set term, the TAB is entitled to cancel the Service Agreement;
- in case the assessment does not result in a ETA, he accepts to be invoiced for the service charge and the costs for the real amount of work and based on the rules laid down in the provisions of the TAB (currently: € 730,- service charge plus € 145,- per initiated working hour);

- that he accepts a half-yearly payment, depending on the real amount of work done and based on the rules laid down in the provisions of the TAB (currently: € 145,- per initiated working hour), by bank transfer to the account of the TAB after the date of signing the offer and within 14 days since the delivery of the invoice; if the applicant does not pay this payment by the set term, the TAB is entitled to cancel the Service Agreement and the related contract;
- he shall transfer the remaining costs as indicated in clauses 1.2 – 1.4 of this Service Agreement (final invoice) to the account of the TAB within 14 days since the delivery of this final invoice; if the applicant does not pay this payment by the set term ahead of delivery of the ETA, the TAB is entitled to cancel the Service Agreement and the related contract;
- he shall pay the costs, indicated in clause 1.5 in this Service Agreement, according to the conditions given in the related invoice, based on the relevant provisions to be applied.

### 3.2 The TAB declares herewith that:

- in case of justified extraordinary increase of work and related estimated costs according to clause 1.2 in this Service Agreement, the TAB will inform the applicant including detailed explanation;
- in case the assessment does not result in a ETA, the TAB will only invoice the service charge and the costs for the real amount of work;
- it shall issue and send the final invoice for the costs according to this agreement after the submission of the final draft of the ETA to the applicant.

## 4. Liability

The TAB shall not be responsible for damages caused by delays, failure to perform any obligation in whole or in part when such delay, failure or non-compliance are due to circumstances beyond effective control by the TAB.

In cases of slight negligence TAB shall not be liable for any loss or damage whatsoever whether direct, indirect, consequential or otherwise (except death or personal injury) caused by or arising from or in connection with this contract.

In any case the amount of damages is limited with the triple fee claim of TAB.

## 5. Disputes

This agreement shall be governed by the law of Austria with the exemption of Austrian international law such as CISG and the Rome I regulation. All disputes arising from or relating to this agreement shall be subject to the exclusive jurisdiction of the Viennese Court responsible for the first Viennese district.

For the Applicant (Manufacturer)

.....  
(Authorised Signature)

.....  
(Place and date)

**Guarantor for the payment**  
(Complete only if the payer is different  
from the applicant)

.....  
(Authorised Signature)

.....  
(Place and date)

For the Technical Assessment Body (TAB)

.....  
(Authorised Signature (Person in charge of this duty))

Vienna, .....  
(Place and date)