Act
on the Deutsches Institut für Bautechnik

Agreement
on the Deutsches Institut für Bautechnik

Statutes
of the Deutsches Institut für Bautechnik

Last amended: 4 August 2018.

This translation is intended as a convenience to the non-German-speaking public only.
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Act on the Deutsches Institut für Bautechnik

of 22 April 1993 (Berlin Gazette (GVBl. für Berlin), p. 195), as last amended by Section 2 of the Act of 13 May 2016 (Berlin Gazette, p. 438)

The Berlin House of Representatives has adopted the following Act:

Section 1
The Agreement on the Deutsches Institut für Bautechnik, including the Arbitration Agreement on the Settlement of Disputes arising from the Agreement on Deutsches Institut für Bautechnik – Annex, is approved.

Section 2
The Institut für Bautechnik (IfBt) established by the Act of 9 July 1968 (Berlin Gazette, p. 917) shall be continued as Deutsches Institut für Bautechnik (hereinafter referred to as the “Institute”) in accordance with the Agreement (DIBt Agreement) mentioned in Section 1. The provisions of the Agreement shall form part of this Act.

Section 3
The Senate Department (Senatsverwaltung) responsible for construction shall be authorised to delegate decision-making powers in accordance with Article 2(6) of the DIBt Agreement to the Institute by means of statutory instruments.

Section 4
(1) Pursuant to the Act on Fees and Contributions of 22 May 1957 (Berlin Gazette, p. 516), last amended by the Act of 30 October 1969 (Berlin Gazette, p. 2252), the Institute shall be authorised to charge fees and request the reimbursement of expenses.

(2) By way of derogation from Section 6 of the Act on Fees and Contributions, the fees shall be fixed by way of the Statutes.

Section 5
The Senate Department responsible for construction shall publish the Statutes of the Institute in the Official Journal of Berlin (Amtsblatt für Berlin).

Section 6
This Act shall come into force as of 1 January 1993. At the same time, the Act on the Institut für Bautechnik of 9 July 1968 (Berlin Gazette, p. 917) shall cease to have effect.

The above Act is hereby promulgated.

The Governing Mayor
D i e p g e n
Annex to the Act on the Deutsches Institut für Bautechnik

Agreement on the Deutsches Institut für Bautechnik (DIBt Agreement)

As last amended by the Third Amendment to the DIBt Agreement in the form of an Annex to the Act of 2 February 2018 (Berlin Gazette, p. 154)

The Federal Republic of Germany
– hereinafter referred to as the "Federation" –
and
the State of Baden-Württemberg,
the Free State of Bavaria,
the State of Berlin,
the State of Brandenburg,
the Free Hanseatic City of Bremen,
the Free and Hanseatic City of Hamburg,
the State of Hesse,
the State of Mecklenburg-Western Pomerania,
the State of Lower Saxony,
the State of North Rhine-Westphalia,
the State of Rhineland-Palatinate,
the Saarland,
the Free State of Saxony,
the State of Saxony-Anhalt,
the State of Schleswig-Holstein,
the State of Thuringia,
– hereinafter referred to as the "federal states" –

conclude, subject to the consent of their legislative bodies as far as such consent is required by the Constitution, the following Agreement on the Deutsches Institut für Bautechnik:

Article 1
General

(1) The State of Berlin shall continue the Institut für Bautechnik under the name of 'Deutsches Institut für Bautechnik (DIBt)' (hereinafter referred to as the "Institute") as a public law institution with legal capacity, established in Berlin.

(2) The Institute shall ensure uniform fulfilment of civil engineering tasks in the field of public law.

(3) In performing the responsibilities under the European Union legislation on harmonised construction products as set out in this Agreement, the parties undertake to co-operate closely and on a basis of mutual trust. They will aim to maintain and improve the level of technical requirements achieved in the Federal Republic of Germany through public law provisions and in the field of public tenders. Insofar as the Institute is entrusted with comparable responsibilities related to construction products under other European Union legislation, sentences 1 and 2 shall apply accordingly.

(4) The Institute shall have the right of self-government within the scope of the provisions following below.
(5) The Institute shall have the right to confer civil servant status. The Institute's civil servants shall be indirect officials of the State of Berlin. The contracts of employees and workers of the Institute shall be governed by the provisions applying to employees and workers of the State of Berlin.

**Article 2**

**Responsibilities**

(1) The Institute shall

1. issue European Technical Assessments and publish at least their subject and main content,

2. grant national technical approvals (*allgemeine bauaufsichtliche Zulassungen*) and keep and publish lists of the approvals granted,

3. prepare public notices for the introduction of Technical Building Rules (*Technische Baubestimmungen*),

4. initiate, award, evaluate and supervise, technical studies, including building research contracts, and review the associated reports,

5. provide evaluations on a case-by-case basis, for instance concerning the use of construction products, at the request of one or more parties and perform assessments at the request of the national accreditation body,


7. keep lists of testing laboratories, inspection and certification bodies in accordance with the Building Codes of the federal states (*Landesbauordnungen*),

8. a) register energy performance certificates and inspection reports for air-conditioning systems within the meaning of the Energy Saving Ordinance (*Energieeinsparverordnung*) as well as allocate registration numbers and

    b) verify a random selection of energy performance certificates.

(2) The Institute shall be the joint market surveillance authority of the federal states for the market surveillance of harmonised construction products under European Union legislation. As the joint market surveillance authority, the Institute shall, in particular,

1. test and assess construction products uniformly from a technical perspective,

2. take measures in cases where construction products do not meet the requirements of the Construction Products Regulation with regard to the performance declared for the essential characteristics or present a risk provided that it is competent to do so in its capacity as the joint market surveillance authority in accordance with the relevant state provisions on the competences of the market surveillance authorities in their currently applicable versions,

3. follow up on and sanction offences within the framework of its responsibilities under no. 2,
4. provide consultancy and co-ordination services to the market surveillance authorities of the federal states,

5. perform tasks within the framework of European and international administrative co-operation. For the fulfilment of these responsibilities, the Institute may commission expert opinions and tests.

(3) In addition, the Institute shall draw up and publish the Construction Products Lists \( (\text{Bauregellisten}) \) A and B as well as the list of construction products which do not require any regulatory verification of fitness for use. Publication of the lists requires the endorsement of the supreme building authorities of the federal states.

(4) The Institute shall also prepare

1. the recognition of testing laboratories, inspection and certification bodies and of authorities for these purposes in accordance with the Building Codes of the federal states and

2. decisions on structural design type approvals

unless it is competent itself in accordance with paragraph 6.

(5) The Institute may,

1. unless the Supervisory Board decides otherwise, contribute to the preparation of technical guidelines and rules at a national, European and international level, and

2. with the consent of the Supervisory Board, work on committees of the European Commission as well as on other European and international committees.

(6) The individual federal states may additionally delegate the following competences to the Institute:

1. recognition of testing laboratories, inspection and certification bodies and of authorities for these purposes in accordance with the Building Codes of the federal states, and their monitoring,

2. granting of structural design type approvals,

3. adoption of administrative acts with regard to construction products under legal provisions implementing further European Union legislation.

4. additional responsibilities in the field of market surveillance of harmonised construction products under European Union legislation going beyond those of the joint market surveillance authority in accordance with paragraph 2, and

5. granting project-related approvals and project-related construction technique permits in accordance with the Building Codes of the federal states.

(7) The state governments may delegate further responsibilities to the Institute by means of an administrative agreement with the federal authority stated in Article 3(3).

Note on Article 2(1) no. 1
When preparing European Technical Assessments (ETAs), the Institute shall request the bodies generally designated by the Federation to prepare the draft ETAs in cases where such ETAs affect essential interests of the Federation in the fulfilment of responsibilities carried out directly by or on behalf of the Federation. Details shall be laid down in the internal instructions.
Note on Article 2(2) sentence 2 no. 2 and 2(6) no. 4
The fulfilment of the responsibilities pursuant to Article 2(2) sentence 2 no. 2 and their financing through the Königstein key (Königsteiner Schlüssel) pursuant to Article 11(3) and (4) is based on the uniform provisions in all federal states on the competences of the joint market surveillance authority following the Model Act implementing the Market Surveillance Regulation (Muster-Marktüberwachungsverordnungs-Durchführungsgesetz) adopted by the Conference of Construction Ministers (Bauministerkonferenz).

Responsibilities going beyond the model competence provisions may be delegated individually by each federal state pursuant to Article 2(6) no. 4. The related expenses shall be reimbursed by the federal state which has delegated additional responsibilities pursuant to Article 11(6).

Note on Article 2(2) sentence 2 no. 4 and no. 5
The consultancy and co-ordination services (under no. 4) shall include, in particular,

a) provision of scientific and technical expertise,

b) preparation of the regular update of the market surveillance programme and of the evaluation of the surveillance activities,

c) preparation of risk profiles for the customs authorities, notification of measures to the federal services for forwarding to the European Commission in the context of the EU Rapid Alert System (RAPEX) and the receipt of RAPEX notifications given by other Member States from the responsible federal services.

d) communication of measures, objections and other notifications to the federal services for forwarding to the European Commission and the other Member States in the context of the European information and consultation procedures such as the safeguard clause procedure and representation in the associated consultation procedures,

e) training of state staff.

Tasks within the framework of European and international administrative co-operation (no. 5) shall include, in particular,

a) information of the European Commission within the framework of the general information and communication system of the European Union,

b) providing administrative assistance to the market surveillance authorities of other Member States in accordance with Article 24(2) of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008,

c) representation in the European co-operation group of the market surveillance authorities of the Member States,

d) co-operation with the competent authorities in third countries.

**Article 3**

**Responsibilities carried out on behalf of the Federation**

(1) On behalf of the Federation, the Institute shall participate in the organisation of Technical Assessment Bodies (TABs) pursuant to Article 31 of the Construction Products Regulation.

(2) Within the framework of its participation in the organisation of Technical Assessment Bodies, the Institute shall, in particular,

1. participate in the preparation and adoption of European Assessment Documents within the meaning of Article 19 of the Construction Products Regulation and

2. prepare translations of European Assessment Documents and European Technical Assessments issued by other Technical Assessment Bodies at the request of the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety or confirm the accuracy of existing translations.
(3) The Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety may delegate further responsibilities to the Institute by means of an administrative agreement with the state governments.

(4) Regarding the fulfillment of the responsibilities pursuant to paragraphs 1, 2 and 3, the Institute shall be subject to the authority of the Federation; the authority shall be exercised by the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety. The Institute shall keep the Federal Ministry informed.

Article 4
Representation of the Institute in the organisation of Technical Assessment Bodies

(1) The Institute shall be represented in the organisation of Technical Assessment Bodies pursuant to Article 3(2) by its President.

(2) In the cases set out in paragraph 1, the Institute may also be represented by a member of the Supervisory Board designated by the Federation generally or in the individual case where

1. matters are concerned which are of importance in terms of integration and/or foreign policy or which considerably affect the interests of the Federation, or where

2. the Federation requests this, indicating the specific matter concerned.

In this event, the member of the Supervisory Board may act as the spokesperson in the committee.

(3) The President and the member of the Supervisory Board may designate a representative.

(4) Concerning negotiations on and the adoption of European Assessment Documents, the Federation shall, in the exercise of its authority, comply with the majority position of the federal states, as far as the European Assessment Document addresses material requirements governed by state law or requirements falling within the administrative responsibilities performed directly by the federal states unless deviating from the position of the federal states is necessary for reasons of foreign and/or integration policy; where a European Assessment Document addresses both federal as well as state requirements, the Federation and the federal states will strive to reach a common position. Where no such position can be reached, the matter shall be decided by the Federation giving due consideration to the interests of the federal states.

Article 5
Legal and technical supervision

(1) Legal supervision of the Institute shall lie with the Berlin Senate Department responsible for construction.

(2) In fulfilling the responsibilities pursuant to Article 2(1), (2), (3), (5), (6) and (7), the Institute shall be subject to the technical supervision of the Senate Department responsible for construction.

(3) Each supreme building authority and each supreme state authority responsible for the market surveillance of harmonised construction products may ask the Senate Department responsible for construction for supervisory measures in technical matters in accordance with paragraph 2. The Senate Department responsible for construction shall respond to this request after expiry of a four-
week period at the latest and in the case of responsibilities pursuant to Article 2(2) and (6) no. 4 after expiry of a two-week period usually unless the majority of the supreme building authorities or the majority of the supreme state authorities responsible for the market surveillance of harmonised construction products object to the execution of such measures during this period of time.

(4) The Federation may in individual cases ask the Senate Department responsible for construction for supervisory measures in technical matters in accordance with paragraph 2 in relation to a decision of the Institute serving to implement the Construction Products Regulation or a federal act implementing said Regulation, where

1. this is necessary for reasons of foreign and/or integration policy or

2. this would hamper fulfilment of a responsibility carried out directly by or on behalf of the Federation.

The Senate Department responsible for construction shall respond to this request at the latest after expiry of a four-week period unless at least two-thirds of the federal states object to the execution of such measures during this period of time. However, in cases of sentence 1 no. 1 the federal states may object only if the conditions stated therein are not met; in cases of sentence 1 no. 2 they may only do so if vital interests of the federal states are affected.

(5) In cases where an objection procedure needs to be carried out, the President shall be responsible for objection notices by way of derogation from Section 30(2) let. a) of the Act on Competences within the General Administration of Berlin (General Competence Act) (Gesetz über die Zuständigkeit in der allgemeinen Berliner Verwaltung (Allgemeines Zuständigkeitsgesetz)) in the version of 22 July 1996 (Berlin Gazette, p. 302, 472), last amended by Article I of the Act of 18 December 2012 (Berlin Gazette, p. 530).

Note on Article 5(4) sentence 2
In cases of special urgency, the Federation shall have the right to ask for a reasonable reduction of the period of time set out in Article 5(4) sentence 2. The federal states will comply with such a request as far as possible.

**Article 6**

**Bodies**

The bodies of the Institute shall be:

1. the Supervisory Board,
2. the President.

**Article 7**

**Supervisory Board**

(1) The Supervisory Board shall decide on all general policy matters of DIBt. The Board shall lay down the guidelines for the activities of the Institute and oversee the President.

(2) The Supervisory Board shall, in particular, be responsible for the following matters:

1. adoption of statutes,

2. appointment of the President and his/her deputy
3. adoption of, and amendment to, the budget, including the establishment plan and general instructions concerning the implementation of the budget,

4. acquisition of land and construction works,

5. contractual obligations exceeding EUR 50,000;

6. establishment of General Policy Committees (Ausschüsse für Grundsatzfragen) and their composition, in consideration of the policy areas concerned;

7. giving consent in accordance with Article 2(5) no. 2 and Article 9(1) sentence 6,

8. appeals against, amendments to, and revocation of, resolutions of the General Policy Committees in accordance with Article 9(3),

9. establishment of expert committees (Sachverständigenausschüsse) and appointment of their members

10. enactment of internal instructions

11. evaluation and monitoring of the Institute in its capacity as a Technical Assessment Body pursuant to Article 29(3) of the Construction Products Regulation and the federal act implementing said Regulation.

Statutes require the approval of the Berlin Senate Department responsible for construction.

(3) The Supervisory Board shall be the highest administrative authority for the civil servants of the Institute. Without prejudice to the provisions of the Berlin Civil Service Act (Landesbeamten gesetz), the Board may delegate powers to the President in individual personnel matters. The Supervisory Board shall appoint the civil servants unless exercise of this power has been delegated to the President. The Supervisory Board shall also act as the administrative authority of the President.

(4) The Supervisory Board shall be composed of one representative for each of the federal states, appointed by the ministry responsible for construction regulation, one additional representative for the State of Berlin, appointed by the Senate Department of Finance, and six representatives of the Federation appointed by the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety and the Federal Ministry for Economic Affairs and Energy; a deputy shall be appointed for each member of the Supervisory Board.

(5) Each member of the Supervisory Board shall have one vote. With at least half of the members present, the Supervisory Board shall have a quorum. Resolutions shall be adopted by a simple majority of votes of the members present unless otherwise stipulated in this Agreement. In the event of a tie, the motion shall be considered as rejected. Resolutions relating to the issuance and publication of European Technical Assessments, the responsibilities of a notifying authority within the meaning of Article 40 of the Construction Products Regulation and the work on committees of the European Commission as well as on other European and international committees shall require at least a three quarters majority of the members present. Voting by proxy shall be permitted among the members appointed by the Federation; however, no more than three proxies may be held by one member.

(6) Voting by means of a written procedure shall be permissible if not more than three members object; paragraph 5 shall apply accordingly.
(7) The Supervisory Board shall elect a chair and a deputy from among its members for two years. The Board shall adopt its own rules of procedure.

(8) The Supervisory Board shall hold ordinary meetings at least twice a year. At the request of at least three members, the Supervisory Board shall have an extraordinary meeting. The chair shall call the meeting and preside at it. He/she shall also draw up the agenda.

**Article 8**

**President**

(1) The Institute shall be managed by the President. The President shall execute the resolutions taken by the Supervisory Board. Within the scope of the guidelines given by the Supervisory Board, he/she shall take care of the allocation of tasks and shall be answerable for orderly operations. The President shall act as the administrative authority for the other civil servants of the Institute. He/she shall be in charge of running the daily operations of the Institute and shall represent the Institute in and out of court.

(2) The President and his/her deputy shall be appointed by a three-quarters majority of all voting members of the Supervisory Board. The President shall be appointed civil servant on a temporary basis for a term of office of 12 years. The appointment requires the consent of the Berlin Senate Department responsible for construction. A successor shall have been chosen at the latest three months prior to the expiration of the term of office of the incumbent President.

(3) The President shall have the skills necessary for managing the Institute and shall be particularly qualified in the field of civil engineering. His/her deputy or the head of "Administration" shall be eligible for the office of a judge.

(4) The President shall attend the meetings of the Supervisory Board in an advisory capacity unless there is a conflict of interest. He/she shall inform the Supervisory Board of any important matter. He/she shall be obliged to provide information to the Supervisory Board on any matter regarding the Institute at any time.

(5) Details concerning the position and the responsibilities of the President and his/her deputy shall be determined by the Supervisory Board.

**Note on Article 8(3) sentence 2**

This provision shall not affect existing employment contracts.

**Article 9**

**General Policy Committees**

(1) General Policy Committees shall be set up at the Institute. Each committee shall be composed of one representative for each of the federal states and of up to ten representatives appointed by the Federation. The areas concerned shall be appropriately represented. The state representatives shall be confirmed by the conference of the ministers concerned. The chairperson may invite further guests to attend. The invitation of permanent guests requires the consent of the Supervisory Board. The President or a member of the Institute designated by the President shall act as the chairperson.

(2) The General Policy Committees shall advise the Institute on fundamental technical and legal questions. They shall also discuss the drawing up of the lists referred to in Article 2(3).
(3) The General Policy Committees shall take decisions concerning recommendations on draft European Assessment Documents. The President shall inform the Federation of these decisions. He/she may deviate from these decisions only with the consent of the Supervisory Board. The Supervisory Board may appeal, modify or revoke the decisions. Article 3(4) sentence 1 and Article 4(4) shall remain unaffected. If a decision by the General Policy Committees does not seem necessary or possible due to the timelines set out in the Construction Products Regulation, the General Policy Committees shall be informed afterwards.

(4) The General Policy Committees take their decisions by a simple majority of the members present. In case of a tie, the decision shall be considered as rejected.

**Article 10**

**Expert committees**

(1) Expert committees shall be set up at the Institute for giving advice on technical matters. The expert committees shall be comprised of experts from the authorities of the federal states and the Federation as well as science and industry. The representatives of the Federation shall be appointed by the Federation. Details shall be laid down in the Statutes.

(2) The President shall consult the relevant expert committee for the development of European Assessment Documents and, where necessary, for the issuance of European Technical Assessments. If this does not seem necessary or possible in an individual case, the expert committee shall be informed afterwards.

*Note on Article 10(1)*

Expert committees for consultation in market surveillance matters may be set up in accordance with Art. 10(1) sentence 1.

*Note on Article 10(2)*

For the preparation of European Assessment Documents or European Technical Assessments for construction products which fall under occupational safety provisions, the Central Agency for Safety Engineering of the federal states (*Zentralstelle der Länder für Sicherheitstechnik, ZLS*) shall be consulted where this is requested by a member of the expert committee.

**Article 11**

**Financing**

(1) The Institute shall charge fees and service charges and claim for reimbursement of expenses in accordance with its Statutes.

(2) The Federation shall reimburse any of the Institute’s costs not covered otherwise resulting from the performance of the responsibilities in accordance with Article 3, taking into account the principles of sound financial management and economy. This shall also include the costs for consultation of the committees pursuant to Article 9(3) and Article 10(2) as well as the expenses incurred by the Institute in commissioning third-party expert opinions with the Federation’s consent. Details shall be laid down in an agreement which requires the consent of the Ministers of Finance of the federal states.

(3) The financial requirements for equipping and maintaining the Institute not covered otherwise shall be shared out between the federal states. This shall also apply to the financial requirements for performing responsibilities assigned to the Institute under federal provisions, but which are carried
out on behalf of the federal states. The necessary amount fixed requires the consent of two thirds of the Ministries of Finance of the federal states.

(4) The pro rata contribution of the federal states shall be calculated based on the proportion of their tax revenues with a two thirds weighting and the proportion of their populations with a one third weighting. Tax revenues shall be understood to mean the tax revenues of the federal states determined within the framework of the financial equalisation between financially weak and financially strong states (Länderfinanzausgleich). The tax revenues shall be increased or decreased by the amounts which the federal states receive from, or pay to, other federal states within the framework of the financial equalisation. The tax revenues and the total populations determined by the Federal Statistical Office (Statistisches Bundesamt) as of 30 June of the financial year preceding the financial year in question by two years shall apply.

(5) The contributions of the federal states shall fall due in the course of each financial year in four instalments on 1 January, 1 April, 1 July, and 1 October in accordance with the budget. Overpayments and shortfalls vis-à-vis the financial needs resulting from the annual account shall be balanced with the first instalment of the following financial year.

(6) By way of derogation from paragraph 3, the financial requirements resulting from the performance of responsibilities pursuant to Article 2(6) no. 4, Article 2(6) no. 5 and Article 2(7) shall be reimbursed at documented cost by the federal state which has delegated the responsibility, taking into account the principles of sound financial management and economy. The provisions of paragraph 3 shall apply in the event that said responsibility has been delegated by all federal states. If a federal state revokes the delegation of a responsibility, the provisions set out in Article 14(1) and (2) shall apply accordingly.

Note on Article 11(2)

Costs to be reimbursed shall include, in particular,
1. travel expenses,
2. personnel costs, pro rata temporis, and
3. an appropriate proportion of the overheads of the Institute,
4. the Institute's contribution to the organisation of Technical Assessment Bodies.

Article 12

Management of the budget

(1) Unless otherwise provided for in this Agreement, the Institute shall be independent in the management of its budget.

(2) The budget shall be managed in accordance with the budgetary provisions in force in the State of Berlin. The budget shall be drawn up and implemented in accordance with the principles of sound financial management and economy.

(3) The budgetary and financial management shall be audited by the Berlin Court of Auditors (Rechnungshof von Berlin) and with regard to the reimbursement of expenses pursuant to Article 11(2) by the Federal Court of Auditors (Bundesrechnungshof). The audit reports shall be submitted to the President, the members of the Supervisory Board, the Ministries of Finance of the federal states, and the Federal Ministry of Finance.
Article 13
Arbitration clause

Disputes arising out of this Agreement shall be decided by an arbitral tribunal. The Arbitration Agreement enclosed shall apply.

Article 14
Duration of Agreement

(1) This Agreement shall be concluded for an indefinite period of time. Subject to one year's notice effective at the end of the calendar year, the Agreement may be terminated by either party by means of written notice to the Berlin Senate Department responsible for construction, while notifying the other parties to the Agreement at the same time.

(2) The party giving notice shall remain obliged to contribute to the financial needs of the Institute as long as and insofar as the financial needs have become necessary due to this party's participation. The Institute's disposable assets shall not be split.

(3) If the Agreement has been terminated by more than two thirds of the parties, the Institute shall be dissolved. The Senate Department responsible for construction shall see to the dissolution. If the Institute's assets are insufficient to cover the costs, the parties shall be obliged to reimburse the State of Berlin for all costs arising from the dissolution on a pro rata basis. Assets remaining after dissolution will be distributed among the parties on a pro rata basis unless otherwise agreed. The calculation of the shares shall be based on the proportion of the average financial contributions under Article 11 over the last five years before the Agreement ends.

Article 15
Entry into force

This Agreement shall enter into force on 1 January of the year which follows the year in which the last of the deeds executed by the parties was sent to the Berlin Senate Department responsible for construction.

* Note:
In accordance with the public notice on the entry into force of the Agreement on the Third Amendment to the Agreement on the Deutsches Institut für Bautechnik (Third Amendment Agreement) (Abkommen zur dritten Änderung des Abkommens über das Deutsche Institut für Bautechnik (3. DIBt-Änderungsabkommen)) of 12 March 2018, the Third Amendment Agreement has entered into force as of 1 April 2018 (Berlin Gazette, p. 192)
Annex to Article 13 of the Agreement on the Deutsches Institut für Bautechnik

Arbitration Agreement for the Settlement of Disputes arising from the Agreement on the Deutsches Institut für Bautechnik

The Federal Republic of Germany
and
the State of Baden-Württemberg,
the Free State of Bavaria,
the State of Berlin,
the State of Brandenburg,
the Free Hanseatic City of Bremen,
the Free and Hanseatic City of Hamburg,
the State of Hesse,
the State of Mecklenburg-Western Pomerania,
the State of Lower Saxony,
the State of North Rhine-Westphalia,
the State of Rhineland-Palatinate,
the Saarland,
the Free State of Saxony,
the State of Saxony-Anhalt,
the State of Schleswig-Holstein,
the State of Thuringia,

enter into the following Arbitration Agreement:

Article I
All legal disputes from the Agreement on the Deutsches Institut für Bautechnik shall be subject to the decision by an arbitral tribunal.

The provisions of Book 10 of the Code of Civil Procedure (Zivilprozessordnung) shall apply to the proceedings.

Article II
The arbitral tribunal shall be composed of the President of the Higher Administrative Court of Berlin (Oberverwaltungsgericht Berlin) as the presiding judge and of two members of the Supervisory Board of the Deutsches Institut für Bautechnik, who shall be jointly appointed by, but not belong to, the parties to the dispute. In the event that due to the nature of the dispute, such appointment is not possible, the presiding judge shall appoint two of the honorary members of the Higher Administrative Court. Their appointment shall be final.

Should the President of the Higher Administrative Court of Berlin turn down the request to preside, the President of the Federal Administrative Court (Bundesverwaltungsgericht) shall designate the presiding judge.
Statutes of the Deutsches Institut für Bautechnik

of 24 September 1993 (Official Journal of Berlin, p. 3101) taking account of the amendments of
- 26 May 1995 (Official Journal of Berlin, p. 1690),
- 29 March 1996 (Official Journal of Berlin, p. 1086),
- 20 December 1996 (Official Journal of Berlin, p. 4406),
- 1 August 1997 (Official Journal of Berlin, p. 2814),
- 3 November 2000 (Official Journal of Berlin, p. 4228),
- 21 December 2001 (Official Journal of Berlin, p. 5622),
- 20 June 2003 (Official Journal of Berlin, p. 2486),
- 28 May 2004 (Official Journal of Berlin, p. 2217),
- 18 August 2008 (Official Journal of Berlin, p. 2120),
- 25 March 2013 (Official Journal of Berlin, p. 488) and
- 23 July 2018 (Official Journal of Berlin, p. 4198)

Based on Article 7(2) no. 1 of the Agreement on the Deutsches Institut für Bautechnik (DIBt Agreement), the Supervisory Board of Deutsches Institut für Bautechnik (DIBt) adopts the following Statutes:

Section 1
General

(1) The Deutsches Institut für Bautechnik (hereinafter referred to as the "Institute") is a public law institution with legal capacity, established in Berlin (Article 1(1) DIBt Agreement).

(2) The Institute shall have a seal which reads "Deutsches Institut für Bautechnik".

Section 2
General Policy Committees

(1) In accordance with Article 7(2) no. 6 and Article 9 of the DIBt Agreement, the following General Policy Committees (Ausschüsse für Grundsatzfragen, GA) shall be set up at the Institute:

1. General Policy Committee for horizontal questions concerning verification of fitness for use (GA 1). This committee shall also be responsible for:
   a) giving advice on Parts C and D of the model for administrative provisions for Technical Building Rules within the meaning of Section 85a of the Model Building Code (Musterbauordnung) and
   b) resolutions on recommendations on draft European Assessment Documents. If a resolution by the Committee does not seem necessary or possible due to the timelines set out in the Construction Products Regulation, the Committee shall be informed afterwards.

2. General Policy Committee advising the Institute on matters of immission control, health protection and occupational safety (GA 2).

3. General Policy Committee advising the Institute on matters of water and soil protection (GA 3).
(2) When deciding on the composition of the General Policy Committees, the Supervisory Board shall ensure an appropriate level of participation of representatives, in particular, from the following policy areas:

construction and housing, industrial production, transportation, immission control, health protection, occupational safety, water resources management, waste management, postal services and telecommunications.

Section 3
Expert Committees

(1) In accordance with Article 7(2) no. 9 and Article 10 of the DIBt Agreement, expert committees shall be set up at the Institute for the following tasks:

1. Category A expert committees (A-Ausschüsse) for
   a) consultation on assessment principles for national technical approvals and general construction technique permits as well as
   b) consultation on European Assessment Documents, which form the basis for European Technical Assessments; if this does not seem necessary or possible in an individual case, the expert committee shall be informed afterwards.

2. Category B expert committees (B-Ausschüsse) for the preparation of
   a) national technical approvals, general construction technique permits and
   b) European Technical Assessments; if this does not seem necessary or is not possible in an individual case, the expert committee shall be informed afterwards.

3. Expert committee for general questions relating to
   a) the recognition of testing laboratories, inspection and certification bodies on the basis of the Building Codes of the federal states and the Ordinance on the marketing of boilers and other devices under the Construction Products Act (Heizkesselverordnung) in conjunction with the Ordinance on the Recognition of Testing Laboratories, Inspection and Certification Bodies under the Construction Products Act (BauPG-PÜZ-Anerkennungsverordnung) and

4. Expert committees for consultation on
   a) applications for the recognition of testing laboratories, inspection bodies and certification bodies and

For other tasks, further expert committees may be set up by the Supervisory Board. The federal and state services concerned shall be appropriately represented on the expert committees.

(2) The President may propose to the Supervisory Board the creation or dissolution of an expert committee.
(3) The expert committees shall have a chair and may have a deputy chair; category A expert committees shall have a deputy chair. The tasks of the chairpersons shall be specified in the rules of procedure of the expert committees.

(4) The President shall appoint the chairpersons, their deputies and the committee members based on the resolutions taken by the Supervisory Board, taking into account the appointments by the Federation. The experts' term of office shall be five years. It shall expire at the latest at the end of that year during which the expert reaches the age of 68. It shall also expire once the expert has terminated his/her contractual relationship with the institution having nominated him/her. The Supervisory Board may with the approval of the nominating institution permit exceptions to sentences 3 and 4. For important reasons, the appointment may be revoked before expiration of the term.

(5) A category A expert committee should have at least seven, but not more than 18 members.

(6) A category B expert committee should have at least three, but not more than ten members. Category B expert committee members shall be chosen from members of the category A expert committees responsible for the specialty field concerned.

(7) The expert committees may, in agreement with the President, invite further experts as guests. Representatives of the competent supreme authorities of the federal states and federal services shall be entitled to participate in expert committee meetings without the right to vote.

(8) The experts shall serve in an honorary capacity. The Supervisory Board shall decide on the reimbursement of travel and other expenses.

(9) An expert committee shall have a quorum if at least half of the members are present. Decisions shall be taken by a simple majority of the votes of the members present. Voting by means of a written procedure shall be permissible; sentences 1 and 2 shall apply accordingly.

(10) The Institute shall manage the affairs of the expert committees, co-ordinate their activities and inform them whenever and as deemed necessary for the subject matter on the activities of the other expert committees.

(11) The President may decide that several expert committees shall discuss and decide jointly under his/her chairmanship, the chairmanship of his/her deputy, or under the chairmanship of a department head of the Institute. They shall have a quorum if at least half of the members of each committee are present. Paragraph 9 sentence 2 shall apply accordingly.

(12) The President may decide that in order to co-ordinate the activities of the expert committees the chairpersons and their deputies shall discuss and decide jointly under his/her chairmanship. The assembly shall have a quorum if half of this group of persons is present. Paragraph 7 sentence 1 and paragraph 9 sentence 2 shall apply accordingly.

(13) The President should organise joint discussions in accordance with paragraphs 11 and 12 if so requested by an expert committee; he/she shall organise them if so requested by the Supervisory Board.

(14) The President shall draw up rules of procedures for the expert committees, which shall also include provisions on joint discussions under paragraphs 11 and 12 as well as on the hearing of applicants.
Section 4
Fees and expenses

(1) The Institute shall charge administrative fees in accordance with paragraphs 2 to 9 and the list of fees set out in Annex 1 for official acts performed in fulfilment of the responsibilities delegated to it.

(2) The fees for official acts for which a range has been fixed in the list of fees shall be determined based on
   a) the relevance of the subject and the economic benefit for the stakeholders,
   b) the scope of the official act and the difficulties arising during performance of the official act (workload); for a calculation based on workload, the hourly rate set out in Annex 1 Subheading 5 may be used for each started hour.
   c) the economic situation of the debtor of the fee.

(3) If the request to perform an official act is rejected, between one tenth and eight tenth of the total amount of the fee shall be charged. This fee shall be reimbursed or be deducted from the fee for the official act requested if the rejection notice is annulled in objection proceedings or administrative court proceedings. If the request is rejected due to lack of competence, no fee shall be charged.

(4) If the request to perform an official act is withdrawn, between one tenth and six tenth of the total amount of the fee shall be charged if work on the subject matter has already begun, but the official act has not been completed yet.

(5) Costs for the verification of structural designs and construction drawings, tests within the framework of market surveillance, costs for tests and expert opinions – opinions by the expert committees excepted – shall be reimbursed as cash expenses. The same shall apply to travel expenses related to a specific case; these may be levied as a percentage of the fee to be paid; said percentage shall be determined based on the ratio of expert committee members’ travel expenses to the receipts earned from fees and service charges of the preceding financial year.

(6) If an official act has been denied or performed against a fee by means of a contested administrative act, a fee of up to the amount earmarked for the administrative act shall be paid for the objection provided that the ruling is upheld. This shall also apply to objections against the administrative acts of officially recognised testing laboratories within the framework of procedures for granting national technical test certificates (allgemeine bauaufsichtliche Prüfzeugnisse) insofar as the Deutsches Institut für Bautechnik is responsible for issuing the objection notices. If the objection is solely directed against the fee, a fee amounting to one tenth of the disputed sum shall be levied if the objection is rejected.

(7) The Institute may ask for advances on costs up to the amount of the probable fees and expenses.

(8) The provision of guidelines, lists, approvals and other publications shall be subject to an administrative fee in accordance with the list of fees laid down in Annex 1.

(9) In all other respects, the provisions of the State of Berlin shall apply.
Section 5
Service charges

The preparation of decisions on

1. the recognition of testing laboratories, inspection and certification bodies in accordance with the Ordinance on the marketing of boilers and other devices under the Construction Products Act in conjunction with the Ordinance on the Recognition of Testing Laboratories, Inspection and Certification Bodies under the Construction Products Act,

2. the recognition of testing laboratories, inspection and certification bodies and of authorities for these purposes in accordance with the Building Codes of the federal states,

3. applications for structural design type approvals

as well as the preparation of evaluations shall be subject to a service charge in accordance with Annex 2. Section 4(2) to (5) shall apply accordingly.

The Federation and the federal states shall not pay for the evaluations in the event that reimbursement cannot be obtained from third parties.

Section 6
Audit of accounts

(1) After the end of the financial year, the President shall draw up the annual accounts.

(2) The annual accounts shall be reviewed by an auditor or an auditing company. The audit shall also verify the compliance with the principles of sound financial management and economy as well as with the budgetary provisions of the State of Berlin. The auditing rights of the Berlin Court of Auditors shall remain unaffected.

Section 7
Entry into force

These Statutes shall enter into force on the day following their publication.
### Annex 1:
**List of fees of the Deutsches Institut für Bautechnik**

<table>
<thead>
<tr>
<th>Subheading</th>
<th>Subject</th>
<th>Fee in euros</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>National technical approvals and general construction technique permits</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(1) Class 1: Approvals for construction products if test conditions and</td>
<td></td>
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<tr>
<td></td>
<td>requirements for the products are laid down in standards or approval</td>
<td></td>
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<tr>
<td></td>
<td>guidelines, for a period of validity of five years</td>
<td>500 to 15,000</td>
</tr>
<tr>
<td></td>
<td>Class 2: Approvals for other construction products as well as general</td>
<td></td>
</tr>
<tr>
<td></td>
<td>construction technique permits for construction techniques if their</td>
<td></td>
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<tr>
<td></td>
<td>application (design and execution) may be assessed for the most part</td>
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<tr>
<td></td>
<td>in accordance with Technical Building Rules, for a period of validity</td>
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<tr>
<td></td>
<td>of five years</td>
<td>1,250 to 17,500</td>
</tr>
<tr>
<td></td>
<td>Class 3: Approvals for construction products and general construction</td>
<td></td>
</tr>
<tr>
<td></td>
<td>technique permits not falling under class 2, for a period of validity</td>
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<tr>
<td></td>
<td>of five years</td>
<td>2,500 to 30,000</td>
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<tr>
<td></td>
<td>(2) Should the period of the decision’s validity be limited to less than</td>
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<tr>
<td></td>
<td>five years, the fee to be fixed in accordance with paragraph 1 shall be</td>
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<tr>
<td></td>
<td>reduced by 10 per cent for each year the five-year period is fallen</td>
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<td></td>
<td>short of.</td>
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<td></td>
<td>(3) Where a decision covers several variants of the subject, the fee to</td>
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<td></td>
<td>be fixed in accordance with paragraph 1 shall be increased by up to</td>
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<td></td>
<td>50 per cent for each additional variant.</td>
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<td></td>
<td>(4) In isolated cases where an excessively high workload was involved</td>
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<td></td>
<td>in rendering the decision, the fee may be increased by up to the</td>
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<td></td>
<td>double of the maximum fee. The debtor of the fee shall be heard if</td>
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<tr>
<td></td>
<td>such an increase is imminent.</td>
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<tr>
<td>2</td>
<td>Renewal of, or amendments or additions to, administrative acts under</td>
<td>1/10 to 5/10 of the fees under 1</td>
</tr>
<tr>
<td></td>
<td>1. Subheading 1(4) shall apply accordingly.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>European Technical Assessments (ETAs)</td>
<td>2,500 to 50,000</td>
</tr>
<tr>
<td>4</td>
<td>Amendments and additions to European Technical Assessments</td>
<td>1/10 to 5/10 of the fees under 3</td>
</tr>
<tr>
<td>5</td>
<td>Recognition of testing laboratories, inspection and certification bodies</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Fee</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>-----</td>
</tr>
<tr>
<td>a)</td>
<td>in accordance with the Ordinance on the marketing of boilers and other devices under the Construction Products Act in conjunction with the Ordinance on the Recognition of Testing Laboratories, Inspection and Certification Bodies under the Construction Products Act</td>
<td>1,000 to 20,000</td>
</tr>
<tr>
<td>b)</td>
<td>in accordance with the Building Codes of the federal states</td>
<td>500 to 20,000</td>
</tr>
<tr>
<td>c)</td>
<td>amendment to a recognition</td>
<td>250 to 5,000</td>
</tr>
<tr>
<td>d)</td>
<td>withdrawal or revocation of the recognition in accordance with a) or b)</td>
<td>500 to 20,000</td>
</tr>
<tr>
<td>e)</td>
<td>official acts related to the monitoring of recognised testing laboratories, inspection and certification bodies which do not result in a withdrawal or revocation of the recognition</td>
<td>Per started working hour: fee amounting to 2.2 per cent of the basic monthly salary of a Berlin civil servant, highest classification of grade A15, rounded up to whole euros. The hourly rate shall be published in the DIBt Official Bulletin (Mitteilungen des Deutschen Instituts für Bautechnik)</td>
</tr>
</tbody>
</table>

When fixing the fee, the provisions in Subheading 1(2) and (3) shall apply accordingly.

6 | Notification of bodies within the meaning of Articles 47 and 48 of Regulation (EU) No 305/2011 | 500 to 10,000 |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>a) product-related notification</td>
<td>500 to 10,000</td>
</tr>
<tr>
<td></td>
<td>b) horizontal notification</td>
<td>1,000 to 10,000</td>
</tr>
<tr>
<td></td>
<td>c) renewal and amendment of notifications</td>
<td>250 to 5,000</td>
</tr>
<tr>
<td></td>
<td>d) revocation and withdrawal of notifications</td>
<td>500 to 10,000</td>
</tr>
<tr>
<td>e)</td>
<td>official acts related to the monitoring of notified laboratories and certification bodies which do not result in a revocation or withdrawal of the notification</td>
<td>Per started working hour: fee in accordance with Subheading 5 letter e)</td>
</tr>
</tbody>
</table>

7 | Registration of energy performance certificates as well as allocation of registration numbers within the meaning of the Energy Saving Ordinance (Energieeinsparverordnung) | 1 to 10 |

8 | Registration of inspection reports as well as allocation of registration numbers within the meaning of the Energy Saving Ordinance | 1 to 10 |

9 | Official acts within the framework of the market surveillance of harmonised construction products in accordance with EU legislation | 250 to 30,000 |

10 | Project-related approvals for construction products and project-related construction technique permits under the Building Codes of the federal states | 250 to 15,000 |
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Other official acts to the immediate benefit of a stakeholder as well as information in writing</td>
<td>Per started working hour: fee in accordance with Subheading 5 letter e)</td>
</tr>
<tr>
<td>12</td>
<td>Verifications for wastewater treatment plants in accordance with the German Wastewater Ordinance (Abwasserverordnung)</td>
<td>500 to 15,000</td>
</tr>
<tr>
<td>13</td>
<td>Evaluations of compliance with regulatory requirements for construction works after installation of product</td>
<td>500 to 30,000</td>
</tr>
<tr>
<td>14</td>
<td>Decisions in objection proceedings</td>
<td>1/10 to 10/10 of the fee fixed for the contested administrative act</td>
</tr>
<tr>
<td>15</td>
<td>Provision of publications</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a) DIBt guidelines and principles</td>
<td></td>
</tr>
<tr>
<td></td>
<td>b) instructions, information documents and leaflets prepared by DIBt</td>
<td></td>
</tr>
<tr>
<td></td>
<td>c) lists and listings published by DIBt (e.g. of testing laboratories, inspection and certification bodies, approvals, manufacturing plant codes, bodies and companies)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>d) other DIBt publications</td>
<td></td>
</tr>
<tr>
<td></td>
<td>e) publications published by DIBt on behalf of the federal states and the Federation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>f) national technical approvals</td>
<td></td>
</tr>
<tr>
<td></td>
<td>g) European technical approvals granted by DIBt</td>
<td></td>
</tr>
<tr>
<td></td>
<td>h) European Technical Assessments issued by DIBt</td>
<td></td>
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<tr>
<td></td>
<td>Paper/offline version</td>
<td></td>
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<tr>
<td></td>
<td>a) – f)</td>
<td>10 to 250 per publication</td>
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<tr>
<td></td>
<td>Online versions</td>
<td></td>
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<td></td>
<td>a) – e)</td>
<td>0 per publication</td>
</tr>
<tr>
<td></td>
<td>f) – h)</td>
<td>5 to 250 per publication</td>
</tr>
</tbody>
</table>
## Annex 2: List of service charges

<table>
<thead>
<tr>
<th>Subheading</th>
<th>Subject</th>
<th>Fee in euros</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Preparation of decisions on the recognition of testing laboratories, inspection and certification bodies in accordance with the Ordinance on the marketing of boilers and other devices under the Construction Products Act in conjunction with the Ordinance on the Recognition of Testing Laboratories, Inspection and Certification Bodies under the Construction Products Act, the recognition of testing laboratories, inspection and certification bodies and of authorities for these purposes in accordance with the Building Codes of the federal states and decisions on applications for structural design type approvals as well as provision of evaluations.</td>
<td>Per started working hour: fee amounting to 2.2 per cent of the basic monthly salary of a Berlin civil servant, highest classification of grade A15, rounded up to whole euros. The hourly rate shall be published in the DIBt Official Bulletin (Mitteilungen des Deutschen Instituts für Bautechnik)</td>
</tr>
<tr>
<td>2</td>
<td>Processing of requests to be entered on lists kept by the Deutsches Institut für Bautechnik.</td>
<td>150 to 1,500</td>
</tr>
</tbody>
</table>