

DAMRC (Danish Advanced Manufacturing and Research Centre) – General Terms and Conditions

General stipulations

These General Terms and Conditions shall apply to all commissioned work performed by the Danish Advanced Manufacturing Research Centre (the "DAMRC") for a contract party (the "customer"), including, but not limited to project management, counseling, instruction, information retrieval and communication, testing, research, sale and leasing. Unless otherwise agreed, these General Terms and Conditions shall also apply to any other and subsequent agreements between the DAMRC and the customer. Unless specifically accepted in writing by the DAMRC, any deviating provisions or provisions to the contrary contained in the order placed by the customer or in his acceptance shall not apply.

1. Scope of commissioned work

- 1.1 The nature, contents and financial conditions of the commissioned work shall be stated in a written agreement. Any amendments to the agreement shall be in writing.
- 1.2 Time schedules, price estimates, etc. are approximate unless otherwise agreed in writing. If the DAMRC foresees major delays or budget overruns compared to the agreed terms or material obstacles to the performance of the commissioned work, the customer shall be informed thereof, following which he shall be entitled to change or stop the work, cf. clause 6.1.
- 1.3 The DAMRC shall be entitled to a fee for work performed regardless of whether the results expected by the customer are achieved, unless it has been agreed in writing between the parties that the DAMRC's fee is contingent upon the achievement of concrete, specified results.
- 1.4 The DAMRC shall be entitled to have commissioned work performed by a sub-contractor.

2. Professional discretion

- 2.1 The DAMRC will observe customary professional discretion with respect to disclosure of the performance of commissioned work and with respect to any agreements. A special agreement in writing shall be concluded if the customer requires secrecy as such, for example regarding know-how of the customer that may come to the knowledge of the DAMRC during the performance of commissioned work.
- 2.2 If any test or development work leads to results of interest to the general public, the DAMRC may publicly announce such results unless otherwise agreed in a secrecy agreement as mentioned under clause 2.1.
- 2.3 When the DAMRC undertakes work that involves an assessment of a service provided by a third party, the customer accepts and understands that the DAMRC may approach such third party and other relevant bodies in order to obtain information for use in performing the work.
- 2.4 The DAMRC shall at any time be entitled to pass on information, which the DAMRC is under a statutory obligation to disclose.
- 2.5 If, in the course of performing commissioned work, the DAMRC becomes aware of factors that in the opinion of the DAMRC may cause material damage to health or environment, the DAMRC may, if required, inform the customer thereof. In the event that the customer does not, as quickly as possible, take the steps necessary to prevent or limit the risk of material damage to health or environment, the DAMRC shall, notwithstanding any separate agreement on discretion or secrecy, be entitled to pass on such knowledge to the relevant authorities. The DAMRC is entitled to initiate remediation on the expenses of the requestor.

3. Reference to results, etc.

- 3.1 The customer may only publish the reports of the DAMRC in their entirety.
- 3.2 The customer may not mention or refer to the DAMRC or the DAMRC's employees for advertising or marketing purposes unless the DAMRC has granted its written consent in each case. Such consent shall lapse if the customer stops or postpones the work, cf. clause 6.1.
- 3.3 Course material issued by the DAMRC may not be copied or duplicated. Course material on loan from the DAMRC shall remain the property of the DAMRC.
- 3.4 The DAMRC shall be entitled to demand that the customer returns reports, etc. prepared by the DAMRC together with the pertinent documents if the DAMRC discovers any errors or defects in such material.

4. Rights relating to the results of the commissioned work

- 4.1 The tangible results produced by the DAMRC in connection with commissioned work and the right to utilize such results shall be the exclusive property of the customer. Results in the form of tangible goods, including, but not limited to, prototypes will be handed over to the customer as soon as the final accounts have been settled.
- 4.2 Unless otherwise agreed in writing, know-how and other intangible property rights developed by the DAMRC or ascertained by the DAMRC in connection with performing the work shall be the property of the DAMRC. Such rights may be utilized by the customer for his own use to the extent laid down in writing between the parties or specifically stated as an implied condition.

5. Fees and terms of payment

- 5.1 Commissioned work shall be performed according to account rendered based on the hourly rates from time to time fixed by the DAMRC plus transport charges and other outlays.
- 5.2 In respect of long-term work, the DAMRC shall be entitled regularly to adjust the hourly rates stated under 5.1. The customer shall receive notice of such adjustments 30 days prior to the date on which they come into force.
- 5.3 The DAMRC shall be entitled to issue invoices on account once a month for work performed in the past month.
- 5.4 In case of overdue payment of balances due to the DAMRC, interest shall be charged at the rate of 1.5% for each commenced period of one month.

6. The right to change and cancel orders

6.1 If the customer issues instructions to stop or postpone the work, cf. clause 1.2, work already performed shall be paid for according to invoice, just as the customer shall reimburse the DAMRC for any costs incurred in connection with the cancelled or postponed work that the DAMRC has already undertaken to pay, such as expenses to a third party, special equipment or premises, etc.

6.2 Moreover, the nature or scope of commissioned work may only be changed subject to the written consent of the DAMRC.

7. Liability

7.1 The DAMRC shall be liable towards the customer for any errors and negligence in connection with the performance of the work pursuant to the general rules of compensation of Danish law, subject to such limitations as follow from clauses 7.2 to 7.12 the DAMRC shall in no event be liable for circumstances or events causing a loss that are not attributable to any errors or negligence on the part of the DAMRC.

7.2 If the performance of commissioned work is stopped or postponed (cf. clause 6), the DAMRC shall not be liable for any defects or errors in work already performed.

7.3 The DAMRC shall not be liable for injury or damage arising in connection with the use of counseling provided by the DAMRC or test or control reports prepared by the DAMRC if the use thereof is outside the scope of the commissioned work or the specified objects.

7.4 If the DAMRC's work is not concluded with a report or the delivery of a service, or if the service provided consists of a statement in which it is specified that it is based on an estimate or assessment, the DAMRC shall not be held liable unless the DAMRC is guilty of gross negligence.

7.5 Unless the DAMRC has issued a written warranty for the completion of the work at a specific time, the DAMRC shall not accept liability for loss or damage caused by delays in the performance of commissioned work.

7.6 The DAMRC shall not be held liable for tortious acts on the part of any one of the DAMRC's sub-contractors, unless such sub-contractor has been appointed by the DAMRC without being proposed or approved by the customer.

7.7 In case of joint liability between the DAMRC and one or more parties, the DAMRC shall only accept liability for such proportion of the loss suffered by the customer as is accounted for by the share of the overall liability attributable to the DAMRC.

7.8 If the DAMRC has undertaken, on behalf of the customer, to verify that services provided by a third party to the customer are according to contract, the DAMRC shall only be held liable for loss or damage that the customer might suffer owing to the DAMRC's failure to point out, in due time, that a specific service is not according to contract. Thus, the DAMRC's liability shall be subordinated to the claim for compensation that the customer may make against the third party in question, and the DAMRC's liability shall moreover be subject to the other limitations stated in this clause 7.

7.9 If the DAMRC has received samples or equipment from the customer, the DAMRC shall exclusively be held liable for loss of or damage to such samples or equipment if an agreement in writing has been made with the customer to return such samples and equipment. In addition, in such event, the DAMRC shall only be held liable if it can be substantiated that the DAMRC is guilty of gross negligence, and the compensation can in no event exceed the cost of the material necessary for manufacturing the samples or equipment in question. If the return of samples and equipment has not been agreed upon, the DAMRC will only keep such samples and equipment for a period of up to six months after the completion of the work.

7.10 The DAMRC cannot be held liable for more than the direct loss suffered by the customer. Thus, the DAMRC shall not be held liable for losses on operations, loss of earnings or any other indirect losses. The DAMRC has an insurance for professional liability and the total liability cannot exceed DKK 1,000,000 for each individual claim except for bodily injury according to Danish law.

7.11 If any third party holds the DAMRC liable for bodily injury or damage to property caused by work performed by the DAMRC, including, but not limited to, product liability, the customer shall be obliged to indemnify and hold the DAMRC harmless from any claim exceeding the amount of any claim(s) that can be brought against the DAMRC pursuant to the provisions of this clause 7. The DAMRC may request the customer to defend any such claim on behalf of the DAMRC.

7.12 The DAMRC cannot be held liable for claims regarding loss, damage or injury that have not been made in writing within three years after delivery by the DAMRC of the service in respect of which the claim is made. In addition, the DAMRC's liability is contingent upon the customer complaining in writing as soon as he has become aware of, or should have become aware of, the existence of a potential claim for compensation against the DAMRC. Notwithstanding the said time limit of three years, the DAMRC shall not be liable for any damage or injury that was impossible to foresee in view of the know-how and technology available at the time of the performance of the commissioned work.

8. Disputes

8.1 Any dispute or controversy arising between the DAMRC and the customer shall be settled according to Danish law by the Court in Herning Denmark – the legal language is Danish.

This document is a service for the reader. The legal binding document is the Danish version.

May 2015