

MS Certification Rules

of the Certification Body
of TÜV AUSTRIA Deutschland GmbH

Contractual terms and conditions as well as conditions for auditing, certifying and monitoring management systems, for bearing the certificate and for using the certification logo.

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0. Glossary

- (1) Auditing is a systematic, independent and documented process for obtaining audit evidence, followed by objective evaluation to determine the extent to which the requirements of the basis for certification are met. The auditing service is provided by accredited representatives of the Certification Body (auditors and/or experts).
- (2) Certification is a formal attestation of conformity by means of a certificate based on the certification decision that a management system of the Client complies with the respective basis of certification. Certification is based on written audit documentation. The certification service is provided by certification officers of the Certification Body.
- (3) The Certification Body is the competency provider for auditing and certification services.

1. Subject Matter of the Contract

- (1) The subject of the contractual relationship is the auditing of the Client's management system and (in case the relevant conditions are met) the achievement of certification as well as the associated monitoring to uphold the certificate for the Client's management system and the right of the Client to use the certification logo.
- (2) The contractual relationship is based on the management standards, rules and regulations agreed between the Client and the Certification Body as the basis for certification.

2. Duration of the Contractual Relationship

Commencement

- (1) The contractual relationship shall commence on the date of the written agreement of intent between the Client and the Certification Body and shall end at the end of the period of validity of the certificate. However, upon expiration of the validity of the certificate, the contractual relationship shall automatically be extended by a further three years under the same miscellaneous terms and conditions if, at the time of the extension, there is agreement between the Client and the Certification Body on the continuation of fees in each instance for the next three years.

Termination

- (2) The contractual relationship shall terminate upon expiration of the period without the need for giving notice if there is no agreement between the Client and the Certification Body on the adjustment of fees for the next three-year period.

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Early termination

- (3) Despite its limitation in time, the contractual relationship may be terminated by the Certification Body or by the Client, even without stating the reason, though done in writing by the last day of each month, provided that a one-month period of notice is observed.

Termination for good cause

- (4) The contractual relationship may be terminated in writing by either party at any time and without notice for good cause.
- (5) A good cause for the Certification Body shall be deemed to exist in particular if:
- ✓ The Client violates material contractual obligations.
 - ✓ Bankruptcy proceedings are instituted against the assets of the Client or an application for bankruptcy proceedings directed against the Client is rejected due to lack of assets.
 - ✓ Fees are not paid within the period stipulated by the Certification Body.
- (6) A good cause for the Client shall be deemed to exist, in particular, if:
- ✓ The Certification Body misuses information made available to it about the Client's company, or:
 - ✓ The Certification Body violates material contractual obligations.

3. Course of Action for the Certification Procedure

- (1) The Certification Body carries out the tasks as described in the recognized TÜV Certification Procedure and issues a certificate if the result is positive.
- (2) The certification procedure is carried out in two levels. Usually there is a time interval between level 1 and level 2 that allows the Client to find solutions to the weak spots identified in level 1. A level 2 audit can be performed directly following a level 1 audit if the level 1 audit has been completed positively and level 2 has been approved by the Certification Body. This means that if deficiencies are found in level 1, the level 2 audit is only continued after the deficiencies have been remedied by the Client.
- (3) If deviations are found during the audit which do not only require a correction of written documents, a post-audit may also be performed in exceptional cases.
- (4) The assessment as to whether a positive audit outcome and/or a positive certification outcome has been achieved and/or whether a post-audit is required is exclusively a matter for the Certification Body. The decision shall not be subject to any legal action by the Client.
- (5) In the event of a negative audit outcome, the Client shall be granted a period of grace to remedy the deficiencies and, if necessary, a new audit. The auditor in charge or a certification officer decides on the scope of the measures required to remedy deficiencies. This decision is not subject to any legal action by the Client either. If the period of grace is not used by the Client or if the deficiencies identified cannot be remedied, the audit shall be deemed negative and certification shall be refused.
- (6) If a positive certification decision is made on the basis of a positive audit, a certificate is sent to the Client by the Certification Body.
- (7) The Certification Body then carries out annual surveillance audits, which are required to uphold the certificate.

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- (8) In special, well-founded, exceptional cases – especially in the case of weighty and plausible complaints by third parties about the certified company – an (additional) audit may become necessary at short notice for special reasons. Determining such a necessity shall be at the discretion of the Certification Body.
- (9) The following reasons may require an additional audit at short notice:
- ✓ There has been a complaint to the Certification Body about the Client's management system and this must be investigated through an audit (as the complaint cannot be investigated by any other means).
 - ✓ There have been major changes at the Client that could impact the capability of its management system (such as changes in ownership, organization, management, locations, areas of operations, management system or processes).
- (10) In cases of short-notice audits, the Certification Body's procedure differs slightly from normal ones, especially in regard to the following points:
- ✓ The Certification Body designates the audit team for the audit and informs the Client of this. Due to the short time frame for the audit, it is difficult to replace the audit team at the Client's request (as described in 5.(2)), so the Certification Body takes particular care in selecting the audit team for such audits.
 - ✓ The Certification Body endeavors to keep the costs of such audits as low as possible. If the audit is necessary due to a justified complaint regarding either the Client's management system or any other reasons attributable to the Client, the costs shall be borne by the Client, based on the amount of time and effort involved.

4. Validity of Certificates

- (1) The validity of certificates is three years from the date of issue on the basis of a positive certification decision, provided that all conditions for upholding validity are fulfilled by the Client.
- (2) The mandatory prerequisites for upholding the validity of a certificate and the associated entitlement to bear the certificate and use the certification logo are, in particular, an annual surveillance audit with a positive surveillance decision as well as a valid contractual relationship.
- (3) While they are valid, certificates shall remain the property of the Certification Body and shall become the property of the Client after their expiry.
- (4) Audit reports are the property of the Certification Body.

5. Special Incumbencies of the Certification Body

- (1) The Certification Body shall treat all information about the Client's company made available to it as strictly confidential, shall only evaluate it for the purposes of the subject matter of the contract and shall not disclose it to third parties. If the Certification Body is obligated by law, ordinance,

administrative decision or instruction by a public authority to disclose confidential information of the Client to third parties, the Client shall be informed by the Certification Body of this disclosure in advance (unless otherwise regulated by law). The Client may release the Certification Body from these confidentiality obligations in writing.

- (2) The Certification Body shall appoint competent representatives (auditor and/or experts) to carry out each audit. If these competent representatives for the Certification Body carry out other jobs in addition to the audit work, the Certification Body shall inform the Client of this by providing transparent information (such as employer, company, type of employment, etc.).
Should the Client not agree with the choice of the representatives for the Certification Body, it shall have the option of notifying the Certification Body in writing, stating its reasons, up to one day prior to the audit and within 14 days after being informed, at the latest. The Certification Body shall then decide anew on its appointment of competent representatives, doing so with particular appreciation of the Client's interests.
- (3) When all the necessary requirements have been met, the Certification Body shall issue the certificate.
- (4) Unless expressly waived by the Client, the Certification Body shall include the certified company in its published directory after a positive certification decision, doing so until the termination of the contract, stating its name, place of registered office, basis of certification and its scope.
- (5) After the certificate has been issued, the Certification Body shall inform the Client about any relevant changes in the certification procedure which have a direct impact on the Client.
- (6) At the request of third parties, the Certification Body shall truthfully disclose the status of its certification of the Client's management system as upheld, suspended, restricted, revoked, cancelled or expired.

6. Special Incumbencies of the Client

- (1) The Client shall provide the Certification Body free of charge with all necessary materials, documents and information which are necessary to fulfil the obligations arising from the contractual relationship, in particular all documents relating to the management system (manual, procedure instructions etc.).
- (2) The Client shall appoint a management coordinator who shall assist the representatives of the Certification Body (auditors and/or experts) free of charge and provide them with guidance and support in their activities at the Client's company.
- (3) The Client shall grant the representatives of the Certification Body (auditors and/or experts) and/or representatives of the accreditation body access to the organizational units concerned (areas, processes, personnel, etc.) as well as access to the required documentation (business cases, company records, etc.).
- (4) The Client shall permit the Certification Body to make information about the Client – in particular its certification file – available to third parties (e.g., accreditation body, internal auditors of the Certification Body, committee for handling objections and complaints, committee for ensuring

impartiality, etc.) if such is necessary for upholding the certification permission of the Certification Body or for dealing with objections and complaints.

Furthermore, the Client shall permit the Certification Body to send information about the Client – in particular its certification file and parts thereof – by email as part of the provision of services.

- (5) The Client shall undertake to record and archive all complaints concerning its management system as well as its remedy and to report them to the representatives of the Certification Body (auditors and/or experts) during the audit.
- (6) Once the certificate has been issued, the Client shall be obligated to immediately notify the Certification Body in writing of all significant changes which have or could have an impact on the legal form or ownership of the company, the organization or management (e.g., key personnel, decision-makers or specialist personnel), its contact address and locations as well as the scope of certification (operations, processes, management system).
- (7) The Client shall pay a fee to the Certification Body. The amount of said fee shall be based on the quotation accepted by the Client, which has been prepared in accordance with TÜV AUSTRIA Deutschland GMBH's Scale of Fees and Charges as well as its Costing Chart, unless a fixed or lump-sum price or another basis for invoicing has been agreed in writing.
- (8) The invoice for the agreed service will be sent to the Client after the service has been rendered. The term of payment shall be taken from the invoice.

7. Bearing and Using the Certificate and the Certification Logo

Duration of the right of use

- (1) After receiving the certificate, the Client shall be entitled to bear the certificate and to use the certification logo.
- (2) The right to bear the certificate and to use the certification logo shall expire at the end of the contractual relationship at the latest.

Scope of the right of use

- (3) The Client shall not make misleading use of the certificate or the certification logo, but rather shall only ever use the certificate issued in such a way that inferences can be drawn from it, in particular by third parties.
- (4) The permission to bear the certificate and to use the certification logo shall apply exclusively to the certified area of the Client's company in direct connection with the Client's company name, entrepreneur name or logo. Using the certificate or the certification logo for any other – non-certified – area of the Client's business shall not be permitted. The area shall be defined by the Certification Body.

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- (5) The Client shall be entitled to use the certificate and/or the certification logo for business purposes on business correspondence documents (e.g., letterhead, business cards, email, etc.) and for advertising purposes (e.g., company vehicles, website, brochures, etc.), in the specified form. They may be used in any desired overall size provided the proportions are respected. The certificate and the certification logo must be easy to read and clearly visible. Use must be made in such a way that neither the Certification Body nor the certification system is discredited, and public confidence in the certification is not undermined.
- (6) Neither the certificate nor the certification logo may be used on products or product packaging, including in connection with the products in such a way as to imply that the products themselves are certified. The Certification Body offers a separate product certification for that purpose.
- (7) The Client shall be obliged to notify the Certification Body in advance and in writing of any intended use of the certificate or the certification logo and to obtain special approval for use in each individual case.

Suspension of the right of use

- (8) The right of the Client to bear the certificate and to use the certification logo shall be suspended with immediate effect by the Certification Body if:
 - ✓ The certificate and/or the certification logo are misused by the Client, in particular if one of the provisions of the scope of the right of use is infringed.
 - ✓ The results of the surveillance audits no longer justify upholding the certification.
 - ✓ Surveillance audits are not carried out for reasons beyond the control of the Certification Body.
 - ✓ The certification is suspended in accordance with the rules of the Certification Body.
 - ✓ The Client does not receive approval from the Certification Body or it receives notice from the Certification Body to cease using the certification logo and/or the certificate temporarily, even without justification.
 - ✓ The effectiveness of the Client's management system is no longer given.
- (9) In the event that the right of use is suspended by the Certification Body, the Client shall undertake to immediately refrain from bearing the certificate. Existing documents, media etc., which are labelled with the certificate or the certification logo, may in such a case still be used by the Client for a maximum of one month after the suspension of certification has become legally effective.
- (10) Once appropriately verified corrective action has been taken, the Certification Body may revoke the suspension.

Termination of the right of use

- (11) The Client's right to bear the certificate and to use the certification logo shall end with immediate effect if:
 - ✓ The validity of the certificate has expired.
 - ✓ The certification is revoked in accordance with the Certification Body's rules.
 - ✓ The contractual relationship is terminated (for whatever reason).

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- ✓ The Client receives notice from the Certification Body to cease bearing the certification logo and/or the certificate, even without justification.

(12) In the event that the right of use is terminated by the Certification Body, the Client shall undertake to immediately refrain from bearing the certificate and using the certification logo.

8. Complaints and Appeals

- (1) The Client shall have the possibility to appeal to the management of the Certification Body in writing against certification decisions and against actions or omissions on the part of the Certification Body.
- (2) In such a case, the Certification Body shall provide the Client with a clear justification for its certification decision, action or omission.
- (3) If no satisfactory solution can be found or if the head of the Certification Body is directly involved in the appeal or the complaint himself or herself (conflict of interest), the appeal or complaint shall be referred to a separate committee for decision, subject to confidentiality rules.

9. Sample of Certification Logo

- (1) While all certification conditions are fulfilled, the Client is in principle entitled to use a certification logo in accordance with the specifications of the Certification Body.
- (2) The client is obligated to notify the Certification Body in advance and in writing of any intended use of the certification logo and to obtain special approval for use in each individual case.

Sample TÜV AUSTRIA-Certified Symbol

