

Kiwa GmbH – TICRs

Testing, Inspection and Certification Regulations of
Kiwa GmbH (products, processes and services)



Schedule A: General terms and conditions

Version 1 / 1. November 2014



Preliminary remarks

Kiwa GmbH (hereinafter referred to as „Kiwa“) collaborates with a nationwide network of testing laboratories, inspection authorities and certification authorities in Germany. The testing laboratories are accredited in accordance with DIN EN ISO/IEC 17025, Kiwa's inspection authorities in accordance with DIN ISO/IEC 17020.

The certification authorities are accredited in accordance with DIN EN 45011 and/or DIN EN ISO/IEC 17065, and they have been appointed Notified Bodies by the Deutsches Institut für Bautechnik [German Institute of Civil Engineering] (DIBt) for the products, depending upon the jurisdiction or area of legislation pursuant to the building regulations of the German Federal States (LBO) and/or the EU Building Component Regulations (EU BCR) [see also the NANDO database of the EU Commission].

Kiwa has also been appointed Notified Body as an investigating body pursuant to Sec.18 Federal German Soil Protection Act (BBodSchG), as a sewage analysis authority and drinking water analysis authority, has received certification in accordance with DIN 14001 and has been registered as a testing laboratory with the DVGW (German Technical and Scientific Association for Gas and Water).

The tests are carried out based on product or parameter-specific requirements, whereas the inspection and certification are undertaken based on various different criteria.

The accreditation certificates and appointments as a Notified Body are published on Kiwa's website (www.kiwa.de/about_Kiwa/accreditations_notifications) or in the database of the DAkkS, Germany's national accreditation body (www.DAkkS.de/content/akkreditierte-stellen-DAkkS).

1. Purpose and field of application

These testing, inspection and certification regulations (TICRs) lay down the general principles and procedures for the services for

- testing products in regard to their properties and composition
- inspection/monitoring of products, processes and services to check whether they are in line with the requirements laid down
- certification of products, processes and services.

Kiwa's services are, as a rule, based on published specifications, such as standards, approval principles and approvals, as well as (assessment) guidelines.

The testing, inspection and certification regulations consist of multiple components (modules), in regard to which Module A applies to all tests, inspections and certificates. Special and supplementary regulations are laid down in specific subject-related modules. All modules can be inspected on Kiwa's website at www.kiwa.de/regularen or be requested from Kiwa.

2. Confidentiality, independence and impartiality

The testing, inspection and certification authorities function independently, impartially and without discrimination.

Kiwa's current declaration of confidentiality and independence is published at www.kiwa.de/about_Kiwa/regulations.

Kiwa and its staff are free from any commercial, financial or other influences which could impair

their technical assessment. It is impossible that the outcome of tests, inspections and certification procedures is influenced by internal or external individuals or organisations or are affected by such a sort of bias otherwise.

All employees involved at Kiwa in the testing, inspection and certification procedures are obliged in writing to maintain confidentiality. In addition, it is pointed out that any information obtained within the scope of the work under these TICRs is treated confidentially. It shall, however, be permissible to for example pass it on to authorities and accreditation bodies, in so far as the latter is required to implement the certification agreement, or in cases where the accreditation rules require it or where it serves to fulfil statutory obligations. The same applies

- if any existing health risks, an imminent risk, or another danger to life or limb can only be averted by passing on information to third parties (e.g. authorities);
- at Kiwa's free discretion if notifications require to be made to the Rapid Exchange of Information System (RAPEX).

For such cases, the customer declares that it is in agreement that Kiwa passes on such information and grants general and accreditation authorities, for example, access to any documents and allows them to inspect such documents. In the event of any information being passed on to third parties, Kiwa shall notify the customer, in accordance with the foregoing regulations, as long as the latter is not prohibited by law.

Any passing on of information in accordance with the foregoing provision shall not absolve the customer from the general obligations incumbent upon it as manufacturer, importer or dealer of a product. The latter shall also include any notification requirements vis-à-vis authorities.

3. Subcontracting

Kiwa may assign the execution of testing and inspection activities or parts thereof to third parties with the customer's agreement.

Should it have been established that there are requirements on the part of the DAkkS/accrediting authorities in regard to sub-contractors, or should such be set out by the accredited standards, Kiwa may only assign such activities to third parties that are able to meet these requirements.

4. Basis for testing, inspection and / or certification

Testing, inspection and certification is carried out by Kiwa on a comprehensible basis, in particular in accordance with the following:

- Generally accepted rules of technology/regulations under private law, e.g. standards – DIN, EN, ISO, IEC, directives - VDI, LAGA, LAWA, LABO, KOMO, NEMKO NS, COPRO, RAL, Kiwa, IVG, BAM, DB AG –, BAST
- The Building Components Regulation (EU) No. 305/2011 on Laying down harmonised Terms and Conditions for the Marketing of Building Components
- Requirements of the Building Regulations of the German Federal States (LBO).

Any market participants (manufacturers, suppliers, exporters, etc.) may place an order for having tests, inspections and certifications undertaken.

5. Tests

5.1 Carrying out the test

Tests within the scope of an inspection or certification procedure shall be carried out on the basis of the certification agreement to be contractually

concluded, as well as observing the general testing, inspection and certification guidelines (Art. 4), including these testing, inspection and certification regulations (TICRSs), and also subject to the applicability of Kiwa's General Terms and Conditions of Business. Where no pertinent technical rules and regulations are in place, Kiwa shall, taking into account the generally accepted rules of technology and applying appropriate discretion, determine the basis for testing to be applied, and inform the customer prior to commencing testing.

A test by Kiwa in accordance with these testing, inspection and certification regulations requires that it is possible to conduct the test properly. For this purpose, the customer shall ensure, at its own expense, that an adequate sample can be taken by Kiwa for the test, or that, at Kiwa's request, sufficient samples are provided, taking into account separate requirements set out by Kiwa regarding the latter, as well as the general testing, inspection and certification guidelines (cf. Art. 4).

Unless anything to the contrary has been agreed, Kiwa shall conduct tests using its own staff, in the testing laboratory or on site, as well as, with the customer's consent, involving and instructing third parties. In regard to any sub-contracting, the rules laid down in Article 3 shall apply.

5.2 Documentation

Once the test has been concluded, Kiwa will prepare a report based on the testing guidelines applicable for the product being tested (cf. Art. 4), adhering to DIN EN ISO/IEC 17025. The latter shall, besides the general data, include details

- on which test has been carried out
- on the testing guidelines taken as a basis for the test

- on the testing procedures applied
- on by whom the test was carried out
- on the period during which the test was carried out; and
- on the results of the test.

6. Inspection

6.1 Basic principles

When a certificate is issued for the first time, or in order to ensure the quality of the certified products, processes and services required for maintaining the certification, Kiwa shall, based on an agreement to be contractually concluded, including these testing, inspection and certification regulations, as well as subject to the application of its General Terms and Conditions of Business, carry out inspections at its customers' premises of the customer's production facilities and warehouses, at the customer's expense. Independently of the agreement, a component of such inspections is initial tests at the production plants and the factory's own production control and processes, as well as, subsequently, the ongoing monitoring, assessment and recognition of the production control and processes.

Kiwa shall carry out the inspections using its own staff, or - with the customer's consent - with the involvement of third parties. In the case of subcontracting, the rules in accordance with Art. 3 shall apply.

Details on the intervals between inspections can be seen from the certification agreement or the specifications of the testing, inspection and certification guidelines (cf. Art. 4). Should any abnormalities emerge from the inspections, or any other substantiated causes, Kiwa's certification authority may shorten the intervals between inspections or prescribe separate inspections/

tests. Also independently of any abnormalities, Kiwa shall be entitled to carry out inspections of production plants and warehouses specified on the certificate without giving prior notice.

6.2 Conducting the inspection

Subject to there be any special provisions set out in the certification agreement, the content and course of an inspection can be inferred from the general testing, inspection and certification guidelines (cf. Art. 4), as well as from the testing program applicable to the certified product (cf. Art. 1).

6.3 Access to inspection and execution

The customer needs to ensure that the inspection staff have access to the production facilities at any time during the usual business hours, and that specialist staff are available to provide the necessary information during an inspection and can also provide such information. The inspection staff may, within the scope of an inspection mandate, take samples of products to be certified for monitoring purposes and for any further tests, free of charge. Checks for that purpose may also be carried out on site, at the production plant.

6.4 Participation of observers

The customer is to permit Kiwa's inspection staff to be accompanied by staff from the accreditation body or staff of Kiwa for the purpose of carrying out witness audits.

6.5 Documentation and corrective measures if defects have been established

Following conclusion of the inspection, Kiwa shall prepare an inspection report based on the inspection guidelines applicable to the product, process or service tested (cf. Art. 4), adhering to DIN EN ISO/IEC 17020. Besides the general

data (period of time during which the inspection was carried out, name of the employee from Kiwa's inspection authority), the latter shall also include details on the inspections to be carried out, also giving a precise description of the inspection guidelines and the results of the inspection, as well as details on

- any changes made to the product, process or service which may have an influence upon the certification;
- any changes made to the manufacturing process which may have an influence upon the product properties and, if applicable, to that extent on the certification;
- any deviations from the testing, inspection and certification guidelines applicable to the certified product/process or service (cf. Art 4).

The employee responsible from Kiwa's inspection authority shall, within the scope of the final meeting, discuss the observations made, as well as any general remarks, deviations and deadlines for corrective measures, with the customer's contact person named. In that regard, the initial step would be to work towards the customer eliminating any existing defects or any deviations from existing certification requirements within a deadline set by Kiwa's inspection authority. Should the latter be carried out, and should corresponding evidence of it be provided by the customer, that is likewise to be noted down in the inspection report.

The final results of an inspection accordingly achieved with the inspection report are to be provided to the customer, and, if necessary, to the certification authority which instructed the work. Should it not be possible to come to a mutual agreement on the existence of defects or deviations and corrective measures to be taken in the course of the final meeting, the latter shall like-

wise be noted down in the inspection report. Kiwa's certification body shall then decide on any further measures, in such a case especially suspension, withdrawal of the certificate, etc. (cf. Art. 7.9 et seqq.).

7. Certification of products, processes and services

7.1 Certification guidelines

A certification confirms the conformity of certified products, processes or services with the certification guidelines specified in Art. 4. It is carried out by a certification authority set up at Kiwa's premises that works independently, without instructions. Certificates are not transferable to third parties.

7.2 Application procedure/certification agreement

Certification procedures are only carried out upon application by a customer, and a certification agreement to be concluded on this basis. In regard to products, the features of which differ substantially from one another in a manner relevant to certification, separate certification applications need to be filed. Details of the application procedure by means of a corresponding application form preceding the drawing up of a certification agreement can be inspected on Kiwa's website and downloaded from www.kiwa.de/about_Kiwa/regulations. Without a fully completed and signed application, as well as a certification agreement concluded in writing based on the latter, inclusive of these testing, inspection and certification regulations (TICR's), as well as the General Terms and Conditions of Business, Kiwa will not conduct any certification of products, processes or services.

By concluding the certification agreement, the

customer – unless anything to the contrary has been agreed – simultaneously explicitly undertakes to

- fulfil the certification requirements, which includes implementing any relevant changes if the latter are notified by Kiwa's certification authority (cf. Art. 7.8).
- ensure that, in the event of the certification applying to an ongoing production batch, the certified product continues to fulfil the certification requirements applicable to such a product;
- take all necessary precautions so that any evaluations or inspections envisaged or necessary can be carried out;
- not use the certification in a way that could bring discredit upon the certification authority, or make any statements about the certification which the certification authority could consider misleading or unjustified;
- cease using any promotional materials containing a reference to the certification if the certification is suspended, withdrawn or terminated, and implement the measures required by the certification programme (e.g. returning certification documents), as well as any other measures necessary;
- if the customer provides copies of the certification documents to others, to take care to ensure that such documents are only duplicated in their entirety, or in the manner laid down in the certification programme;
- to fulfil the requirements of the certification authority, or any laid down in the certification programme, when making reference to the certification in communication media, such as documents, brochures or promotional materials;
- to fulfil any requirements described in the certification programme, and which relate to the use of marks of conformity, as well as the in-

formation in regard to the product, the programme or the service;

- keep copies of complaints and any records relating to the latter that have been made known in regard to the certification and adherence to the certification requirements, and provide these records to the certification authority upon request, without delay and free of charge;
- take suitable steps in regard to such complaints, as well as any defects that have been discovered in the certified products, processes and services and which affect adherence to the requirements of the certification, and document the steps taken;
- inform the certification authority without delay on any changes which may impair its ability to fulfil the certification requirements (for example, in particular in regard to the legal, economic and organisational status of the customer, in regard to organisation and management concerning the certified product, process or service, in this case especially in regard to key items, decision-making processes or technical staff, concerning changes to the product or the method of production, in regard to contact addresses and production facilities or concerning material changes in the quality management system);
- in the event of it, as the holder of the certificate, not being the manufacturer of the certified product, to enter into an agreement with the actual manufacturer on adherence to the requirements that are to be observed when manufacturing the product, including tolerating necessary checks;
- not to simultaneously apply for certification with another certification authority in parallel for the product, process or service to be certified or that is already certified, or to maintain such.

The customer shall simultaneously ensure that a product to be certified is free of any rights of third parties, that any company designations, trademarks or any other business designations on products are in compliance with the statutory requirements and that it does not infringe or impair any rights of third parties (including any copyrights) with the certification procedure.

7.3 Certification procedure

Kiwa shall conduct the certification in accordance with the provisions of the certification agreement, paying further attention to these testing, inspection and certification regulations (TICR's), its own General Terms and Conditions of Business and the general testing, inspection and certification guidelines (cf. Art. 4).

Tests (cf. Art 5) and inspections (cf. Art. 6) may form a component of the certification procedure. Should only certification services be provided in accordance with the certification agreement, the testing and/or inspection results required for the certification decision, that are currently still valid, or any other test certificates, are to be provided by the customer at its own expense and presented to Kiwa's certification authority. After being positively assessed by the certification authority, the latter may be used as a basis of certification. In that respect, it is pointed out, and is thus also agreed with the customer, that Kiwa shall not, in such cases, accept any liability whatsoever for the accuracy and completeness of the test or inspection reports or certificates issued by the third party. It shall also not check the content of the latter for its accuracy, for which purpose it is neither instructed nor otherwise obliged.

7.4 The issuing of a certificate

Following presentation, evaluation and assessment of all documents necessary for the cer-

tification, and ascertaining that they are in line with the requirements of the specification, the decision in regard to certification will be taken. The certificate will be issued if, based on the present application, the certification agreement concluded and the tests or inspections carried out for that purpose, it is positively established that the customer's products, processes or services for which certification has been requested are in compliance with the certification requirements applicable to these products, processes and services. It is only that, and precisely that, which Kiwa's certification authority declares by issuing a certificate. Otherwise Kiwa shall not submit any further declarations in that respect, and no further declarations shall be associated with the issuing of a certificate. To that extent, Kiwa shall in particular not submit any other declaration on a property of the product, its use or potential use, its safety, a description of it or its durability. The same shall apply to processes and services to be certified. With the exception of the certification, Kiwa shall not undertake any tests or investigations of any kind, for which purpose Kiwa is not commissioned within the scope of the certification.

The certificate will include a certificate number. Upon request, Kiwa's certification authority will provide information on the validity of particular certifications. If the customer so requests, the certificates will be published on Kiwa's website. The certificate will include at least the following details:

- Name and address of the certification authority,
- the date on which the certification was issued,
- the name and address of the manufacturer, supplier or exporter and the manufacturing

plant (if applicable, in the form of a factory coding);

- the designation of the product, process or services, if applicable the manufacturer's product designation and product specification, along with the date of issue;
- a declaration that the product is in line with the requirements in accordance with the associated product standard, and that the conformity has been proven in accordance with the technical specification;
- a statement that the company's own production control is in line with the requirements of the associated standard;
- the period or expiry date of the certification, if the certification expires after a fixed date;
- any further information required by the certification programme or the pertinent certification guidelines;
- the certificate number.

Depending on the testing and certification guidelines, the certification agreement concluded and the product specifications, the certificate is issued either for a certain period of time or indefinitely. It is only valid for the holder of the certificate. The customer shall be informed about the issuing of the certification either by regular mail or electronically, by forwarding the certificate. The use of a certificate by a third party shall require the Kiwa's explicit written consent. Should the certified product be placed on the market by a third party, a new certificate will require to be issued. The same shall apply if a certified product is supposed to be placed on the market, with or without deviations from the latter, under a different trade name.

7.5 Refusal to issue a certificate

Should the prerequisites for the granting of a

certificate not exist following testing, in particular because the products, processes or services envisaged for certification are not in line with the basis of certification (cf. Art. 4), Kiwa's certification authority shall refuse to issue a certificate. It shall inform the customer about the refusal without delay, giving details of the grounds, as soon as it has been established that a certificate cannot be issued. Kiwa shall – if possible – also notify the customer which prerequisites the customer still has to fulfil so that a certificate can be issued. Kiwa shall not be liable for any drawbacks suffered by the customer due to the refusal.

7.6 Labels and certification marks

Depending upon the certification guidelines (cf. Art. 4), the issuing of the certificate is associated with the entitlement to bear a certification mark or any other relevant product designation.

Details on the use of certification marks, certificates or any other statements of conformity based on the corresponding product specification in connection with an identifier (e.g. a network operator number) are described in the respective special conditions relating to the individual programmes (cf. Art. 1), and are limited to the period of validity of the certificates. In so far as the product specification so stipulates, the customer may endorse its certified products and processes with a certification mark.

Products without a valid certificate may not be endorsed with a label identifying Kiwa. The customer shall be obliged to remove any labels already affixed.

Kiwa shall grant a separate authorisation in regard to any Kiwa-specific designation outside the specifications. A separate agreement with Kiwa

shall be required for this purpose.

The customer shall be entitled to announce publicly that it is the holder of the certificate and that its products, processes and services are certified. The latter shall, however exclusively and unambiguously only apply to the products, processes and services specified on the certificate.

The use of third party logos, either in combination with a certification mark, logo or pictogram of Kiwa or without a Kiwa logo, shall only be permissible in line with the terms and conditions of the owner of the logo (third party).

7.7 Maintenance of the certification

The customer shall be obliged to monitor the manufacture of the certified products to ensure that they are in compliance with the requirements for the certification, and in particular implement the measures laid down or those required by Kiwa's certification authority. The same shall apply accordingly to certified processes and services. In so far as the prerequisites for the certification continue to be fulfilled, the customer shall, on its part, as a result of the regular certification decision, receive a notification on the maintenance of the certification (cf. Art. 7.4). Otherwise the certification authority will inform the customer of the requirements, adherence to which is necessary in order to maintain the certification. It may also set the customer a deadline in regard to the latter. Should the deadline not be adhered to, the latter shall usually lead to the certification expiring, depending upon the certificate granted (cf. Art. 7.12). Otherwise Kiwa's certification authority shall decide on a suspension, in accordance with the above provisions (cf. Art. 7.9), a limitation (cf. Art. 7.10) or a withdrawal of the certificate (cf. Art. 7.11).

7.8 Changes and acquisition of further expertise concerning products, processes and services already certified/certification guidelines

The Customer shall be obliged to inform Kiwa's certification authority about the following without delay:

- a) Any changes in the products, processes and services certified, as well as the method of production;
- b) any alterations to the production facilities where certified products are manufactured;
- c) any circumstances which may affect the manufacture of certified products, processes or services;
- d) any change in the company name and company address, as well as any significant changes in the governance and the management responsible;
- e) any facts that may affect a certification already issued, and in fact especially in regard to any decision on the maintenance of the latter or the limitation, suspension or withdrawal of it. The latter shall apply independently of when the customer has become aware of such facts.

Should there be any change in the certification programme (cf. Art. 1) and/or the certification guidelines (cf. Art. 4), the customers shall be informed by Kiwa's certification authority.

In all the aforementioned cases, the certification authority shall check the matter and inform the customer to what extent the certification can thereafter be maintained without limitation, whether it is necessary to re-issue a certificate, or whether any other steps need to be taken by the customer to maintain the certificate (e.g. supplementary tests, inspections, etc.). A limitation of the certificate (cf. Art. 7.10), with the aim of

removing any non-compliant product variants, likewise comes into consideration. The certification authority may also stipulate appropriate requirements for the maintenance or re-issuing of a certificate, and set deadlines by which the requirements need to be fulfilled. The certification authority may simultaneously take a provisional decision concerning whether the customer may use the certification mark and the certificate, subject to what requirements, until such time as a conclusive test is carried out on the altered product or production method involving a change in the method of manufacture. In so far as any requirements are stipulated, the certification authority shall check whether they have been implemented by the customer in good time. If such requirements are not fulfilled in good time, the certificate may be withdrawn (cf. Art. 7.11). A suspension may also come into consideration for the transition period (cf. Art. 7.9).

Notwithstanding the above provisions, the customer shall in any event be obliged to eliminate any safety hazards in products certified by Kiwa without delay and implement appropriate measures to minimise the damage in the case of any products that have already been placed on the market. It shall simultaneously be required to refrain from further placing such certified products on the market, and inform Kiwa's certification authority about the latter in writing without delay.

7.9 Suspension of the certification

A certification may be provisionally suspended by the certification authority upon a customer's written application, for a maximum period of one year. A suspension shall likewise be possible, following a decision taken by Kiwa's certification authority, if there are objective criteria to suggest that the certified product, process or service is no longer compliant with the certification require-

ments, however the certification authority assumes that the certification requirements can be fulfilled again within a short period of time once requirements have been issued.

The suspension shall be notified to the customer in writing by Kiwa's certification authority, giving grounds and – if relevant – notifying the requirements that need to be fulfilled in order to lift the suspension of the certification. In the event of certification being suspended due to non-compliance of the product, process or service with the certification requirements, the certification authority should give the customer the opportunity to take steps within a period of a maximum of one month, so that the certification requirements are subsequently fulfilled again. It shall be up to the customer to provide the certification authority with evidence of the successful implementation of such measures, with the outcome that the certification requirements are adhered to again. In such a case, a rescission of the suspension will occur in writing. Otherwise, i.e. also following the fruitless expiry of the deadline, the certificate will be withdrawn (cf. Art. 7.11).

7.10 Limitation of the certification

A certification may, at the customer's written request or in the event of the product or process not being in compliance with the certification requirements for the product range and/or products, have its content limited. To that extent, the certificate and any certification mark issued may, upon receipt of the notification of limitation, no longer be used for the limited part. In regard to the further code of conduct incumbent on the customer, reference is made to Art. 8.

In order to make clear to the customer the limited scope of application of the certification, a new certificate will be issued for the remaining part of the certificate.

7.11 Withdrawal of the certificate

If the holder of the certificate no longer fulfils the terms and conditions for the granting of the certificate, or the product, process or service no longer fulfils Kiwa's certification requirements, Kiwa shall be entitled to withdraw the certificate. In this regard, it does not play a role whether the circumstance that is the reason for the withdrawal was already known or recognisable when the certification was issued.

Furthermore, a certificate may be withdrawn for the following reasons:

- a) No timely evidence of the requirements being fulfilled which were stipulated within the scope of a suspension of the certification (cf. Art. 7.9) or in the case of changes to products, processes or services or production methods and the certification guidelines already certified (cf. Art. 7.8)
- b) A change in the certified products, processes and services or production processes and/or the certification guidelines (cf. Art. 4), with the respective consequence that the certified product, process or service is no longer in conformity with the requirements of the certification (see also Art. 7.8)
- c) No evidence of corrective measures having been carried out in a timely manner in the case of discrepancies being established within the scope of monitoring work/inspections
- d) Inspections or checks of the production facilities or warehouses to be carried out by the customer as a prerequisite for maintaining the certification not being made possible (cf. Arts. 5 and 6) in spite of a written request by Kiwa's certification authority
- e) No granting of free access to the production facilities and warehouses used for the certified products by the customer to staff of Kiwa's

- certification authority
- f) Cessation of production
- g) Cessation of business operations by the holder of the certificate (in the event of insolvency, for example)
- h) Abuse or any other misleading use of the certification mark or the certificate granted
- i) Non-fulfilment of the contractual conditions in accordance with the certification agreement (e.g. financial commitments), in this case in particular also the individual commitments in accordance with Art. 7.2 (2nd sub-paragraph), or any obligations in accordance with these testing, inspection and certification regulations
- j) Effective termination or rescission of the certification agreement
- k) Presentation of a significant reason in consequence of which the relationship of trust between Kiwa and the customer has been destroyed (e.g. false details given by the customer in the certification application or in the certification process, use of plagiarism to produce product certification).

In the cases in accordance with clause i.) above, it is a prerequisite for withdrawing the certification that a deadline of at least three weeks first be set, within which a contractual condition of the product, process or services needs to be restored, adhering to specific measures to be laid down, and that such deadline has expired fruitlessly. Notwithstanding the latter, Kiwa's certification authority shall, however, usually give the customer the opportunity to respond prior to withdrawing a certificate. Such an opportunity to respond may be omitted if the withdrawal cannot be postponed.

Should the certificate be withdrawn, Kiwa's certification authority shall inform the customer, as the holder of the certificate, in writing, by record-

ed delivery letter, that the certificate has been withdrawn, giving grounds for the withdrawal. The customer shall be required to return the original certificate to the certification authority without delay – in so far as it has received one. In regard to any further consequences, reference is made to Art. 8.

7.12 Expiry of the certificate

A certificate issued shall expire automatically

- upon expiry of the validity of the certificate;
- in the case of a waiver of the certification on the part of the customer declared to Kiwa in writing;
- in the event of a certification requirement on which a certificate is based ceasing to apply, being newly phrased or being substituted (cf. Art. 4);
- in the case of non-adherence to the requirements within the scope of a decision to maintain the certificate (cf. Art. 7.7) or
- once the certificate has effectively been withdrawn (cf. Art. 7.11).

7.13 Legal consequences of suspension, withdrawal and expiry of the certificate

The suspension, withdrawal or expiry of the certificate may be published by Kiwa on its website.

In regard to the customer's obligations under the code of conduct signed in cases of suspension, withdrawal and expiry reference is made to Art. 8.

In accordance with the Product Safety Act (Sec. 17), Kiwa is obliged to inform the authorities granting power about the suspension, withdrawal or expiry of the certificate.

7.14 Complaint management at the customer's company

The customer shall be obliged to record all the

complaints it has received concerning its certified products, and any other complaints, and archive them. It shall, upon request, provide such details to Kiwa's certification authority without delay and free of charge, and inform the latter about the steps taken by it to remedy the complaint. In the case of serious complaints, it shall be required to inform the certification authority without delay.

8. Code of conduct incumbent on the customer / violation of the certification provisions / contractual penalty

8.1 General code of conduct incumbent upon the customer

The customer may not violate the provisions of the certification procedure in accordance with Art. 7 set out in these testing, inspection and certification regulations, or the use of a certificate, certification mark, logo or pictograms.

8.2 Specific aspects of the code of conduct incumbent upon the customer in regard to the certificates and certification marks

A customer may only and exclusively use a certificate or the fact that it is the holder of a certificate, as well as a certification mark, for the product, process or service, use the certificate to advertise, announce it publicly, refer to it in any other way or place products on the market with such certificate or certification mark in regard to the product, process or service for which the certificate has, according to the details given on the certificate, been issued. Any misleading or unauthorised use of a certificate or certification mark is not permitted. Should the scope of a certificate have been limited for components of a product range and/or a product (cf. Art. 7.10), the forego-

ing provision shall apply with the proviso that the certificate may only be used for that part of the product range and/or the product for which it has been issued.

A customer may no longer use a certificate, advertise with it, publicise it or refer to it in any other way or place products on the market with such a certificate if a certificate is no longer valid or the prerequisites for maintaining it otherwise no longer exist. The latter shall in particular apply in cases of a certificate being limited, suspended or withdrawn or expiring. Any references to certification by Kiwa are, in such cases, to be removed by the customer from any formal certification documents or other documents made available to third parties, any publications or publicised information (also of the electronic kind) and any authorisations to use the certification mark. No use may be made, in such cases, of any certification mark, logos or pictograms intended for the latter. Any products already manufactured or newly manufactured products may no longer be placed on the market with the certification mark. Any other way of handling the sale of products already manufactured shall require Kiwa's express written consent, which Kiwa may grant, at its discretion. The latter shall in particular apply to establishing any periods of time available to use up the existing stock. Consent to any such periods of time available for using up the existing stock shall in any case be subject to the prerequisite that the customer notify's Kiwa's certification authority in advance how many of the products already manufactured and bearing a certification mark exist, that the certification guidelines (cf. Art. 4) have not changed, and that no statutory or other mandatory regulations are in conflict with selling off the products.

The holder of the certificate and the customer un-

dertake not to make any promotional statements whatsoever or any other public statements about results or interim results of an ongoing certificate procedure or the testing procedure that takes place prior to that before the conclusion of the certification procedure has been notified to them by Kiwa (cf. 3rd paragraph, Art. 7.4).

8.3 The customer's liability and obligation to indemnify Kiwa in the event of infringements

The customer shall be required to compensate Kiwa for any losses and expenditure arising from any infringements of the provisions set out in these testing, inspection and certification regulations. The latter shall especially apply to the provisions in accordance with Art 8.2. To that extent, the customer shall also exempt Kiwa from any claims made by third parties. The above provisions shall in particular apply in the case of any illegitimate use of a certification or certification mark, and in fact especially following a limitation, suspension or withdrawal or the expiry of a certificate (without being limited to the latter) (Art. 7.9-7.12). The expenses to be reimbursed to Kiwa following an infringement of these testing, inspection and certification regulations in particular consist of Kiwa undertaking comparative tests to further examine the test items, carrying out research or inspections. To that extent, invoicing for these services shall be in accordance with time expended.

8.4 Obligation to pay liquidated damages in the case of infringements

For each individual case of culpable infringement of the obligations arising from Art. 8.2 the customer shall pay Kiwa liquidated damages of € 20,000.00, notwithstanding its ongoing obligation to pay compensation for damage, cease and desist from engaging in infringing actions, and

indemnify Kiwa against any claims made by third parties pursuant to Arts. 8.1 to 8.3 above. The latter is to be offset against any claims for compensation for damage against the customer arising from an infringement of the testing, inspection and certification regulations applicable in this case existing in parallel on the part of Kiwa. The customer's obligation to pay liquidated damages and to pay compensation for damage shall apply irrespective of any other provisions contained in these testing, inspection and certification regulations, and in fact in particular in regard to the suspension, withdrawal or expiry of a certificate.

9. Costs

9.1 Basic principles

Kiwa shall charge fees for the activities incurred under these testing, inspection and certification regulations. The amount of the remuneration (including any ancillary expenses, travelling expenses, etc.) can be seen from the certification agreement. It is established for the customer on a transparent basis, in accordance with objective guidelines.

Unless anything to the contrary has been agreed in writing, the customer shall, in accordance with its application filed, bear the costs of the entire testing, inspection and/or certification procedure. The invoice will then be sent solely to the customer. Any deviations from the latter shall require a separate agreement.

9.2 Separate provisions for costs of certification services

Fees for certification services shall cover Kiwa's time expended within the scope of the certification procedure, and shall be charged regardless of whether a certificate is issued or not.

10. Required storage periods/verbal information

The documents prepared by Kiwa within the scope of an activity in accordance with these testing, inspection and certification regulations shall be kept for ten years. In the case of certifications, the deadline shall commence upon the certificate being granted; in the case of tests and inspections it shall commence upon the test or inspection report being presented to the customer.

Any verbal information given by Kiwa on the status of a certification procedure shall be non-binding.

11. Complaints and opposition

11.1 Opposition

An opposition may be filed against a decision or a step taken by Kiwa's certification authority in regard to the certification in accordance with these testing, inspection and certification regulations (suspension, limitation, withdrawal or denial of the certification) within a period of up to 30 days after receipt of a decision aimed at notifying the recipient about the certification having been subjected to any one of the aforementioned 4 states. The opposition is to be filed in writing and substantiated. Kiwa shall confirm receipt of the opposition.

Should it not be possible for an agreement to be reached between the customer and Kiwa on the subject of the opposition, Kiwa's certification authority shall present the opposition, along with the entire details and communications regarding the case, to Kiwa's independent steering committee. Oppositions may also be filed directly

with the independent steering committee (Kiwa GmbH, Att: Lenkungsgrremium/Steering Committee, Schlossmühlendamm 30, 21073 Hamburg). When doing so, the certificate number and customer number are to be specified in the opposition letter.

The composition of the steering committee formed for this purpose and the further work undertaken by it shall be governed by its Constitution resolved and enacted for that purpose. The latter can be accessed on Kiwa's website www.kiwa.de/about_Kiwa/regulations.

This steering committee shall make a decision about the case.

The opposition shall not have a suspensive effect in regard to the decisions taken by the certification authority.

The aforementioned opposition procedure shall not prevent the customer from taking direct judicial steps against Kiwa's decisions in addition.

11.2 Complaints

Kiwa has a documented complaints procedure in place. Complaints can be filed against any activities of Kiwa. They need to be filed in writing. Kiwa will confirm receipt of the complaint.

All complaints will be documented, and examined to see if they are justified. The claimant will be informed on the outcome of the complaint procedure.

Should the complaint prove to be justified, Kiwa shall – if necessary – simultaneously take any steps necessary to rectify the matter. The efficacy of the corrective measures shall be examined

in accordance with specified procedures. The degree of appropriateness of the processing of the complaints themselves will be examined under external (DAkkS) and internal audits.

12. Validity of these testing, inspection and certification regulations

The testing, inspection and certification regulations (TICRs) shall come into force on 1. November 2014. Any amendments to these TICRs shall be proposed to the customer in text form no later than two months prior to the proposed date from which they are to take effect. The customer's consent shall be deemed to have been received if the customer has not notified Kiwa that it objects to the amendments prior to the proposed date from which they are to take effect. Kiwa shall make special reference to this acceptance effect in its offer to amend these TICRs. Should the customer decline the offer to amend these TICRs, each party shall be entitled to terminate any certification agreement concluded, by giving three months' notice to the end of the respective current month, within one month of Kiwa receiving the declaration that the amendments are declined.

Herausgeber

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