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## 1. Scope

These Testing and Certification Regulations govern all the services TRNA renders for third parties. These services include in particular:

1.1. The testing and appraisal of products, components, technical product designs in their different stages of development, preparation of technical documentation and expert reports. The services are rendered e.g. regarding safety, suitability for purpose, quality and environmental compatibility based on legal regulations, national, European and international standards and specifications agreed upon with the Customer. In addition, manufacturing premises are appraised and inspected with respect to quality measures in connection with the granting of test marks of TRNA for proofs of conformity according to EC Directives and in connection with approved quality management systems.

1.2. The auditing of quality management systems, the production of audit reports, hereinafter referred to as "Auditing of QM Systems".

1.3. The evaluation and recognition of test and audit reports, certifications of products and QM Systems.

## 2. Contractual Basis

2.1. The ordering party, hereinafter referred to as "Customer", places an order with TRNA or TÜV Rheinland AG or any of TÜV Rheinland AG's subsidiaries, hereinafter referred to as "Affiliate", which is engaged in the field of work of testing and certification services. If the Customer places an order, the order may be for testing or auditing of a quality management system ("QM System") without certification or subsequent certification, or it may be for certification alone. Before any services can be rendered, a "Service Agreement" has to be concluded in writing. The Terms and Conditions of TRNA shall apply to any services rendered to Customer by TRNA.

2.2. With each order a Customer places with TRNA the Customer accepts as binding the General Terms and Conditions as well as these Testing and Certification Regulations of TRNA.

2.3. The Testing and Certification Regulations and the General Terms and Conditions of TRNA may not apply to orders for testing or auditing the Customer places with TRNA or an Affiliate if Customer orders to obtain certification with local recognition outside the US. In such a case, the General Terms and Conditions as well as the Testing and Certification regulations of such Affiliate may apply.

## 3. Testing regulations

### 3.1. Test site

(a) Tests are generally carried out in laboratories of TRNA, or in other laboratories subcontracted for that purpose. Depending on the product, other test sites may be agreed upon, provided such sites are appropriate and that the test results will not be adversely affected. The final decision regarding the location of the testing site lies solely with TRNA.

(b) In consultation with the Customer, testing may also be conducted in third-party laboratories or in the Customer's own laboratories, if the latter have been positively assessed by TRNA, or, if the latter can be demonstrated to be suitable therefore, or if they

have been certified for the corresponding tests by the corresponding certifying bodies.

(c) TRNA may withdraw its consent to off-site testing at any time if the forgoing conditions are not met.

(d) If employees of the Customer participate in the performance of the test, such tests may take place only in the presence and under the supervision of an expert of TRNA (witness testing). In such a case the Customer shall bear any risk of such test and responsible for any damages incurred in connection with such test, including but not limited to any damages of TRNA directly, claim made by third parties against TRNA in connection with such test as well as any legal costs incurred in connection herewith.

### 3.2. Testing procedure

(a) Subsequent to the placement of the Order, the Customer shall supply TRNA with at least one test sample, at no cost to TRNA, together with complete technical documentation required for the testing and evaluation of the product. If necessary for the testing and evaluation procedures, TRNA may demand additional test samples, free of charge. All documents submitted by the Customer shall be in English, except where otherwise agreed to between TRNA and the Customer. Translations, where required, shall be provided by Customer to TRNA at Customer's sole cost.

(b) The test sample is tested based on the statutory provisions and regulations pertaining thereto. If no norms, standards or statutory provisions exist on the nature and scope of the testing, TRNA will determine, either alone or in collaboration with the Customer, an appropriate testing program. The test orders are processed on the assumption that all necessary documents and test samples have been provided and in the sequence in which orders are received. This applies to both product tests and QM system audits. TRNA shall not be responsible for delays caused by incomplete submissions.

(c) In cases where the Customer has placed an order for the Auditing of QM Systems, the Customer's quality management manual and all associated documentation shall be submitted to TRNA prior to commencement of the audit, along with necessary translations thereof. Audits may be conducted in multiple stages.

(d) Upon completion of the testing process, the Customer will receive a written report or, on special request, a full test report listing all nonconformities noted. Suggestions or advice regarding possible approaches to resolving nonconformities is not included in such reports.

(e) If the Customer wishes the product testing to result in a test mark license and if the advancement of the test indicates a positive progress, TRNA, in co-ordination with the Customer, shall perform an initial factory inspection during which the manufacturing process, the assembly and the test facilities as well as the essential quality management measures and procedures are checked to insure the continuous observance of quality levels consistent with the model evaluated. Testing based on statutory provisions or the specifications of TRNA covers receiving of raw materials or components, inspection and testing, production control, in-process inspection and testing and final inspection and testing. Test mark licenses will be awarded only if all requirements are met. To safeguard the particular test mark, the relevant accreditation body may, in certain individual cases, demand that additional measures be taken before the test mark license can be granted.

(f) If the Customer desires certification following successful testing of the Customer's product or successful completion of the audit of the Customer's QM system, the technical documentation and, if necessary, the report on the initial factory inspection will be filed with the relevant Certification Body for certification.

(g) TRNA expressly reserves the right to publish, e.g. in the form of reference lists, the corporate names of its Customers. The Customer's consent to such publication is not required.

### 3.3. Decision rule on stating measurement uncertainty

TUV Rheinland testing laboratories apply the Zero Guard Band rule unless otherwise required by the accreditation, standard, or requested by the customer as part of the quotation..

For the Zero Guard Band rule, the measurement uncertainty is not considered and will also not be declared in the test report.

Should the measurement uncertainty be used to provide guard band, these values will be declared in the test report.

### 3.4. Retention of the test samples

(a) Customer agrees that product samples submitted for testing and/or certification may be destroyed or damaged during the testing and/or certification process. Unless otherwise instructed by the Customer or if otherwise required by the applicable certification standards or in TRNA's testing and Certification Regulations, TRNA shall retain all product samples, damaged or not, for a period of thirty (30) days after the conclusion of the testing and/or certification process. Unless, before the end of said thirty (30) day period, TRNA receives instructions from the Customer that the Customer wishes to reclaim the product samples, TRNA shall be free to dispose of such product samples in any manner it deems appropriate. All costs associated with the safe and proper disposal of hazardous materials shall be borne solely by the Customer. All shipping and handling costs associated with the return of product samples to the Customer, shall be borne solely by the Customer.

(b) In the event of a favorable product test which leads to certification, TRNA shall determine whether the test sample is to be stored as a reference sample for the Customer in a location of TRNA or forwarded labeled and sealed to the Customer for safekeeping. The Customer shall assure that the reference sample can be made available to TRNA at any times, should additional checks or tests be necessary. If, in the case of certification, the design of the reference sample permits storage neither in TRNA's location nor with the Customer, or if the storage of reference samples has to be dispensed for other reasons, detailed documentation on the reference sample will be compiled at the Customer's expense in such a way that all safety-related aspects of the reference sample can be obtained from the documentation without the necessity of having the actual reference sample at hand.

(c) Reference samples and/or documentation, which have been forwarded to the Customer for safekeeping, must be made available to TRNA promptly and free of charge upon request. If, for any reason, the Customer, in response to such a request, is not able to make the reference samples and/or documentation available, any claim for material and pecuniary damages by the Customer against TRNA, resulting from the respective testing and certification, lapses.

(d) In the absence of statutory provisions or regulations to the contrary, the period of safekeeping of the reference samples or of the corresponding documentation is ten (10) years subsequent to the expiration of the certificate. With respect to EC certificates of conformity, it is ten (10) years after the products where last placed on the market.

(e) The costs of storage in TRNA's location and any subsequent disposal, including hazardous materials disposal costs, shall be borne by the Customer.

(f) Shipping of test and/or reference samples for storage on the Customer's premises shall likewise be at Customer's expense. TRNA shall not be liable for the loss of test or reference samples or for damage caused to same by testing, burglary, theft, water, fire or during transport, except in cases of willful misconduct or gross negligence of TRNA.

## 4. Certification regulations

### 4.1. Basic requirements

(a) The only test reports on which assessments in the course of the certification may be based are those produced by laboratories which operate according to the rules of DIN EN 17025 or analogues ISO Guides, or which have furnished evidence that they operate according to such standards

(b) The certification body of TRNA ("CB") carries out as a matter of priority assessments and certifications based on the test reports of TRNA, which are governed by the same QM system. In addition, test reports of other testing laboratories can also be used for assessment purposes as part of the certification process. Test reports, which serve as the basis of certification, may not be more than one (1) year old at the time of the issuance of the certification, unless an exemption by the CB applies, nor may they be based on invalid standards.

(c) In order to be issued a certificate, the Customer and to participate in the accreditation system of TRNA, the Customer must enter into a Service Agreement with TRNA. If the Customer will not market a product to be certified under the Customer's own name, the Customer must document, with the aid of a "Marks Declaration," the mark of origin under which the Customer intends to place the product on the market. If the Customer applies for an EC certificate of conformity (e.g. EC type examination certificate) the Customer must declare to the Certification Body that the Customer has not submitted the same application to another certification authority.

(d) Permission to use the certificate applies only to the certificate holder with respect to the product and the manufacturing premises named on the certificate and the scope covered by the QM system. Product certificates may be limited by quotas, may be restricted in their validity and may, in special cases, be subject to conditions. The transfer of a certificate from the certificate holder to a third party is possible only after consultation with and authority from the CB.

(e) Fees shall be paid by the certificate holder for participation in the certification system and the issue of certificates. Annual license fees graded in Points shall be paid annually for the servicing and filing of the certificates and the use of test marks. The CB may demand pre-payment of the certification fee and the license fees prior to issuing the certification.

(f) The completion of a test and the issuance of an appraisal or a certificate do not release the Customer from relevant contractual, warranty and statutory product liability obligations.

(g) The CB reserves the right to publish an annual list, for the information of the supervisory authorities and consumers, of the products certified and the QM Systems granted recognition in any forms it deems appropriate, including by not limited to the internet. No special consent from the certificate holders is required.

(h) In addition, a "certification authority" under EC regulations, may forward relevant data on EC type and design test certificates to other notified bodies along with the necessary data, including implemented or withdrawn amendments, without the consent of the certificate holder.

(i) In case of alterations of the bases of testing and/or the prerequisites of certification or infringements, on the part of the Customer, of the rules of the certification system, the Certification Body has the right to terminate the certificates at any time. In serious cases, it may declare the certificates invalid with immediate effect. This applies also to EC certificates of conformity and recognitions or approvals of QM Systems. The CB reserves the right to publish certificates it has declared invalid or it has withdrawn. The consent of the previous certificate holders to this is not required

### 4.2. Types of certificates

(a) On the basis of the favorable assessment and evaluation of test and audit reports, the CB or its Affiliates may issue the following certificates:

- (i) GS mark licenses according to Product Safety Act whereby TUV Rheinland LGA Products GmbH is the certification authority

- (ii) Test mark licenses according to the test mark list of TRNA (e.g. type approval mark, radio frequency interference test mark, ergonomics test mark, quality test mark, etc.).
- (iii) Product certificates according to European Standards Conformity Agreements (KEYMARK, ENEC) and the international IEC Agreement (CB Scheme)
- (iv) EC type examination certificates according to EC Directives as a "certification authority" (module B of the conformity assessment procedure).
- (v) EC design examination certificates according to EC Directives as a "certification authority" (module H of the conformity assessment procedure).
- (vi) EC conformity certificates according to EC Directives as a "competent body" according to the EMC Act.
- (vii) EC conformity certificates according to EC Directives as a "certification authority" with respect to EC Directives or type conformity (modules F and/or G of the conformity assessment procedure).
- (viii) Type examination certificates according to the Telecommunications Act in combination with the Telecommunications Licensing Ordinance.
- (ix) Approvals of QM Systems according to the EC Directives transposed into national legislation as a "Certification authority" (modules D, E, H of the conformity assessment procedure).
- (x) Certificates for QM Systems in the domain not subject to regulations.
- (xi) Approvals of QM Systems according to the relevant standards, as an accredited or "certification authority".
- (xii) Conformity certificates with respect to standards or particular regulations, including EC Directives (module A of the conformity assessment procedure).

(b) Conformity certificates alone do not confer the right to use a test mark of TRNA or its Affiliates. They must, if test marks of TRNA or its Affiliates are to be used, always be combined with a separate test mark license. Advertising with the conformity certificates is possible only with the express written agreement of the CB or its Affiliates

(c) Certificates for QM Systems are issued only if the audits have been completed successfully and if all prerequisites have been fully met. If the Directives require EC type examination certificates or EC design examination certificates as a condition for the award of the QM system certificates, the EC examination certificates must be submitted for the certification process.

(d) Test mark licenses are issued only if, together with the type examination, an initial factory inspection has been carried out and the findings of the latter indicate a product quality identical to the type submitted. An additional condition for the latter is the carrying out of periodical follow-up factory inspections by TRNA.

#### 4.3. Customer rights arising from certifications

(a) The certificate holder is entitled to attach test marks approved by TRNA or its Affiliates to its products, to use the same in product manuals or descriptions in printed form or similar items regarding the products, and to refer to the granting of the test mark license in advertising campaigns. The certificate holder is entitled to so use the test mark solely for the duration of the test mark license. The Customer shall cease using the test mark upon the expiration of the corresponding certificate or if the certificate is declared invalid. For the creation of printed manuals or descriptions, reproducible masters of the test marks are available and can be obtained free of charge, together with a printing license.

(b) The test mark license applies to the complete ready-to-use product. In special cases the CB may permit the certificate holder to dismantle the products labeled with the test mark for shipment, to the extent normally required for the incorporation in an installation. Should products of identical design, for which a test mark license exists, be placed on the market under another trademark or trade name and, in certain cases, also with a new model designation, a

secondary license or an extension of the license (additional license certificates) may be issued by the CB upon request.

(c) The certificate holder may distribute test reports and similar documents only in their entirety and showing the date of issue. However, such distribution, publication or copying requires the prior written consent of the TRNA, its Affiliates or CB.

(d) Only the certificate holder has the right to use the mark of conformity. The transfer of this right to any other party is not permitted.

#### 4.4. Customer obligations arising from certifications

During the term of validity of the test mark licenses and/or the certificates for the QM system, the Customer is obligated as follows:

(a) to monitor the manufacture of the certified products continuously for compliance with the approved types.

(b) to assure that production facilities can be inspected at regular intervals by TRNA within the framework of the test mark licenses issued to the Customer.

(c) to assure that surveillance audits can be conducted annually by TRNA with respect to the certified QM Systems.

(d) to pursue product development and production in strict compliance with the approved QM system.

(e) to take note of the findings of the recurrent production controls and of surveillance audits conducted by TRNA.

(f) to notify the CB beforehand of any modifications Customer intends to apply to the product, either through further development or through the replacement of components, and to obtain the approval of the CB. Continued licensing depends on the results of an additional test that may have to be carried out.

(g) to notify the CB of any changes in the QM system.

(h) to record and file all complaints received from any source regarding the product. At the request of the CB, the Customer shall make such reports available and provide information on the measures taken for remediation.

(i) to notify the CB promptly of any intended relocation of the inspected manufacturing premises or if a change of control or ownership of the Customer is intended.

(j) to accept the requirements laid down in Section 7 of the Product Safety Act concerning production control.

(k) to reach a contractual agreement with the manufacturer, provided the Customer as holder of the certificate is not the manufacturer of the product, with respect to fulfillment of all requirements essential for the manufacture of the product including permitting all required inspections.

(l) to rectify immediately any safety defects which appear in products that bear, on the basis of a certified type examination, a CE marking or a test mark of TRNA and to take suitable measures for minimizing damage in the market. The Customer shall immediately cease the sales and delivery of defective products and notify TRNA and the CB.

(m) to permit witness audits by the CB on the Customer's manufacturing premises and those of the Customer's subcontractors, if any. The Customer shall be responsible that its subcontractor are under such obligation and adhere to it.

(n) to permit the applicable accreditation body and relevant regulatory authorities to examine the reports and any other information used by TRNA in making a conformity or certification decision. Such examination may be conducted at either the client's or TRNA's premises.

(o) to determine new type designations for modified products which shall be certified in case the new product is based on a product certified earlier.

(p) to accept that TRNA is, by virtue of reporting obligations imposed by law or by regulation, entitled to pass on information about the certification which has come into its possession. At the request of the CB, information, documentation, etc. concerning both the contract with the Customer and the subject of the contract may

be passed on to the CB. This includes, in particular, information about the performance of audits, the granting, withdrawal of licenses, attestations, certificates, etc., and incidents that occur and risks indirectly or directly connected with the tested products and/or QM Systems. TRNA reserves the right to charge Customer costs incurred in connection with the identification and clarification of such incidents.

#### 4.5. Expiration or declaration of invalidity of a certificate

- (a) A certificate expires:
- (i) at the end of the term of validity stated on the certificate;
  - (ii) if the certificate holder cancels the certificate and gives the CB written notice thereof;
  - (iii) if the holder of a certificate cancel the Service Agreement and/or waives individual test mark licenses and so informs the CB in writing thereof;
  - (iv) if the CB terminates the certificate by giving no less than six (6) months notice thereof, by reason of changes in the certification regulations and/or in the basis for testing or in the use of the product;
  - (v) if the holder of a QM certificate cancels the certificate and gives the CB written notice at least six (6) months prior to the expiration of the term of validity stated in the certificate, in which case the certificate expires at the end of its period of validity;
  - (vi) if the Service Agreement TRNA is terminated by one of the contracting parties;
  - (vii) if the certificate holder becomes insolvent or a petition of bankruptcy filed against him is dismissed for lack of assets; or
- (b) A certificate may be terminated or declared invalid by the CB if:
- (i) in the light of facts which could not be recognized beyond doubt at the time of the test, the continued use of the certificate and a CE marking resulting from the latter, or a test mark, are not justified in terms of their informative value on the market.
  - (ii) defects in the product which were not recognizable or not detectable at the time of the test come to light later and are not rectified promptly by the manufacturer,
  - (iii) a conformity certificate or a test mark is used in advertising in a misleading or otherwise impermissible manner;
  - (iv) checking of the products provided with a test mark of TRNA or with a CE marking, using TRNA's logo and/or the registration number of TRNA, reveals serious defects;
  - (v) a product provided with the CE marking, using TRNA's logo and/or the registration number of TRNA or a test mark of TRNA, does not correspond to the approved type;
  - (vi) defects noted during the regular inspection pursuant to Section 5 are not corrected by the Customer within a reasonable period, as determined by TRNA;
  - (vii) the certificate holder refuses or in any manner impedes the inspection of the manufacturing and test facilities or of the store by the representatives of TRNA, or impedes the sampling of products for testing, and does not within four (4) weeks see to the proper carrying out of the manufacturing checks despite a written request by TRNA;
  - (viii) the manufacturer does not permit, or prevents, the agreed inspections of his QM system by TRNA, or
  - (ix) fees due are not paid by the certificate holder within the stipulated period following a reminder. If the fees do not refer to a particular certificate, the CB shall determine which certificate is covered by the measure.
- (c) The CB may publish declarations of invalidity at its discretion. The certificate holder automatically forfeits the right to continue to label the products listed in the certificate with test marks of TRNA, if the certificate has expired by notice of termination on a particular date or been declared invalid at short notice. [Upon request by the](#)

[Certification Body, the former certificate holder returns the invalid original certificate to the Certification Body.](#) The CB is not liable for disadvantages or damages which accrue to the Customer as the result of notice of termination or declaration of invalidity of a certificate or if a certificate is not granted.

(d) The CB is entitled to inform the supervisory authorities, the accreditation agencies and the "notified bodies" and licensing authorities of the declaration of invalidity.

#### 4.6. License Fees

An annual license fee is payable for the permission to use the test marks of TRNA, approved QM Systems and EC certificates of conformity. The license fee includes periodic updates, as necessary, regarding amendments to test standards and regulations affecting the Customer's certified product or QM system. The license fee is dependent on the type of certificate and will be charged annually at the beginning of the calendar year.

### 5. Periodical inspections and follow-up services

#### 5.1. Follow-up services

(a) In order to ensure and maintain consistent product quality of the certified products, TRNA will carry out regular inspections of the manufacturing facilities. An annual inspection is assumed as a minimum.

(b) If non-conformities come to the attention of the CB through initial factory inspections, product specific information from third parties or through other channels, the CB may shorten the inspection intervals. In special cases, the CB may order a counter-check to be carried out prior to the initial shipment of the products.

(c) In addition, TRNA at any time without advance warning may inspect the products, production premises and stores (in the case of foreign certificate holders the stores of the importers or of agents and branch establishments). The provider is entitled to remove, free of charge, for monitoring purposes, such products for which a certificate has been granted and to carry out test at the production facility and in stores.

(d) By way of exception, tests may also be performed on a test sample representative of series production in order to inspect consistent quality of production. TRNA may commission other independent and expert agencies to carry out follow-up inspections in its name.

#### 5.2. Surveillance of QM systems

To maintain the validity of certificates issued for QM Systems, Customers shall have surveillance audits conducted annually. Such audits shall focus on random checks of the effectiveness of the QM system within the scope of the application specified. A certificate for a QM system is valid for a period of five years. It may be extended only after a thorough repeat audit has been performed.

#### 5.3. Costs of follow-up inspections

The costs of follow-up inspections and QM system audits will be invoiced to the certificate holder as per TRNA Price List in effect at such time.

### 6. Checking of products already on the market

6.1. For counter-checking, the CB at any time may take from the market products that are labeled with a test mark of TRNA or with a CE marking using the registration number of TRNA.

6.2. If deviations with respect to the approved type or defects are noted during such checks, the certificate holder will receive a written report and shall bear the costs of the counter-checking measures.

## 7. Infringement of the testing and certification regulations

7.1. In addition to the declaration of invalidity of the certificate hereunder, in the event of infringements by the certificate holder of these regulations, the CB shall be entitled to demand liquidated damages of up to US\$25,000.00 for each infringement by the certificate holder.

7.2. This applies, *inter alia* :

(a) in cases of unlawful or unauthorized use of test marks of TRNA, if, for example, a certificate does not exist or has not been granted, or if a test mark of TRNA is used although the certificate has been declared invalid by the CB.

(b) if the Customer uses the test marks or conformity certificates of TRNA in advertising in a manner not permitted.

(c) If the Customer does not comply with the requirements of Section 4.4, the CB can take suitable measures of its own, including, but not limited to informing users and consumers in order to minimize loss in the market or notifying the relevant supervisory authorities, accreditation bodies and "notified bodies".

7.3. In addition, the CB reserves the right to terminate the Service Agreement with immediate effect and to declare further existing certificates for the Customer invalid if TRNA, in its sole discretion, ceases to have confidence in the Customer's faithful compliance with the contract and in the Customer's reliability, because of its infringement of the Testing and Certification Regulations.

7.4. TRNA reserves the right to claim compensation from the Customer for services rendered and expenses incurred by TRNA because of the infringement of the Testing and Certification Regulations by the Customer. This includes but is not limited to costs of tests required to compare certified products with products taken from the market and any and all investigations necessary in connection thereto and other measures TRNA deems necessary, such as factory inspections, checking of shipments or Customer's inventory.

## 8. Complaint procedure

8.1. If a Customer or certificate holder ("Complainant") is not satisfied with the service or other deliverables provided during the inspection, test, and the certification procedure, other than an appeal set forth in Section 9 below, the Complainant has the option to file a complaint with TRNA. TRNA shall work with the Complainant to resolve the complaint, keep the Complainant apprised of the complaint's progress, and provide the Complainant with detailed reasons for final decision.

8.2. Where allowed, the complainant may approach the Accrediting Body of the CB for final resolution.

8.3. The Complainant shall have no other remedies and no other rights to pursue this matter. The Complainant hereby irrevocably waives any right to a judicial proceeding regarding any decision.

## 9. Appeal procedure

9.1. If a Customer or certificate holder ("Appellant") is not satisfied with the decisions made during the inspection, test, and the certification procedure, other than an appeal, the Appellant has the option to file an appeal with TRNA. TRNA shall work with the Appellant to resolve the appeal, keep the Appellant apprised of the appeal's progress, and provide the Appellant with detailed reasons for final decision.

9.2. At any time the Appellant may formally present its case.

9.3. Where allowed, the Appellant may approach the Accrediting Body of the CB for final resolution.

9.4. The Appellant shall have no other remedies and no other rights to pursue this matter. The Appellant hereby irrevocably waives any right to a judicial proceeding regarding any decision.

## 10. Effective date and amendment

The Testing and Certification Regulations are in force as of the effective date referenced in the header of this document. If a new version is created, this current version shall cease to be valid with a transitional period of six (6) months for the new version. Amendments to these regulations will be drawn to the attention of Customers and certificate holders.