

## 1 Scope + Definition

The Testing and Certification Regulations apply for the performance of tests and for the granting of TÜV certificates for products by the Certification Programmes and Testing Laboratories of TÜV NORD CERT with the following fields of work:

safety systems, explosion safety and monitoring equipment, as well as medical devices.

Tests are taken to mean activities such as the conduct of tests specified, for example, in technical rules, expert appraisals and tests to verify a specific product feature and the testing of quality assurance systems.

TÜV certificates include, for example, EC type approval test certificates, EC certificates for medical devices, GS mark permission certificates, type approval test certificates, IEC Ex certificates of conformity, safety-approved certificates etc.

## 2 Testing and Certification Procedures

- 2.1 The client instructs the Certification Programme or Testing Laboratory to test and/or certify. When a certification order is placed for the first time the Certification Programme or Testing Organization and the Client shall conclude a contract.
- 2.2 The type specimen (test specimen) to be tested must be forwarded to the certification Programme or Testing Laboratory as far as possible together with the order and the necessary documentation. If a number of test specimens are required, the client will be notified of the quantity of test specimens required.
- 2.3 The client shall ensure free-of-charge and carriage-free delivery of the test specimens in the required packing appropriate to the relevant test specimen.  
The packing must if necessary also be suitable for return purposes. The cost of return to the client shall also be borne by the client.
- 2.4 The testing and certification orders are handled in the order in which the necessary documents and test specimens are received.
- 2.5 The place of the test is fixed with the client. The tests are performed in the testing laboratory or on a suitable external test site or – if the nature of the product makes it necessary or possible – on the client's premises.  
The testing laboratories shall only engage subcontractors in consultation with the client.
- 2.6 After the conclusion of the testing and certification procedure the client will receive a written test report and, provided the result of the test reveals no nonconformities, a TÜV certificate if this has been requested.
- 2.7 For every test and certification the client shall pay a fee in accordance with the schedule of fees (Entgeltordnung) of TÜV NORD CERT provided nothing different has been agreed, for example in an offer.
- 2.8 The test specimens submitted shall be kept by the Certification Programme of the Testing Laboratory or handed over to the client for retention by him after conclusion of the order, where the design of the specimens permits.  
The Certification Programme or Testing Laboratory shall not be liable for any damage to test specimens and documents submitted which is caused by the test or by burglary, theft, fire or water.  
TÜV NORD CERT shall exercise the care which it must normally exercise in similar cases of its own (Art. 690 BGB – Germany Civil Code).
- 2.9 If issuance of the certificate is refused the Certification Programme shall not be liable for any disadvantages which the client experiences from such refusal.
- 2.10 The Certification Programme shall conduct an initial inspection of the production shop at the client's expense when a certificate is to be issued with award of a mark. A report shall be drawn up on this inspection and the intervals for the regular inspection shall be laid down. This does not include tests according to module F of the Directive 93/42/EEC and in the IEC Ex Scheme.
- 2.11 After the end of the Testing Laboratory's or Certification Programme's accreditation the client shall be notified of

this accordingly; from this point on the client may no longer advertise by referring to this accreditation.

## 3 TÜV Certificates

- 3.1 Issuance of the certificate and use of a mark.
  - 3.1.1 Permission to use a mark only applies for that company and those establishments and for those products mentioned in the certificate. The holder of the certificate shall notify the Certification Programme in good time of any intention to relocate an establishment or to transfer to company to another company or another company owner. The certificate may only be transferred to third parties by the Certification Programme.
  - 3.1.2 For certificates payment of annual fees in accordance with the schedule of fees (Entgeltordnung) of TÜV NORD CERT may be agreed.
  - 3.1.3 The mark awarded may invariably only be modified in size without changing its geometrical proportions. Reproduction of marks with a height of less than 5 mm and with colour deviations shall be subject to separate agreement. The affixing of the mark to the products certified shall be submitted to the Certification Programme before the products are put into circulation.
  - 3.1.4 The holder of the certificate is obliged to perform in a proper fashion the production of the products bearing the mark continuously in compliance with the inspections laid down in the test regulations or required by the Certification Programme.
  - 3.1.5 The Certification Programme must be notified immediately of any modifications to the products as against the certified version. The Certification Programme may make maintenance of the certificate conditional on the presentation of evidence by the manufacturer that the underlying rules are complied with or on a supplementary test.
  - 3.1.6 If major nonconformities are found during the test on a product submitted and if the client has already delivered products which correspond to the test specimen, the certificate may only be issued for the newly submitted and modified test specimen if the manufacturer changes the designation of the type to distinguish it from the products already delivered.
  - 3.1.7 The certification is only valid for the complete product. The Certification Programme may, however, permit the holder of the certificate in special cases to dismantle the products for despatch to the extent which is normal for installation of the product in a plant.  
In addition, permission may be given to dismantle the product further into its individual parts if the holder names the assembly shop, which must then be subject to inspection by the Certification Programme in the same way as the first production shop.
- 3.2 Expiry or declaration of the validity of a certificate
  - 3.2.1 A certificate expires if
    - the General Agreement on Certification of Products and Award of Mark ends,
    - the holder of the certificate waives the certificate,
    - the holder of the certification does not accept in a binding fashion changes to the terms and conditions of business, the testing and certification regulations or the schedule of fees of TÜV NORD CERT after the end of the transitional period laid down in section 8,
    - the holder of the certificate is declared bankrupt or an application for bankruptcy proceedings against him is rejected due to lack of assets,
    - the rules governing the certificate have been changed and, where relevant, transitional periods have expired. The validity of the certificate is extended if it is demonstrated in a follow-up test conducted at the expense of the holder of the certificate within a period set that the products certified are also in compliance with the new rules.
  - 3.2.2 A certificate can also be declared invalid or terminated by the Certification Programme if
    - faults not evident or not ascertained during the test are found subsequently in the products,

- the check of the products bearing a mark reveals faults,
  - products bearing a mark do not conform to the test specimens certified,
  - it is not demonstrated that fabrication inspections are conducted in a proper fashion in the product shop of the certificate holder or in another testing shop within a period of 4 weeks in spite of a written request by the Certification Programme (see section 3.1.4),
  - the holder of the certificate refuses to allow inspection of the fabrication and testing equipment or the store by the delegated representative of the Certification Programme or the taking of products by the Certification Programme for checking purposes,
  - major deficiencies are found in the quality assurance during the regular check according to section 4.1,
  - the fees are not paid within the period set after a reminder has been issued. If the fees do not relate to a certain certificate the Certification Programmes shall decide which certificate is to be covered by the measure taken,
  - misleading or otherwise inadmissible advertising is conducted using the mark,
  - in view of facts not clearly evident at the time of the test, continued use of the mark is not acceptable with respect to the signal it gives on the market.
- 3.2.3 The declaration of invalidity may be published.
- 3.2.4 If the validity of the certificate expires or the certificate is declared invalid, the holder of the certificate shall lose the right to continue to affix the mark to the products mentioned in the certificate.
- 3.2.5 After a certificate has expired or been declared invalid, the certificate must be returned to the Certification Programme even if permission to market the remaining stocks with the mark still applies.
- 3.3 Marketing of the products bearing the mark after the validity of the certificate has expired (permission to market).
- 3.3.1 After the validity of a certificate has expired, the stock of ready-to-use end products may still be marketed, but for a maximum period of 12 months.  
Permission may be given to assemble the prefabricated parts already available at the time the certificate expires and which were intended to make the end product in its originally certified design for a number of units of the end product to be given by the client, but for a maximum period of 6 months from the date on which the validity of the certificate expires.
- 3.3.2 Stocks of finished products bearing a mark must be notified without delay to the Certification Programme on demand, presenting an affidavit which can be used in a court of law.
- 3.3.3 For the duration of the marketing permit the terms and conditions of business, the testing and certification regulations and the schedule of fees of TÜV NORD CERT shall continue to apply.
- 3.3.4 If a marketing permit is not issued or is withdrawn, the holder of the certificate shall be obliged to remove the mark from all products of the type in question to which he has access or to destroy the products and to provide facilities for the Certification Programme to conduct a corresponding follow-up check.  
In special cases the Certification Programme may demand a recall.
- 4 Regular check of the QA measures, in particular during production and quality tests, as well as monitoring of the market.**
- 4.1 To ensure constant product quality the Certification Programme shall, on the award of a quality mark, conduct regular checks of the production and testing equipment and of the QA system at the expense of the holder of the certificate. It is possible to link this contractually with the regular inspection of the quality system within the framework of a TÜV CERT certificate for quality systems according to ISO 9001 and this can be agreed separately.
- 4.2 In addition the certification programme may inspect at any time and without prior notice the production shops and establishments mentioned in the certificate and the stores (in the case of foreign holders of the certificate also the storage facilities of the authorized representatives and branches, in the case of importers also their storage facilities) and to remove free of charge products for which a certificate has been issued for the purpose of conducted checks.
- 4.3 The holder of the certificate will receive a written report on the result of the check.
- 4.4 If any defects are found in the check, the holder of the certificate shall bear the costs thereby incurred.
- 4.5 The holder of the certificate is obliged to notify the Certification Programme of any serious complaints from customers.
- 4.6 The holder of the certificate is obliged to notify the Certification Programme of any damage to products tested.
- 4.7 The Testing Laboratory shall, on request by the accreditation body and at the expense of the client, provide test specimens for a follow-up test.
- 5 Publication of test reports and TÜV certificates**  
The holder of certificates or test reports may only pass them on in their full wording, indicating the date of issue. Any publication or duplication is subject to prior permission from the issuing body.
- 6 Consumer information**  
The Certification Programme reserves the right to publish a list of the certified products as consumer information.
- 7 Breach of the Testing and Certification Regulations**  
If it is found that the client has wilfully breached the present Testing and Certification Regulations, and in particular if such breach involves the illegal use of a mark, the Certification Programme shall be entitled to demand a contractual penalty of up to € 10,000 for each case of breach.  
Illegal use of a mark shall apply if products bearing a mark are offered or brought into circulation before a certificate has been issued or inadmissible advertising is conducted.
- 8 Complaints**  
Appeals against test and certification decisions and complaints against the execution of procedures are possible. Appeals against European or international procedures e. g. notified bodies group, IECCE or IECEx have to be addressed to the scheme internal board of appeal.
- 9 Coming into force and amendment of the Testing and Certification Regulations**
- 9.1 The Testing and Certification Regulations comes into force on 01-01-2007.
- 9.2 After new Testing and Certification Regulations have been drawn up they shall cease to be valid after a transitional period of 6 months.
- 9.3 The attention of the client or holder of a certificate shall be drawn in particular to the coming into force of the new Testing and Certification Regulations or the invalidation of the existing Testing and Certification Regulations.
- 10 Access for accreditation personnel**  
On placement of the order the client agrees to grant employees of the accrediting body of TÜV NORD CERT access to his premises within the framework of the Certification Programme's surveillance.