

Procedure for granting the GS mark

TÜV AUSTRIA SERVICES GMBH / GS body



1 Scope

This procedure for granting the GS mark and the assignment or order of the client regulates the provision of all the services of the GS body of TÜV AUSTRIA with the client in relation to granting the GS mark.

2 Contractual basis

The contract is granted when the assignment or the order is sent (last page of the offer) or when the test samples are sent.

The complete contract includes the documents mentioned below, which are an integral part of the contract:

1. Quotation
2. Granting of the GS mark of TÜV AUSTRIA
3. General terms and conditions of TÜV AUSTRIA SERVICES GMBH (see www.tuv.at)
4. any documents describing the test sample

The GS body of TÜV AUSTRIA signs contracts with the client only under the conditions described in the above mentioned documents. These conditions apply to contracts signed between the GS body of TÜV AUSTRIA and the client regarding the GS certification of products as well as for other services provided as part of executing the order and other obligations. The conditions that are agreed once shall also apply to the future contracts. The validity of purchase or other business conditions of the client is explicitly ruled out for the entire business relationship.

3 Initial granting of the TÜV AUSTRIA GS mark

3.1 Basics

Only such test reports, originating from GS laboratories which are approved by ZLS and have been accredited according to the ISO/IEC 17025 regulations or similar ISO guides, can be used as basis of assessments as part of granting the TÜV AUSTRIA GS mark.

The GS body of TÜV AUSTRIA primarily carries out assessments and grants the TÜV AUSTRIA GS mark based on test reports from TÜV AUSTRIA laboratories of that are accredited by the ZLS. Test reports, based on which the GS body of TÜV AUSTRIA has to grant a certificate, should not be older than twelve months at the time of the GS certification.

If a product to be certified will not be sold under the name of the client, then the client has to document the original mark under which he wants to sell the product in the form of a declaration.

The client has to give a declaration to the GS body of TÜV AUSTRIA that he has not submitted the same application to any other GS body.

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The authorisation to use the TÜV AUSTRIA GS mark is valid only for the GS certificate holder and only for the product mentioned in the GS certificate.

The GS certificates can be restricted to specific contingents or lots. There is an option to restrict the validity of the GS certificate.

The GS certificate can also be granted under specific conditions in special cases.

If the GS certificate holder wants to transfer his GS certificate to a third party, then he needs to submit a written request to the GS body of TÜV AUSTRIA for a CO certificate. The holder of the CO certificate has to fulfil the same contractual requirements as the GS certificate holder.

The client has to pay the agreed fees.

In addition, the client has to pay an annual license and service fee staggered based on units as well as the basic fee for maintaining and archiving the GS certificates and for using the TÜV AUSTRIA GS mark, unless a fixed or flat rate or some other basis of calculation has been agreed. The GS body of TÜV AUSTRIA may request the fees before granting the TÜV AUSTRIA GS mark at its own discretion.

The GS certificates granted by the GS body of TÜV AUSTRIA neither exempts the client from the contractual warranty obligation for defects nor from the statutory product liability obligation.

The client shall permit the GS body of TÜV AUSTRIA to publish certified GS products in order to inform the ZLS, consumers and other interested bodies.

The client shall also permit the GS body of TÜV AUSTRIA to share the contents of a GS certificate, with the exception of details pertaining to the manufacturing locations, with third parties upon request or to make it accessible to everyone.

In case of changes in test conditions and / or requirements for granting the GS mark or if the client violates the regulations of the GS mark granting system, then the GS body of TÜV AUSTRIA has the option of revoking the GS certificates at any time.

The GS certificates may be annulled in serious cases with immediate effect.

The client shall permit the GS body of TÜV AUSTRIA to publish the list of GS certificates that are annulled and revoked.

This does not require the consent of the former GS certificate holder.

Unless otherwise agreed in the contract, the validity of the GS certificates is usually a maximum of five years from the date of issue, whereby a routine inspection has to be carried out regularly and all the conditions that resulted in the granting of the GS certificate have to be completely met and at all times during the validity period.

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3.2 Decision on granting the GS mark

The GS certification body of TÜV AUSTRIA, issues GS certificates for using the TÜV AUSTRIA GS mark based on successful assessment and evaluation of the test and audit reports of an appropriate GS testing body.

If the evaluation is unsuccessful, then the client does not receive the GS certificate and hence is not permitted to use the TÜV AUSTRIA GS mark. If the evaluation result is negative, then the client usually has the option of improving his product.

The evaluation is exclusively done by the GS certification body of TÜV AUSTRIA. The decision is not subject to any instance outside the GS body of TÜV AUSTRIA.

3.3 Rights of the client after being granted the GS mark

During the validity period of a GS certificate, the client is entitled to

- ✓ affix the GS mark authorised by TÜV AUSTRIA for use by the client on his certified products,
- ✓ do product-related promotion in printed material etc. with the GS mark of TÜV AUSTRIA authorised and shown in the GS certificate
- ✓ Displaying the issued GS certificates without any changes in promotion activities.

Other promotional activities of the client, which refer to the activities of the GS body of TÜV AUSTRIA, have to be agreed upon with the GS body of TÜV AUSTRIA. This especially applies to promotion with regard to the TÜV AUSTRIA GS mark, certification activities of the GS body of TÜV AUSTRIA, that the client has used without legal obligation and without an official instigation, that is, on a voluntary basis.

Any obligations to notify the voluntary nature of granting the TÜV AUSTRIA GS mark has to be followed by the client at his own responsibility.

The client shall waive all claims for damages and compensation claims against the GS body of TÜV AUSTRIA, regardless of the legal reason, which arise from the fact that he has not indicated the voluntary nature of the tests when promoting the certification activities of TÜV AUSTRIA GS mark as defined in the previous sentence. The responsibility of the client for designing his promotion remains unaffected.

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3.4 Obligations of the client after being granted the GS mark

During the validity period of a GS certificate, the client is obliged to:

- a) continuously monitor the certified products to ensure that the products comply with the approved samples,
- b) allow periodic inspections of product manufacturing by the GS body of TÜV AUSTRIA,
- c) operate the production with great diligence in terms of grade and quality,
- d) follow the instructions arising from the periodic production inspections and from the monitoring activities of the GS body of TÜV AUSTRIA,
- e) notify the GS body of TÜV AUSTRIA of any planned changes to the product, whether due to further development or due to component replacement and for approval by the GS body of TÜV AUSTRIA well in time and before implementing the same.
- f) The continuation of the GS certificate depends on the result of a possible additional test,
- g) notify the GS body of TÜV AUSTRIA about any change in the submitted production process,
- h) record and archive all the complaints related to the product, which are reported from the market or from third parties and to submit them to the GS body of TÜV AUSTRIA upon request and to provide information to the GS body of TÜV AUSTRIA when requested,
- i) notify the GS body of TÜV AUSTRIA on time in case there are plans to shift the production locations or in case there are plans of transferring the company to another company or another owner,
- j) if the client is not the manufacturer of the product as a GS certificate holder, to sign a contract with the actual manufacturer on the compliance with the requirements that need to be met when manufacturing the product and which includes the permission for necessary control measures,
- k) immediately rectify safety flaws in certified products, which are subsequently identified - in any case, the client has immediately stop marketing these products and notify the GS body of TÜV AUSTRIA about the same,
- l) independently exercise the reporting obligations, in spite of a granting the GS mark, as a manufacturer or distributor vis-a-vis the authorities, either directly or through an authorised representative,
- m) permit witness audits by the ZLS (Approval body of the GS body of TÜV AUSTRIA) at his production locations and that of his subcontractors as well as the corresponding obligation of his subcontractors,
- n) in case of changes to a certified product, defining a new type name for the changed product if it also needs to be certified,
- o) allow the GS body of TÜV AUSTRIA to pass on information relating to the granting of the GS mark that has come to their notice due to legal or official reporting obligations,
- p) allow the GS body of TÜV AUSTRIA to pass on especially information, documents etc., which relate to the contract with the client as well as the purpose of the contract, if requested by the ZLS.
- q) maintain a list of all the complaints reported to him for the certified product. This obligation to maintain a record extends to the entire validity duration of the certificate. After expiry of the certificate, the records need to be kept for ten years. This list of complaints has to be submitted to the GS body of TÜV AUSTRIA whenever requested.

If the GS body of TÜV AUSTRIA has tested the certified product, then information about the conduction of the test, the granting and revocation of GS certificates as well as incidents and safety measures to safeguard against risks that are directly or indirectly associated with the certified products, should be recorded as defined above. The GS body of TÜV AUSTRIA reserves the right to charge the costs incurred in connection with clarifying such incidents to the client depending on the involved effort.

4 Monitoring the product

The GS body of TÜV AUSTRIA

- ✓ carries out a periodic product inspection to ensure and maintain a constant product quality. Generally this monitoring happens annually.
- ✓ may reduce the monitoring intervals, if it becomes aware of irregularities due to the monitoring activities, product-specific information from third parties or in some other manner.
- ✓ may define a product control check before the first shipment of products in special cases.
- ✓ may inspect the products, production locations and warehouses mentioned in the GS certificate (the warehouse of the importers or the Austrian authorised representatives and the branch offices in case of overseas GS certificate holders) at any time and without prior notification.
- ✓ may take products free of charge for which a GS certificate is issued, in order to carry out control checks and inspections in the production locations and warehouses.
- ✓ may instruct other, independent and appropriate bodies to carry out the monitoring activities on its behalf.
- ✓ bills the GS certificate holder the fees for carrying out the monitoring as per the currently applicable price of the GS body of TÜV AUSTRIA, unless a flat rate has been agreed. Additional expenses are billed in any case as per the currently applicable price of the GS body of TÜV AUSTRIA.
- ✓ The following monitoring activities could be carried out by TÜV AUSTRIA SERVICES GMBH and are defined in detail in the corresponding GS certification contract if necessary:
 - Periodic inspections at production locations (factory inspections, usually once in 12 months)
 - Pre-shipment control checks
 - Product control check
 - DUPRO - During-production inspection
 - Special inspections
 - Product removal from the market
 - Removal from the production

5 Market control

The GS body TÜV AUSTRIA may take certified products from the market at any time for control checks.

The GS certificate holder receives a written report on the result of the control check with the request to rectify the defect, if deviations from the certified samples are identified or there are defects in the products.

The GS body of TÜV AUSTRIA bills the costs of the entire control activities to the GS certificate holder as per the currently applicable price of the GS body of TÜV AUSTRIA.

6 Restricting, suspending, expiry and invalidation of GS certificates

6.1 Expiry of GS certificates

GS certificates and the right to use the TÜV AUSTRIA GS mark expire if

- a) the validity period mentioned in the GS certificate has expired and it has not been extended.
- b) GS certificates can be extended if the conditions that existed during the granting of the GS mark care still applicable and the periodic control activities have been carried out with positive result,
- c) the GS certificate holder discontinues the granting of the GS mark and notifies the same to the GS body of TÜV AUSTRIA as per the notice period,
- d) the GS certificate holder becomes bankrupt or an application for bankruptcy is rejected due to lack of assets,
- e) the GS body of TÜV AUSTRIA cancels the certificate with a maximum notice period of six months due to changes in recognition rules and / or testing guidelines or changes in product usage.

6.2 Restriction, suspension, invalidation, revocation

The GS certificates may be restricted, suspended, invalidated or revoked by the GS body of TÜV AUSTRIA with immediate effect, if

- a) the certified product no longer corresponds to the approved sample,
- b) products pose a risk for end users or third parties,
- c) if the facts have not been checked or checked properly at the time of verification and evaluated or were not identifiable, which could have prevented a GS certification, including for example, incorrect categorisation of products under specific risk classes or the classification based on usage purpose types,
- d) product or system flaws that are subsequently detected during periodic monitoring, during market controls or otherwise, which are not rectified by the GS certificate holder within a reasonable time frame,
- e) the GS certificate holder does not allow the periodic monitoring activities of the GS body of TÜV AUSTRIA or hinders the proper conduction or restricts the same,
- f) GS certificates or copies of GS certificate have been modified and thus falsified,
- g) the TÜV AUSTRIA GS mark is used by the GS certificate holder on non-certified products and thus misuses the GS mark , which deeply affects the basis for a trustworthy relationship,
- h) misleading or unauthorised promotion is carried out with GS certificates or the TÜV AUSTRIA GS mark,
- i) overdue fees for granting the GS mark and / or if the GS body of TÜV AUSTRIA has carried out the product testing, the GS certificate holder has not paid for the tests carried out in advance even after a reminder within the specified time frame. If the fees are related to several GS certificates, then the GS body of TÜV AUSTRIA takes a decision as to which product or GS certificate the measure should be extended to.

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6.2.1 Types of defects

The methods to be used for temporary or permanent revocation of the GS mark depend on the type of deviations. The basic types are described below:

- **No complaints** (Based on 1 according to CIG 023): Does not require any action.
- **Minor defects** (Based on 2 according to CIG 023): Results in a note to the manufacturer and, if necessary, to the other certificate holders (virtual-manufacturer). The effectiveness of the measures initiated will be checked during the next on-site monitoring.
- **Bigger defects** (Based on 3 according to CIG 023): Defects which may adversely affect the handling, susceptibility to repair and service life or expectancy of the product (device) with respect to the safety, need to be rectified by the manufacturer within 2 months, and, if necessary, appropriate information to the other certificate holders (virtual-manufacturers). If the manufacturer does not rectify the product accordingly, then action will be initiated by the approved body as in case of products with safety-related defects.
- **Safety-related defects** (Based on 4 according to CIG 023): Defects which can result in danger under certain circumstances after a long duration of operation or if the foreseeable misuse or faulty operation of the product (device) is not reliably stopped, need to be rectified by the manufacturer within one week. If the rectification is not done, then the GS certificate is suspended and the manufactured products can no longer be labelled with the GS mark till the rectification is done and demonstrated. The duration of suspension should not exceed three months. If adequate proof is not provided, then measures are initiated as described under 'very defective'. In addition, the corresponding measures are also initiated against the other certificate holders. Following the suspension of GS certificates, it should be possible to distinguish the rectified products easily and clearly from the defective products (e.g., by indicating the date of manufacture, etc.).
- **Very defective** (Based on 4 according to CIG 023): Significant defects, which can pose a risk to the user under certain circumstances or if the safety is significantly hampered within the service life or life expectancy of the product (device). In such cases, the GS certificate is revoked and the ZLS and the other approved bodies are informed via the respective experience exchange group.

6.2.2 Handling defects

Defects should be rectified promptly, as soon as possible and in a sustainable manner by the client in any case.

If a defect is identified by the client or reported by third parties, then the certificate holder is obliged to notify the GS body of TÜV AUSTRIA immediately about the defect.

The defect rectification plan and the defect notification with proof of successful rectification should be sent to the GS body of TÜV AUSTRIA.

The GS mark is considered as revoked till the defect is rectified.

The GS body of TÜV AUSTRIA has the right to check the defect rectification at any time at the expense of the certificate holder.

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6.3 Process for revoking the GS certificate

The client will be given a chance by the GS body of TÜV AUSTRIA to present his viewpoint before restricting, suspending or invalidating a GS certificate, unless this cannot be justified due to the urgency of the measures to be taken.

The right of the GS certificate holder, to continue to label the products mentioned in the GS certificate with the TÜV AUSTRIA GS mark of the GS body of TÜV AUSTRIA ceases automatically for those products mentioned in the GS certificate that are affected by the restriction or suspension or expire on a specific date due to the cancellation or have been invalidated temporarily.

In case of invalidation or expiry, the original of the GS certificate has to be returned immediately to the GS body of TÜV AUSTRIA.

The GS body of TÜV AUSTRIA is permitted to publish the list of certificates that are restricted, suspended, invalidated and revoked as well as cancelled.

In case of violations, the GS body of TÜV AUSTRIA is authorised to share the name and address of the client, the nature of the violation and the reason for invalidation, product information if necessary etc. with the responsible body and the accreditation bodies, the other "approved bodies", the approval authorities, importers and other interested parties.

The GS body TÜV AUSTRIA shall not be liable for damages incurred by the client in connection with the non-issue, restriction or suspension and the expiry or invalidation and revocation of a GS certificate.

7 Violations against the procedure for granting the GS mark

In case of the violations of the client, mentioned below, against the procedure for granting the GS mark, the GS body of TÜV AUSTRIA is entitled to demand a contract penalty up to EUR 15,000 for each violation of the GS certificate holder, in addition to invalidating the GS certificate.

Violations:

- ✓ in case of improper use of the TÜV AUSTRIA GS mark by the client
- ✓ in case of unauthorised promotion with the TÜV AUSTRIA GS mark by the client

The GS body of TÜV AUSTRIA is at liberty to make claims for other damages. In addition, the GS body of TÜV AUSTRIA reserves the right to terminate the contract with immediate effect without giving notice and, if necessary, to invalidate all the other existing GS certificates of the client as soon as the GS body of TÜV AUSTRIA considers the trustworthiness and reliability of the client as deeply affected because of the violation of the client against the procedure for granting the GS mark.

The GS body of TÜV AUSTRIA reserves the right to ask the client to compensate the expenses incurred due to the violation of the client against the procedure for granting the GS mark. Such expenses are, for e.g., costs of comparative tests of certified products with products from the market, necessary research, production location inspections, dispatch checks (e.g. shipping checks), stock checks and other measures that the GS body of TÜV AUSTRIA considers necessary.

The costs incurred for such measures are billed by the GS body of TÜV AUSTRIA to the client according to the currently applicable price based on the effort involved.

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8 Objections and complaints

The client has the option to register an objection or complaint against the testing, monitoring, controlling, auditing and decision to grant the GS mark with the management of the GS body of TÜV AUSTRIA. The GS body of TÜV AUSTRIA has to provide a meaningful justification for its decision to the client.

9 Special conditions for the granting the GS mark

The general terms and conditions of TÜV AUSTRIA SERVICES GmbH govern the validity of offers, the execution of orders, acceptance, durations and deadlines / delays, invoicing, payment, interest for late payments, collection costs, involvement of the client, warranty, liability / limitations of liability / disclaimer, disclaimer for product damage, copyrights, non-disclosure / confidentiality / data privacy.

9.1 Severability clause

Ineffective provisions of this contract do not affect the validity of the remaining provisions. If any clause of this contract should become invalid, the contractual parties agree to replace it with a valid clause that comes as close as possible to the intent and purpose of the invalid provision.