

# GENERAL TERMS AND CONDITIONS

OF QUALITY AUSTRIA - TRAININGS, ZERTIFIZIERUNGS UND BEGUTACHTUNGS GMBH  
VALID AS OF JUNE 2019

Concerning system certification

Subject to changes. The General Terms and Conditions, as amended, are available at [www.qualityaustria.com/agb](http://www.qualityaustria.com/agb).

## I. VALIDITY AND SCOPE

1. These International Certificate Conditions are applicable to all non-Austrian applicants and holders of certificates issued by Quality Austria - Trainings, Zertifizierungs und Begutachtungs GmbH (hereinafter referred to as Quality Austria or **qualityaustria**) for system certification.
2. For applicants domiciled outside of Austria, certification will usually be carried out in cooperation with local **qualityaustria** partners, who will provide specific certification activities (esp. auditing) in coordination with Quality Austria and provide local support to applicants. The services provided by the **qualityaustria** partner shall be subject to its general terms and conditions, which shall apply in addition to these International Certificate Conditions of Quality Austria.
3. By applying for a **qualityaustria** certificate, applicants acknowledge the following terms and conditions.
4. Certificates issued by Quality Austria shall be subject solely to the following terms and conditions and to the relevant standards on which certification is based. Any deviating terms and conditions (e.g. standard terms and conditions, terms and conditions of purchase) of the applicant are expressly excluded.

## II. DATA PROTECTION, SECRECY, CONFIDENTIALITY, CONSENT TO RECEIVE ADVERTISING MATERIALS

1. Quality Austria undertakes to comply with applicable data protection laws, in particular the EU General Data Protection Regulation (GDPR), when processing personal data. Any personal data collected by Quality Austria in relation to the certification activities will be stored electronically and processed by Quality Austria as "controller" within the meaning of the GDPR for the purpose of issuing a **qualityaustria** certificate, for necessary (audit) documentation according to statutory provisions or relevant standards, for accounting purposes as well as for customer relationship management, including submission of offers for other **qualityaustria** services (e.g. re-certifications and add-on certifications, relevant training). The legal basis for the processing is Art 6.1(b) GDPR (performance of a contract, as far as the data subject is party to the contract), Art 6.1(f) GDPR (legitimate interests pursued by Quality Austria and the applicant in the provision of the agreed **qualityaustria** services to increase the quality) and Art 6.1(c) GDPR (legal obligations of Quality Austria).
2. Quality Austria will store any personal data as long as may

be necessary to achieve the above purposes. Any master data concerning an applicant (including officers authorized to represent the applicant, applicant's contacts) as well as any data concerning order history will be stored until the end of the business relationship and until the end of the warranty, limitation and statutory retention periods. Any audit reports and audit documentation will generally be stored for a period of 12 years, unless normative or statutory regulations provide for a longer retention period.

3. All information made available to Quality Austria by an applicant which is not public domain will be kept confidential. Quality Austria undertakes not to disclose to third parties any confidential information about an applicant which arises from its activities (including, but not limited to, audit reports and other written statements concerning the results of **qualityaustria**'s activities), except with the applicant's written consent, unless Quality Austria is required to disclose such information by law or unless the disclosure of such information is absolutely necessary for the performance of the contract. This applies also after an order was performed as agreed.
4. The applicant acknowledges that any information about the applicant which is made available to Quality Austria or arises from its activities (including, but not limited to, audit reports) will be made available to the accreditation or certification bodies (e.g. BMDW, VDA-QMC, IATF, KBA) on request and that any such body may participate in audits on site. The applicant further acknowledges and agrees that observers of Quality Austria (e.g. witness auditors or trainee auditors) may participate in on-site certification activities.
5. The applicant shall ensure that all personal data provided by the applicant to the **qualityaustria** partner may be forwarded and processed by Quality Austria in the context of providing its service. The applicant shall observe all applicable data protection provisions and obtain any consent that may be necessary. The applicant shall hold harmless and indemnify Quality Austria in this respect.
6. If the applicant is a legal entity, the applicant hereby agrees that Quality Austria may process the applicant's contact details to send the applicant information and advertising materials about **qualityaustria**'s training, verification and certification services and products. The applicant also agrees that the above data will be sent to **qualityaustria**'s affiliated organizations ÖQS, ÖVQ, ÖQA and AFQM which will use such data for promotional mailings concerning their training, verification and certification services and products. The applicant agrees

to receive from Quality Austria, ÖQS, ÖVQ, ÖQA and AFQM by mail, fax and email advertising materials and information concerning products and services of these organizations. The applicant may withdraw his/her consent at any time.

7. The applicant acknowledges that the Austrian Accreditation Act and pertinent standards (including, but not limited to, EN ISO/IEC 17021) require Quality Austria to make available a publicly accessible list of certifications made. The list which is available on **qualityaustria's** website includes all certificates, as valid from time to time, and their holders, including the following data: name/company name and address of the certificate holder, certificate number, scope of application and applicable normative documents. The applicant agrees that such data is published on **qualityaustria's** website. The applicant also agrees that a link is created to the certified organization's website.
8. Quality Austria points out that pursuant to the EU General Data Protection Regulation, data subjects have the right to access their personal data which have been processed as well as a right to rectification, erasure, restriction of processing and data portability. The right to erasure of data may be limited in the cases referred to by law, especially due to statutory retention obligations Quality Austria needs to satisfy, or based on any overriding legitimate interest of Quality Austria. In addition, in the cases referred to by law, any data subject may object to the processing of his/her personal data. Data subjects may object to any future use of their personal data for direct marketing purposes at any time, free of charge and without giving any reason. To exercise any of these rights, please contact [datenschutz@qualityaustria.com](mailto:datenschutz@qualityaustria.com). Data subjects also have a right to lodge a complaint with a supervisory authority. In Austria, the competent supervisory authority is the Austrian Data Protection Authority (Datenschutzbehörde). Further information concerning data protection provided by Quality Austria is available at **qualityaustria's** website at [www.qualityaustria.com/privacypolicy](http://www.qualityaustria.com/privacypolicy).

### III. LIABILITY OF QUALITY AUSTRIA

1. The applicant acknowledges that auditing only amounts to a check, on a random basis, of the management system on the basis of normative evaluation models/standards/regulations. Quality Austria will generally not check the conformity of the relevant organization with the law and does not accept any warranty or liability that the audited organization complies with all legal requirements. **qualityaustria's** liability is based on the following provisions.
2. Quality Austria is liable to the applicant only for any violation of its contractual obligations by intent or recklessly gross negligence, subject to the following provisions. Quality Austria disclaims any liability for slight and simple gross negligence.
3. Any liability of Quality Austria is limited to typically foreseeable damage incurred by the applicant and shall not exceed the amount of remuneration paid to Quality Austria or the **qualityaustria** partner for the underlying certification services.
4. Quality Austria disclaims any liability for lost profit, any consequential damage caused by defect, any direct or indirect damage and any pure pecuniary loss.
5. Unless any claim for damages is asserted in court within six months of the eligible party becoming aware of such damage, and at least within two years of the event triggering a claim, any such claim shall become statute-barred.
6. To the extent permitted by law and unless expressly otherwise agreed with Quality Austria in writing, the applicant guarantees that **qualityaustria's** services will only be used for

the applicant's purposes and not for third parties. If services provided by Quality Austria are passed on to or used for third parties, Quality Austria shall not be liable to that third party.

7. If Quality Austria is liable to a third party by way of exception, the provisions of this Section III, including, but not limited to, all limitations of liability included therein, shall be applicable not only between Quality Austria and the applicant but also to that third party. Whenever a third party asserts damages against Quality Austria, the applicant will fully hold harmless and indemnify Quality Austria for and against such claims.
8. The maximum liability sum agreed in paragraph 3 above shall be applicable in aggregate only once to all injured parties, even if several parties (the applicant and a third party or more third parties) have incurred a loss. Injured parties will be compensated in the chronological order in which their claims were lodged.
9. The above limitations of liability shall also apply to any legal representative, employee and vicarious agent (including, but not limited to, any auditor) of Quality Austria if any claim is directly asserted against any of the foregoing although there is no contractual relationship between them and the applicant and no contractual liability applies.

### IV. INTELLECTUAL PROPERTY RIGHTS

1. All documents which Quality Austria may provide as hard copies or in electronic form, such as self-evaluation forms, template forms or check lists, shall be **qualityaustria's** intellectual property and may be used only for the purposes intended by Quality Austria. Any other use or disclosure shall be prohibited, except with **qualityaustria's** express written consent. In the absence of **qualityaustria's** consent, the documents may neither be reproduced nor made available to third parties. Otherwise, Quality Austria may assert a penalty of € 30,000 for each violation, without prejudice to **qualityaustria's** right to assert further damages.

### V. SAFEGUARDING **qualityaustria's** IMPARTIALITY AND INDEPENDENCE

1. The customer ensures that the customer will refrain from anything that could prejudice the independence of the individuals assigned by Quality Austria and the **qualityaustria** partner. This applies in particular to offers for consulting activities or employment as well as contracts for that individual's own account.
2. To guarantee its impartiality, Quality Austria and the **qualityaustria** partner will not provide any consulting services that are the subject of any ordered certification which will lead to a certificate being granted.

### VI. REQUIREMENTS FOR GRANTING/MAINTAINING **qualityaustria** CERTIFICATES

1. **qualityaustria** certificates have a date of first issue, a validity date and an issuing date. Each **qualityaustria** certificate also has a registration number which Quality Austria will assign only once and which is therefore clearly traceable.
2. The date of first issue will remain unchanged throughout the entire life cycle and hence during the uninterrupted validity of a **qualityaustria** certificate and will document the date of first issue.
3. The validity date defines the validity of the certificate. During the relevant validity period, the holder of a **qualityaustria** certificate is required to instruct Quality Austria or the **qualityaustria** partner with annual surveillance audits. Unless otherwise agreed or prescribed by the accreditation or cer-

tification body, a **qualityaustria** certificate shall be valid for three years and the surveillance audits conducted every year shall be valid for twelve months. Surveillance audits may be postponed by not more than +/- three months, provided that a written statement of reasons is issued (with the exception of the first surveillance audit and unless applicable mandatory provisions provide otherwise).

4. The issuing date documents the date of the most recent change of the certificate, e.g. an extension of the certificate's scope of application or a renewal of its validity.
5. The scope of application is the entire organization. If any limitation to certain business or product areas, sectors, locations or subsidiaries is required, such limitation will be stated in the certificate.
6. Sub-certificates may be issued for organizations with several independent scopes/management systems. The shared right to independently use these is obtained for all scopes by payment of the relevant royalties per organization.
7. Renewal of a certificate requires that the re-certification activities (renewal audit) are successfully completed before the existing certification expires.
8. Should Quality Austria determine any non-conformity, the same shall be effectively eliminated within not more than six months in order to maintain that certificate, although shorter deadlines may apply by virtue of national and international regulations, such as IAF/EA policies, requirements of the accreditation body or laws/regulations (EMAS Regulation, etc.). Improvement action shall be evidenced in the course of a follow-up audit and/or by way of documentation, at **qualityaustria's** discretion. Unless corrective action is taken within the agreed period, certification may be limited or temporarily or permanently withdrawn.
9. Certificates shall remain **qualityaustria's** property and, unless limited or withdrawn pursuant to Section VIII, be returned to Quality Austria by registered letter within six months at the latest after their validity has expired. Certificates that were subject to limitation or withdrawal shall be returned immediately - see Section VIII (3).

## VII. RIGHTS AND OBLIGATIONS OF HOLDERS OF A **qualityaustria** CERTIFICATE AND CERTIFICATION MARK

1. A holder of a **qualityaustria** certificate may use the **qualityaustria** certification mark (hereinafter „**qualityaustria** Mark“) subject to the terms and conditions described below. Any graphic modification thereof shall require **qualityaustria's** written consent.
2. The right to use the **qualityaustria** Mark may not be transferred to third parties.
3. Except in case of any limitation or withdrawal pursuant to Section VIII, the **qualityaustria** Mark may be used, including for advertising purposes, up to six months after the **qualityaustria** certificate has expired. Advertising featuring the **qualityaustria** Mark and/or a **qualityaustria** certification may not be misleading and shall clearly show whether an organization or an organizational unit has been certified. The **qualityaustria** Mark may not be used in a manner which could be interpreted as any marking of product conformity. The **qualityaustria** Mark may not be used on products, laboratory test reports, calibration certificates, inspection reports or a certificate issued by the customer or a third party. General information on product packaging and in supporting information brochures of products in relation to a certified management system is permitted if the certified organization, the

type of management system, the standard applied and the certification body are mentioned and if such information does not imply that a product, a process or a service has been certified. The precise wording of the certificate must be used to indicate its scope.

4. The holder of a **qualityaustria** certificate or a **qualityaustria** Mark undertakes to use these strictly in compliance with the rules of fair competition. The **qualityaustria** certificate and the **qualityaustria** Mark may not be used in a misleading or abusive form.
5. The holder of a **qualityaustria** certificate is required to give immediate (within five work days) written notice to Quality Austria of any organizational change in the scope, e.g. any reorganization, abandonment of existing and extension of new business activities, and any other material change of a certified management system.
6. The management system must verifiably be further developed by taking systematic action, such as internal audits and periodic assessments of the management system, within the periodicity applicable from time to time, currently twelve months, if the relevant standards (e.g. ISO 9001, ISO 14001, etc.) so require.
7. All third-party complaints concerning the management system shall immediately (within five work days) be reported to Quality Austria by written notice. Every complaint must be assessed and any necessary corrective action initiated. In addition, any complaint and action shall be automatically disclosed to Quality Austria or the **qualityaustria** partner in the course of the next on-site certification activity.
8. For services in the field of Occupational Health and Safety Management Systems the holder of a **qualityaustria** certificate shall, in addition to the requirements described above, inform Quality Austria in writing, without delay, of the occurrence of a serious incident or regulation breach necessitating the involvement of the competent regulatory authority (cf. IAF MD 22:2018, G 8.5.3). Independently from the involvement of the competent regulatory authority, a special audit may be conducted by Quality Austria in the event that Quality Austria becomes aware that there has been a serious incident or regulation breach related to occupational health and safety, in order to investigate if the management system has not been compromised and did function effectively (cf. IAF MD 22:2018, G 9.6.4.2). For additional audits, the **qualityaustria** prices valid at the time of performance will be charged. Information on serious incidents or regulation breaches, provided by a **qualityaustria** certificate holder or directly gathered by the audit team during an audit, shall provide grounds for Quality Austria – in addition to the cases described in Section XIV of the GTCs – to withdraw the certification, in cases where the certified Management System failed to meet the Occupational Health and Safety certification requirements (cf. IAF MD 22:2018, G 9.6.5.2.).

## VIII. WITHDRAWAL OF **qualityaustria** CERTIFICATES AND CERTIFICATION MARKS

1. Quality Austria may limit the certification scope or temporarily or permanently withdraw certification with immediate effect if the requirements for maintaining a certificate described in Section VI and the requirements described in Section VII are not satisfied or if the remuneration for the services provided by Quality Austria (incl. fees for the issuance of the certificate and the right of use) are not paid to Quality Austria in time. The relevant date shall be the receipt of payment by Quality Austria. The same applies if the business of the holder of a

**qualityaustria** certificate is liquidated or - to the extent permitted under applicable insolvency laws - if insolvency proceedings are initiated or the initiation of such proceedings is rejected for lack of assets to cover costs.

2. Any limitation or withdrawal shall be communicated by Quality Austria in writing, shall be published and valid upon receipt of notice.
3. If any certification is limited or withdrawn, the holder undertakes to immediately return to Quality Austria **qualityaustria** certificates by registered letter, to cease any use of the **qualityaustria** Mark and to ensure that any use of records containing a reference to his/her certified status is abandoned. In case of any breach of this provision, Quality Austria may assert a penalty of € 30,000 for each violation, without prejudice to its right to assert further damages.

#### **IX. FINAL PROVISIONS**

1. Any amendment to and modification of these terms and conditions shall be made in writing.
2. If one or more terms hereof are invalid, this shall not affect the validity of the remaining terms hereof. The invalid term shall be replaced by a valid term which closest reflects the economic purpose of these Terms and Conditions.
3. All disputes arising from or in connection with this contract shall exclusively be referred to the courts in the first district of Vienna.
4. The contract shall be governed by and construed in accordance with Austrian law, without giving effect to its conflict of law rules and the UN Sales Convention.