

General Terms and Conditions

GW30

Issued January 2008

ÖVGW-Quality Mark Products Gas & Water

Requirements to grant
the ÖVGW-Quality Mark for products
used in the field of gas and water supply

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and Water

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ÖVGW-Qualitätsmarke Produkte Gas & Wasser

Voraussetzungen für die Zuerkennung
der ÖVGW-Qualitätsmarke
für Produkte der Gas- und Wasserversorgung

ÖVGW-Quality Mark Products Gas & Water

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ÖVGW Board of Directors

The ÖVGW Board of Directors agreed the new version of the General Terms of Business GW 30 "ÖVGW-Quality Mark Products Gas & Water" on the 21th of September 2006.

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1 Scope

These general terms of business GW 30 ÖVGW-Quality Mark “Gas & Water” define the requirements for granting the ÖVGW-Quality Mark Gas and the ÖVGW-Quality Mark Water for certifying gas and water supply products which are not controlled by law.

1.1 Quality Mark Gas

The ÖVGW-Quality Mark “Gas” may be granted as a quality symbol for gas appliances (gas-consuming equipment/installations) which use combustible gas in accordance with the ÖVGW Guideline G 31 “Natural Gas in Austria” and/or liquid gas, for their fittings and components, for parts of gas lines and gas installations and for material used therein. The Quality Mark is granted to indicate that every part of these products, as well as conforming to the standards (if any), fully complies with the state-of-the-art technology and the relevant guidelines for testing as regards construction and design, as well as in particular safety of operation, environmental compatibility, rational use of energy and ease of use.

1.2 Quality Mark Water

The ÖVGW-Quality Mark “Water” may be granted as a quality symbol for products used for water supply. The Quality Mark is granted to indicate that every part of these products, as well as conforming to the standards (if any), fully complies with the state-of-the-art technology and the relevant guidelines for testing as regards construction and design, as well as in particular safety of operation, environmental compatibility, rational use of energy and ease of use.

2 Area of Validity

These General Terms and Conditions serve as the basis for those contractual relationships which are agreed for the purpose of granting the Quality Mark Gas and the Quality Mark Water.

The General Terms and Conditions are handed out to the Quality Mark applicant; they are applicable once the application for the Quality Mark has been signed.

3 General Conditions

3.1 Producer

Under the terms of these General Terms and Conditions and in accordance with § 3 Product Liability Law, the Producer is the person who has created the end product, a basic material or a semi-finished product as well as anybody who associates himself with the product by labelling it with his names, trademark or any other identification symbol.

3.2 Auditor

An ÖVGW-Auditor (“Auditor”) is a person who has been trained accordingly and is qualified to carry out tests in accordance with clause 7. An auditor shall be recognized for his activities and the activity areas by the ÖVGW. Recognition as auditor is given through the procedure governed by the ÖVGW quality management system.

3.3 Product

Product is any movable tangible property under the terms of the § 4 Product Liability Act as well as the services which are carried out in connection with these products.

3.4 Test Report

For each test (clause 7.1 to clause 7.7) an ÖVGW test report (“test report”) shall be established. This test report serves as basis for granting the Quality Mark; it is established by a test agency and shall contain all records and documents in accordance with the respective test guidelines. The test report shall, as long as not otherwise stipulated by the ÖVGW, correspond to the requirements of the ÖNORM EN ISO/IEC 17025, and – as long as not otherwise stipulated by

the certifying committee – shall be not older than one year when it arrives at the ÖVGW, decisive is the date the test report is signed by the test agency.

3.5 Test Guidelines

The ÖVGW test guidelines (“test guidelines“) define the requirements for certification of the gas and water supply products which are not controlled by law and shall be applied for the related tests in accordance with clause 7. The test guidelines can be requested from the certification centre of the ÖVGW or are available on the ÖVGW homepage.

3.6 Test Agencies

The tests are carried out in accordance with clause 7 and the required test report is established in accordance with clause 4 by the relevant recognized, state-accredited and contracted ÖVGW test agencies (“Test agencies“). Recognition as test agency of the ÖVGW happens by the procedure governed by the ÖVGW quality management system. The list of the test agencies can be requested from the ÖVGW and is available on the ÖVGW home page.

3.7 Quality Mark

The ÖVGW-Quality Mark (“Quality Mark“) together with related registration number based on these General Terms and Conditions is the granted certification mark for Gas and Water Supply products in accordance with clause 1.1 and clause 1.2.

The Quality Mark is registered and protected in the following form for the ÖVGW as a trademark of an association at the Austrian Patent Office, trademark register.



3.8 Registration Number

The registration number identifies the product and is assigned when the Quality Mark is granted. The registration number is a 4-digit code starting with the letter “G” or “W” identifying a Gas or Water product (Examples: G 9.999 or W 9.999). The relevant certification data can be collected by means of the registration number.

3.9 Authorized Representative Company

An authorized representative company is a company which puts the products into circulation under the terms of the § 6 Product Liability Law.

3.10 Certificate

The Quality Mark is granted by the ÖVGW certificate (“certificate“). The certificate states the registration number, duration of validity, holder of the Quality Mark, the authorized representative company/companies, the producer, the type of test in accordance with clause 7, the number of the test agency’s report, the test guidelines having served as basis as well as the products which were presented and tested. The certificate is issued only on the name of the holder of the Quality Mark.

3.11 Certifying Committee

The ÖVGW certifying committee Gas (“Certifying committee Gas“) and the ÖVGW certifying committee Water (“Certifying committee Water“), as joint Committees for Gas and Drinking Water Management act as technical advisory bodies for the ÖVGW product certification.

The appointment and composition of the certifying committees are described in Annex A of these General Terms and Conditions.

3.12 Certification Centre

As a state-accredited, independent certification centre, the ÖVGW certifies gas and water supply products. The ÖVGW is accredited for this in accordance with BGBl. II No. 481/1999.

4 Granting the Quality Mark

The Quality Mark may only be applied for by producers and/or authorized representative companies of the products specified in clause 1.

The Quality Mark is granted if the products presented for certification correspond to the requirements of the relevant test guidelines. A positive test report from the test agency confirms conformity with the test guidelines.

Based on such a test report, the Quality Mark is granted and a certificate with related registration number is issued.

5 Duration of Right to Use the Quality Mark

The right to use the Quality Mark is granted for a period of three years, starting from the time when the certificate is issued.

The right to use the Quality Mark may be prolonged for three further years, on the condition that the products correspond to the relevant guidelines at the time of the prolongation. If the Quality Mark holder files an application for prolongation before the termination of the period of validity, the right to use the Quality Mark may be prolonged until the ÖVGW decides whether to grant a prolongation, however, for a maximum of 6 months. In justified exceptions, the certifying committee may also order a prolongation which is valid for more than 6 months.

6 Certification Conditions

The granting of the Quality Mark presupposes that the products presented conform to the relevant test guidelines.

For products deviating from the relevant test guidelines, the Quality Mark can be granted on justified application if the certifying committee recommends this. For the tests, the stipulations of the relevant test guidelines shall be applied accordingly; the test result shall cover those deviating features.

7 Kinds of Tests and Testing Procedure

7.1 Initial Test

The initial test is to determine that a product which has been submitted for the first time conforms to the relevant test guidelines valid at the time of application. It is carried out on the request of the Quality Mark applicant and covers all parts in the product.

The test objective(s) is/are selected by the test agency – if the testing guidelines do not specify otherwise – from production and/or a stock. A sampling deviating from this rule is permitted only in special and for the product specific cases and shall be justified in the test report. The test object shall be made available free of charge by the Quality Mark applicant.

The products to be tested shall be handed over to the test agency together with the test documents stipulated in the relevant test guidelines in the German language in triplicate.

As proof for the conditions of production and for the maintenance of the quality of production the test agency makes a first inspection of the plant unless such an inspection is not already been made based on other applicable prescriptions (esp. legal EC prescription, standards) or may be neglected as not appropriate in a special case having in view the well intended targets of a certification in conformity with community rights. The quality mark applicant shall tolerate this inspection. The Quality Mark applicant commits himself to bear the costs of the initial test.

7.2 Control Test

At least once a year, a control test to check the continuing conformity of the certified products is carried out by auditors with the Quality Mark holder (manufacturer and/or representative

authorized company). The scope and contents of the control test are given in the relevant test guidelines. The results of the control test are documented and serve as the basis for an extended control test. The Quality Mark holder shall conclude a monitoring contract for carrying out the control test with one of the test agencies specified by the ÖVGW, to ensure that the annual control test is carried out punctually. The Quality Mark holder commits himself to bear the costs of the control test.

7.3 Supplementary Test

If a product, which has already been granted the Quality Mark, is fitted with changed or additional parts and/or installations, a supplementary test is carried out in order to assess the influence of these parts on the product's mode of operation and to determine if it still complies with the test guidelines. Those parts which are not affected by the changed or additional parts and/or installations are, however, not re-tested. The object to be tested shall be made available by the Quality Mark applicant. In the case of a type series the test agency decides which models shall be tested. The test documentation required by the respective testing guidelines is necessary only as far as they refer to the supplementary test. The Quality Mark holder commits himself to bear the costs of the supplementary test.

7.4 Drawing Test

The drawing test can be carried out if, when considering a product which has already been granted the Quality Mark, only additions or modifications have been made which have no or no substantial influence on its function; not substantial changes are without any influence for the potential danger of the product. In cases of doubt, the decision whether a drawing test is necessary shall be made by the examining committee on application by the applicant for or holder of the Quality Mark. The Quality Mark applicant shall provide the test agency with the test documentation required by the respective testing guidelines in triplicate in the German language. The Quality Mark holder commits himself to bear the costs of the drawing test.

7.5 Extended Control Test

The extended control test is required to prolong the validity period of the Quality Mark for a further three years period and can be carried out if the stipulated control tests have been carried out punctually. It is ordered by the Quality Mark holder and is done on the relevant test guidelines valid at the time of the extended control test.

The test objective(s) is/are selected by the test agency – if the testing guidelines do not specify otherwise – from production and/or a stock. A sampling deviating from this rule is permitted only in special and for the product specific cases and shall be justified in the test report. The test object shall be made available free of charge by the Quality Mark holder.

The products to be tested shall be handed over to the test agency together with the test documents stipulated in the relevant test guidelines in the German language in triplicate. Test documents from previous tests can be used, as long as these are unchanged at the time of the extended control test and retain their validity.

As proof for the conditions of production and for the maintenance of the quality of production the test agency makes a first inspection of the plant unless such an inspection is not already been made based on other applicable prescriptions (esp. legal EC prescription, standards) or may be neglected as not appropriate in a special case having in view the well intended targets of a certification in conformity with community rights. The quality mark applicant shall tolerate this inspection. The Quality Mark holder commits himself to bear the costs of the extended control test.

7.6 Extraordinary Tests

On the justified request of the ÖVGW, the Quality Mark holder shall subject the test article to an extraordinary test to ensure the continuing fulfilment of the requirements of the respective guidelines. The ÖVGW will specify the process which is the minimum requirement with regard to the requirements to be tested. The costs of such a special test shall be borne equally by the Quality Mark holder and the ÖVGW when the test article fulfils the requirements continuously. If the test determines that the article does not meet the requirements of the respective guidelines, the Quality Mark holder commits himself to bear the costs alone.

7.7 Witness Test

As an accredited certification centre, the ÖVGW is legally bound to check regularly the acting and the wisdom of the auditors. For this reason, the ÖVGW must undertake random sampled witness tests in regular distances. For this purpose it is necessary that a controller of the ÖVGW, which is competent in that respect, is accompanying the relevant auditor for the collection of data, in order to ensure the quality level of the check. The costs of such a witness test – which might be seen in the stipulation of fees – are at 50 % each for account of the ÖVGW and for the applicant for or holder of the Quality Mark.

8 How to Obtain the Right to Use the Quality Mark

- The Quality Mark applicant makes a written request to the ÖVGW for the Quality Mark. The necessary application form can be obtained by mail from the ÖVGW office or downloaded from the Internet (www.ovgw.at). By filling out this form the applicant gives his written consent to the applicable General Terms and Conditions of Business GW 30.
- The ÖVGW forwards the application in the name of and on costs of the Quality Mark applicant to the named test agency. The test order is then agreed between the Quality Mark applicant and the test agency.
- After concluding the required tests and after receipt of the test report, the tested product is presented to and assessed by the Certifying Committee. Possible points to be notified to the applicant are also specified on this occasion. The certifying committee then decides whether to recommend the right to use the Quality Mark on the product.
- The test agency forwards the original test report (together with invoice) to the Quality Mark applicant and at the same time a copy to the ÖVGW.
- After positive recommendation by the certifying committee, the ÖVGW grants the Quality Mark by sending the certificate and related registration number to the Quality Mark applicant. If the Quality Mark is not granted, the applicant shall be informed of the reasons.
- The right to use the Quality Mark applies only to those products specified in the relevant certificate.

9 Compulsory Labelling

The holder of the Quality Mark has to identify the tested products clearly legibly and permanently with the Quality Mark together with registration number or with the word “ÖVGW” and the related registration number from acquisition of the certificate, as long as such an identification on the product is possible, it should at least be on the immediate packaging of the product.

The Quality Mark or the word “ÖVGW” together with related registration number may only be used for the products which are named explicitly in the certificate.

By attaching the Quality Mark to the product(s) the producer confirms that the products produced in series correspond to the tested product. If the products produced in series differ from the tested products, they may not be identified with the Quality Mark and related registration number.

10 Fees

The ÖVGW charges a fee for the granting of the Quality Mark. The amount of this registration fee is determined by the Board of Directors of the ÖVGW and can be seen on the list of charges valid at the date of invoice – and ready for download on the homepage of the ÖVGW - it is prescribed on the invoice to the holder of the Quality Mark.

If the Quality Mark is withdrawn or if the holder of the Quality Mark cancels his contract ahead of schedule, he is not entitled to reimbursement of registration fees. Also he is not entitled to reimbursement if the holder of the Quality Mark becomes insolvent or ends his corporate responsibility.

11 Withdrawal of the Quality Mark

The Quality Mark together with the related registration number can be revoked – after allowing possibility for response by the Quality Mark holder – with immediate effect or within an appropriate notice period by the ÖVGW if

- the holder of the Quality Mark does not allow control tests to be carried out in accordance with 7.2,
- the holder of the Quality Mark does not fulfil his obligations from this contractual relationship,
- circumstances become known which are opposed to the granting or prolongation of the Quality Mark,
- it becomes evident that the Quality Mark has been granted or prolonged only by means of incorrect or faulty information from the applicant or holder of the Quality Mark,
- the Quality Mark or the certificate together with related registration number has been misused,
- the holder of the Quality Mark has not or not completely fulfilled his obligations,
- the requirements for the granting of the Quality Mark no longer exist.

12 Withdrawal of the Right to Use the Quality Mark

The right to use the Quality Mark ceases (as long as on request of the holder of the Quality Mark, the certifying committee make an exception and specify a later time) if:

- up to the expiration of the duration, no extended control test has been applied for by the holder of the Quality Mark,
- after expiration of the valid time no positive testing report for a requested extended control test is available within 6 months, as long as not otherwise agreed with the Certification Committee,
- the production of the certified product is discontinued, provided that the Certification Committee does not specify as an exception on request of the holder of the Quality Mark a later termination date,
- the present contract is cancelled,
- after expiration of the calendar year in which the holder of the Quality Mark did not comply with his obligations to carry out an annual control test.

13 Other Rights and Liabilities of Holder of the Quality Mark

- Necessary transports of testing objects within the framework of the testing and assessment process (transport to and from testing centre and/or to and from place where the certifying committee meets) shall be made at the cost and risk of the Quality Mark applicant.
- As long as the holder of the Quality Mark is legally entitled to use the Quality Mark, he may, in business and in print media, draw attention to the granting of the Quality Mark for the products specified in the granting certificate, indicating the registration number.
- The holder of the Quality Mark is obliged to keep a record of complaints made concerning tested products. Within the framework of the extended control test records of complaints as well as of measures taken to correct problems have to be submitted.
- The holder of the Quality Mark shall inform the ÖVGW of any planned change for technological, business or other reasons in a product which has been granted the Quality Mark. The ÖVGW will decide on the type of a further (supplementary) test according to clause 7.
- The Quality Mark holder is liable to make provisions for the contractual access arrangements of the test agency and the auditors with all producers and authorized representative companies named on the certificate, within the framework of the applicable tests in accordance with clause 7.

14 Publication

The granting of the right to use the Quality Mark or the withdrawal of the right to use the Quality Mark is published by giving the registration number in the ÖVGW's technical magazine "Forum

– Gas Wasser Wärme”, and also - if necessary - in other printed media. Furthermore, the ÖVGW regularly publishes a complete register of all valid granted Quality Marks.

15 Disclaimer

The ÖVGW is not liable – except for malice or gross negligence – for damages which arise from the Quality Mark applicant or holder or any third party due to granting or refusal, the alteration or expiry of the Quality Mark as well as through erroneous or faulty information in the related certificates.

16 Governing law

This contract is governed by Austrian law under exclusion of the reference standards of the private international law.

17 Dispute resolution and place of jurisdiction

17.1 Dispute resolution

All disputes arising out of this contract or related to its violation, termination or nullity shall be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by three arbitrators appointed in accordance with these rules. The Austrian substantive law shall be applicable. The language to be used in the arbitral proceedings shall be German.

17.2 Place of jurisdiction

For all disputes subsidiary to clause 17.1 and arising from this contract, the Industrial Court Vienna is responsible.

18 Start of validity

These General Terms and Conditions GW 30 are valid from 1 January 2008 onwards.

Annex A Certifying Committees

The ÖVGW board appoints the certifying committees for gas and water for a duration of two years at a time.

Each certifying committee elects from among its members the chairman and the vice-chairman, neither of whom may be the manager of the ÖVGW.

A.1 Certifying Committee Gas

The Certifying Committee Gas comprises:

- four representatives of various Austrian gas supply utilities, nominated by the ÖVGW board, each with one vote,
- two representatives of the Association of Austrian Boiler Suppliers, each with one vote,
- one representative of the Austrian Federal Craft Guild of Plumbers and Heating Fitters, with one vote,
- two representatives of the ÖVGW Specialized Committee “Companies in the Gas Engineering Business”, each with one vote,
- one representative of the Federal Guild of Chimney Sweeps, with vote,
- one consumer representative (Austrian Association for Consumer Information), with vote,
- one representative of the Austrian Association for Liquid Gas, with vote,
- the manager of the ÖVGW, with vote,
- the manager of the ÖVGW certifying department, without vote,
- the manager of the ÖVGW Gas department, with vote,
- representatives of all recognized test agencies, without vote.

All members of the certifying committee “Gas” have graduated from a technical training institution and because of their professional activities are in a position to assess products for gas supply.

The certifying committee may co-opt advisory members.

Applicants for the Quality Mark may be invited to discuss a specific case.

The certifying committee constitutes a quorum if at least five members who are entitled to vote are present. The certifying committee takes all decisions by simple majority of votes.

A.2 Certifying Committee Water

The Certifying Committee Water comprises:

- six representatives of various Austrian water supply utilities, each with one vote,
- one representative of the Austrian Federal Craft Guild of Plumbers and Heating Fitters, with vote,
- one representative of the ÖVGW Specialized Committee “Water Quality and Water Treatment”, with vote,
- two representatives of the ÖVGW Specialized Committee “Companies in the Water Engineering Business”, each with one vote,
- one representative of the GRIS, the Austrian Association for Quality Protection “Pipes in Hydraulic Engineering in Residential Areas”, with vote,
- one consumer representative (Austrian Association for Consumer Information), with vote,
- the manager of the ÖVGW, with vote,
- the manager of the ÖVGW certifying department, without vote,
- the manager of the ÖVGW water department, with vote,
- representatives of all recognized test agencies, without vote.

All members of the examining committee "Water" have graduated from a technical training institution and because of their professional activities are in a position to assess products for water supply.

The certifying committee may co-opt advisory members.

Applicants for the Quality Mark may be invited to discuss a specific state.

The certifying committee constitutes a quorum if at least five members who are entitled to vote are present. The certifying committee takes all decisions by simple majority of votes.