



IECEX OPERATIONAL DOCUMENT

IEC System for Certification to Standards Relating to Equipment for Use in Explosive Atmospheres (IECEX System)

Rules and procedures for the granting of licenses to issue and use the IECEx conformity mark



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INTERNATIONAL ELECTROTECHNICAL COMMISSION

IECEX Operational Document OD 422 –**~~IECEX Conformity Mark Licensing System~~****Rules and procedures for the granting of licenses to issue and use the IECEx conformity mark**

FOREWORD

~~This IECEx Operational Document sets the criteria and process for an ExCB to obtain a License from IEC to issue Licenses for use of the IECEx Conformity Mark and the procedures that must be incorporated within an ExCB's own system for the process of issuing an IECEx Conformity Mark License.~~

~~The requirements and process contained within this OD are subordinate to the IECEx Conformity Mark Regulations contained in IECEx 04.~~

~~Questions concerning the use of this Operational Document and the requirements contained within may be directed to the IECEx Secretariat.~~

Document history

Date	Summary
2007-10	Original issue (Edition 1.0)
2011-10	Edition 2.0 issued to clarify the procedures for an ExCB to obtain a license in Table.1, issue a license in Table 2.
2014-01	OD 022 edition 2.0 has been revised and republished as OD 422 edition 1.0 in accordance with ExMC decision 2013/31E and to: <ul style="list-style-type: none"> • add Clause 2.1(g) and associated bullet items (Reference = ExMC/869/CD) • add reference to ISO/IEC 17065
2021-02	Edition 2.0 to reflect the "New Approach" to IECEx conformity mark licensing and was with document ExMC/1621/DV approved by the IECEx management committee during the 2020 ExMC meeting

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INTRODUCTION

This IECEX operational document (OD) is supplementary to the IECEX conformity mark ~~Regulations~~ rules, IECEX 04 and sets out the criteria and procedures for ExCBs obtaining a license from the IEC that enables them to issue IECEX conformity mark licenses to holders of an IECEX certificate of conformity that qualify according to the IECEX mark ~~Regulations~~ rules.

~~This Operational Document was originally published as IECEX OD 022 and is now revised and republished as IECEX OD 422 in response to decision (2013/31E) by IECEX Management Committee (ExMC) to group all IECEX documents related to the IECEX Conformity Mark under a new “400-Series” designation.~~

Edition 2.0 of this OD has been prepared to reflect the new approach taken by the IECEX management committee in the licensing of the IECEX conformity mark, based on decisions taken during the 2019 IECEX management committee, Dubai meeting.

This redline version of IECEX OD 422 highlights the changes made to the previous edition. A vertical bar appears in the margin wherever a change has been made. Additions are in green text, deletions are in strikethrough red text.

This OD comprises 2 sections:

- Section 1 – Rules and procedures applicable to an ExCB applying for an IEC license
- Section 2 – Rules and procedures applicable to the issuing of an IECEX conformity mark license by an ExCB

The procedures are set out in table form identifying:

- Step number showing the link between flowcharts and table
- Description of each activity
- Related documents
- Responsible person or party
- Additional comments and remarks where appropriate

Terms and definitions

The terms and definitions detailed in the following IECEX publications apply throughout this OD:

~~IECEX 01, Basic Rules~~

IECEX Basic Rules (IEC CA 01 + IECEX 01-S) – IEC Harmonized Basic Rules (IEC CA 01) plus the IECEX Supplement (IECEX 01-S)

IECEX 02, *IECEX certified equipment scheme covering equipment for use in explosive atmospheres – Rules of procedure*

IECEX 04, *IECEX conformity mark licensing system – ~~Regulations~~ Rules*

Location of IECEX rules, ~~Regulations~~ rules and supporting operational documents

The following IECEX System rules and ~~Regulations~~ procedures are publicly available via the IECEX website www.iecex.com:

~~IECEX 01, Basic Rules~~

IECEX Basic Rules (IEC CA 01 + IECEX 01-S) – IEC Harmonized Basic Rules (IEC CA 01) plus the IECEX Supplement (IECEX 01-S)

IECEX 02, *IECEX certified equipment scheme covering equipment for use in explosive atmospheres – Rules of procedure*

IECEX 03, *IECEX certified service facilities scheme covering repair and overhaul of Ex equipment – Rules of procedure*

IECEX 04, *IECEX conformity mark licensing system – ~~Regulations~~ Rules*

Various operational documents are also publicly available from the IECEX website, including this OD.

Inquiries

Inquiries concerning access to or information concerning the IECEX System, its rules and operational documents, may be directed to the IECEX Secretariat as follows:

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Rules and procedures for the granting of licenses to issue and use the IECEX conformity mark

SECTION 1 – RULES AND PROCEDURES APPLICABLE TO AN EXCB APPLYING FOR AN IEC LICENSE

This section applies to ExCBs when applying and holding a license from IEC that permits an ExCB to issue IECEX conformity mark licenses.

1.1 ExCB requirements

An ExCB seeking to make application for a license from IEC to issue IECEX conformity mark licenses shall:

- a) Have been accepted as an IECEX certification body (ExCB) in accordance with the IECEX rules of procedures, IECEX 02 and supporting operational documents and procedures
- b) Have current acceptance as an ExCB
- c) Agree to abide by the IECEX conformity mark ~~Regulations~~ rules and operational procedures and decisions of the IECEX management committee
- d) Nominates a senior officer who shall act on behalf of the ExCB in matters relating to the IEC license
- e) Sign a license agreement

1.2 Limitations of the IEC license granted to an ExCB

The following limitations shall apply to an ExCB when issuing IECEX conformity mark licenses:

- a) The ExCB shall issue IECEX conformity mark licenses in accordance with the ~~Regulations~~ rules, IECEX 04 and Section 2 of this OD and its agreement as amended
- b) The ExCB responsible for conducting the required audit(s) and issuing of the quality assessment report (QAR) in accordance with IECEX 02 and IECEX OD 009 may ~~only~~ grant an IECEX conformity mark license to holders of an IECEX certificate of conformity ~~which they have issued~~
- c) The ExCB shall not allow any third party to issue an IECEX conformity license on their behalf
- d) The ExCB shall inform the IECEX Secretariat of any changes in their operation or organization that may prevent the ExCB from fulfilling their duties under this OD or the IECEX conformity mark ~~Regulations~~ rules, IECEX 04
- e) The ExCB acknowledges that as owner of the IECEX conformity mark, the IEC may withdraw the license and prevent the ExCB from issuing IECEX conformity mark (sub)licenses to manufacturers at any time

1.3 Assessment and surveillance of ExCBs

The assessment and surveillance procedures of the IECEX System shall be supplemented with the assessment of the ExCB's compliance with the IECEX conformity mark ~~Regulations~~ rules, IECEX 04 and this OD.

1.4 Changes to IECEX System rules, conformity mark ~~Regulations~~ rules and operational documents

The ExCB undertakes to continually comply with all IECEX System rules, e.g. IECEX ~~01~~ Basic Rules, IECEX 02, ~~IECEX 03~~, IECEX 04 and operational documents, including their amendments, while holding an IEC license to issue IECEX conformity mark licenses.

The ExCB further undertakes to inform/notify holders of an IECEX conformity mark, issued by them, of changes to IECEX conformity mark ~~Regulations~~ rules, Section 2 of this OD and terms and conditions (OD ~~023~~ 423).

1.5 Termination of the IEC license agreement

The license agreement between the IEC and ExCB, enabling the ExCB to grant IECEX conformity mark licenses may be terminated by:

- a) The ExCB providing written notice to the IECEX Secretariat of its desire to terminate the license agreement with IEC; or
- b) The IEC providing written notice to the ExCB informing the ExCB of termination of the license agreement, with reasons given.

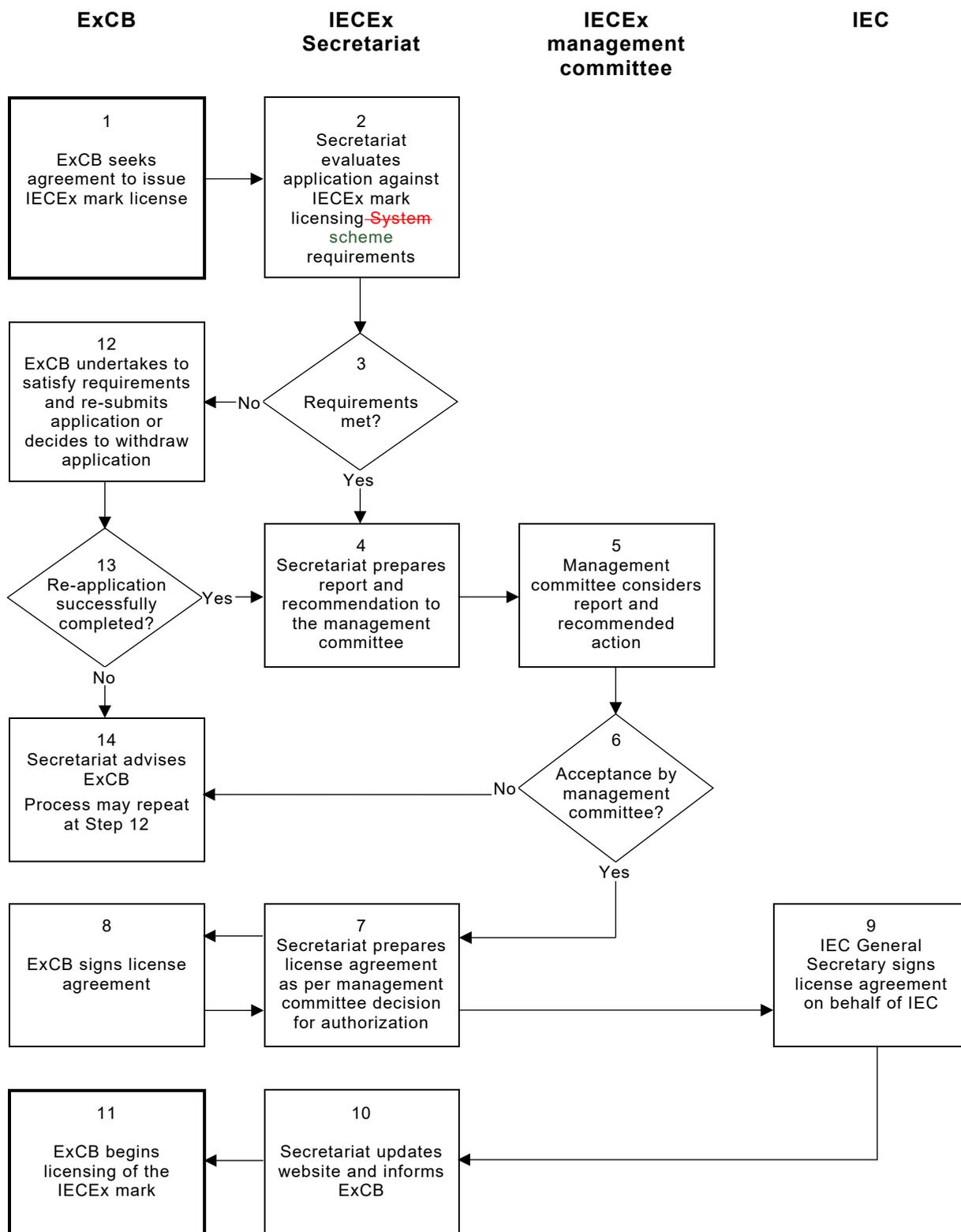
1.6 Actions following termination of the IEC license agreement

Upon termination of the IEC license agreement, the ExCB shall:

- a) Cease to promote or display any association with the licensing of the IECEX conformity mark;
- b) Notify all holders of the IECEX mark license, the ExCB have issued, that such IECEX conformity mark licenses are no longer valid, **cancelled on the IECEX online certificate system** and must cease using the IECEX conformity mark; and
- c) Pay any outstanding fees to the IEC, via the IECEX accounts associated with annual or other fees as determined by the IECEX management committee.

1.7 Procedure for an ExCB seeking an IEC license to issue IECEX conformity mark licenses

The procedure for an ExCB obtaining a license from IEC to issue IECEX conformity mark licenses is outlined in Figure 1 with details specified in Table 1.



Abbreviations

ExCB Certification body
IEC International Electrotechnical Commission

Figure 1 – Overview of IEC/certification body IECEX conformity mark license authorization procedure

Table 1 – Procedures for an ExCB to obtain and maintain an IEC license to issue IECEX conformity mark license

Step	Description of activity (see Figure 1)	Related documents	By whom	Notes/comments
1	<p>An ExCB may submit an application to the IECEX Secretariat for an IEC license agreement to enable the ExCB to issue IECEX conformity mark licenses.</p> <p>The application shall consist of:</p> <ul style="list-style-type: none"> • A letter from the ExCB signed by the position with the Chief Executive Officer functions for the ExCB • Copies of the ExCBs internal procedures for their issuing and control over IECEX conformity mark licenses they intend to issue • Payment of any application fee as determined by the IECEX management committee <p>In submitting such an application the ExCB declares that it has reviewed its internal procedures and that they comply with the IECEX 04 and this OD.</p>	<p>IECEX 04</p> <p>ExCB's own procedures</p>	ExCB	
2	<p>The IECEX Secretariat either evaluates or arranges for an evaluation of the application to ensure the following is met:</p> <ul style="list-style-type: none"> • All information provided is complete and complies with IECEX 04 and this OD as well as OD 023 423 • The ExCB is a currently accepted ExCB <p>Where information is incomplete or additional information may be necessary, a request for further information may be made even a site visit to the ExCB by an IECEX assessor, if determined by the IECEX Executive Secretary.</p>	Application information	IECEX Executive Secretary Secretariat	<p>The IECEX Executive Secretary shall consult with the IECEX Chairman ExMarkCo Chair prior to issuing a decision requiring a site assessment visit to the applicant ExCB.</p> <p>The IEC General Secretary shall have the final decision concerning the level of any assessment.</p>

Step	Description of activity (see Figure 1)	Related documents	By whom	Notes/comments
3	<p>Where the application requirements have been met the IECEX Secretariat prepares a report for consideration by the ExMarkCo. The IECEX Secretariat provides the following information to ExMarkCo:</p> <ul style="list-style-type: none"> • Check ExCB scope in IECEX 02 System • Check number of CoCs issued • Post report to password protected area of ExMarkCo website page • Check that ExCB procedures align with this OD, Table 2 • Check that IECEX terms and conditions of OD-023 423 are included into the applicant's requirements that will be placed on holders of IECEX mark licenses • Monitor/deal with any comments from ExMarkCo (usually none) <p>ExMarkCo reviews the IECEX Secretariat report via correspondence, upon no objection the application proceeds to ExMC for voting.</p>	OD-023 423	IECEX Secretariat and ExMarkCo	The application for a certification body seeking to be an IECEX mark license issuing ExCB may also be dealt with at the same time that an applicant seeks to become an accepted ExCB according to the IECEX 02 rules. However the process for acceptance as an ExCB according to IECEX 02 must be finalized prior to a license agreement being enacted between IEC and the certification body.
4	<p>The IECEX Secretariat prepares a formal report to the ExMC for voting which shall contain:</p> <ul style="list-style-type: none"> • A summary report of the findings of the ExMarkCo from its review of the ExCB's internal procedures for compliance with IECEX 04, OD-023 423 and this OD • A final ExMarkCo recommendation 		IECEX Secretariat	
5	<p>The ExMC shall consider the report from ExMarkCo either at a meeting or via correspondence. When dealt with via correspondence a formal vote shall take place in accordance with the voting procedures of IECEX-01 Basic Rules.</p>	IECEX-01 Basic Rules	ExMC	

Step	Description of activity (see Figure 1)	Related documents	By whom	Notes/comments
6	The voting procedures of IECEX-04 Basic Rules shall apply with the IECEX Secretariat recording in the minutes of the ExMC meeting any decisions taken at the meeting or the issuing of a voting report where voting has been taken via correspondence.	IECEX-04 Basic Rules	IECEX Secretariat	
7	Upon a positive decision from the ExMC, according to the voting criteria of IECEX-04 Basic Rules, the IECEX Secretariat prepares the license agreement between IEC and the ExCB. Two originals of the IEC/ExCB agreement shall be prepared so that both IEC and the ExCB maintain originally signed versions.	IEC/ExCB license agreement, Annex A	IECEX Secretariat	
8	The officer carrying out the duties and authorities of the Chief Executive Officer for the ExCB shall sign the IEC/ExCB license agreement and forward this back to the IECEX Secretariat.	IEC/ExCB License agreement, Annex A	ExCB	
9	The IEC General Secretary or his Designate shall sign both originals of the IEC/ExCB license agreement on behalf of the IEC once the IEC General Secretary or Designate is satisfied that all processes have been completed.	IEC/ExCB license agreement, Annex A	IEC General Secretary or Designate	The IEC General Secretary or his Designate authorizes the issue of an IEC/ExCB license on the basis of an ExMC recommendation.
10	One of the signed IEC/ExCB license agreements shall be forwarded to the ExCB, by the IECEX Executive Secretary with the IEC Central Office maintaining their copy. The IECEX Secretariat shall update IECEX records and the IECEX website to show which ExCBs hold a current license with IEC to issue IECEX conformity mark licenses.	IECEX website www.iecex.com	IECEX Secretariat	

Step	Description of activity (see Figure 1)	Related documents	By whom	Notes/comments
11	<p>The ExCB may now begin to issue IECEX conformity mark licenses.</p> <p>The IECEX Executive Secretary then ensures that the ExCB's compliance with the IECEX 04-Regulations rules and this OD are included in the-surveillance re-assessment of the ExCB.</p> <p>The ExCB agrees to maintain compliance with any changes to the IECEX conformity-Regulations mark rules, terms and conditions (OD-023 423) and this OD. This shall also include notifications to holders of IECEX conformity mark licenses they have issued.</p> <p>At the end of each three year validity period the IECEX Secretariat shall inform the ExCB that the license agreement has been renewed for a further three years.</p>	IECEX 04	ExCB IECEX Secretariat	
12	Upon a negative outcome of the IECEX Secretariat's review of the application documentation, the ExCB may re-submit revised or additional information to the IECEX Secretariat.	IECEX 04	ExCB	
13	Where the re-submission is found to be satisfactory by the IECEX Secretariat, the application may proceed according to the steps of this OD.		IECEX Secretariat	
14	Where either the re-submission or the voting by the IECEX management committee is unsuccessful, the IECEX Secretariat shall notify the ExCB who shall decide whether to re-submit or withdraw their application.	ExCB application		The manufacturer may re-commence the process at Step 12.

SECTION 2 – RULES AND PROCEDURES APPLICABLE TO THE ISSUING OF AN IECEX CONFORMITY MARK LICENSE BY AN EXCB

This section applies to ExCBs when issuing an IECEX conformity mark license.

2.1 ExCB requirements

The following requirements apply to an ExCB when processing an application for an IECEX conformity mark license:

- a) The ExCB must first hold a current IEC/ExCB license, issued in accordance with Section 1 of this OD, prior to accepting any applications from manufacturers
- b) ~~The ExCB may only accept an application from a holder of an IECEX certificate of conformity (CoC) issued, in accordance with the IECEX Rules of Procedures IECEX 02, the agreement with IEC and where the IECEX CoC has been issued by the ExCB~~ The ExCB responsible for conducting the required audit(s) and issuing of the quality assessment report (QAR) in accordance with IECEX 02 and OD 009 may grant an IECEX conformity mark license to holders of an IECEX certificate of conformity upon application from the holder of that certificate
- c) The IECEX conformity mark license may be issued to cover one or more than one IECEX CoC, regardless of which ExCB issued the IECEX CoC, with all IECEX CoC reference numbers shown on the IECEX conformity mark license certificate schedule
- d) The IECEX conformity mark license shall only cover IECEX CoCs that have a “current” or “suspended” status, according to IECEX OD 009
- e) Should any of the IECEX CoCs referred to on the IECEX conformity mark license become ~~“suspended” or~~ “cancelled” the IECEX conformity mark license shall be updated by the removal of such IECEX CoC references
- f) The ExCB shall ensure that ~~all holders of an~~ manufacturers holding IECEX conformity mark licenses, issued by them comply with the IECEX conformity mark license conditions detailed in OD ~~023~~ 423
- g) For ~~products~~ equipment covered by an IECEX unit verification certificate, the ExCB issuing the certificate may issue the IECEX conformity mark license under the following requirements and provisions ~~apply~~:
 - The mark may only be used on the ~~product~~ equipment marking covered by the unit verification certificate and cannot be displayed on promotional material, websites, etc.
 - The assessment of the applicant’s proposed use of the mark is conducted by the ExCB at the assessment/testing stage of processing a unit verification certificate application. This requirement reflects the fact that manufacturers of ~~products~~ equipment covered by unit verification certificates are not subject to ongoing surveillance in relation to these ~~products~~ equipment.
 - This results of this assessment by the ExTL/ExCB of the proposed use of the mark shall be recorded in the ExTR
 - The same license and mark may be used on subsequent ~~products~~ equipment covered by unit verification certificates where the same ExCB is used
 - The mark may be used on instruction manuals where such form part of the certification documentation and have been reviewed by the ExCB
 - ~~The Mark may be displayed on the Unit Verification Certificate~~

2.2 Assessment and surveillance of IECEX conformity mark license holders (licensees)

The ExCB, responsible for issuing the IECEX mark license shall ensure that all holders of the IECEX conformity mark license (licensees) are subjected to assessment and surveillance for their ability to control application, use and display of the IECEX conformity mark in accordance with the IECEX conformity mark license ~~Regulations~~ rules, this OD and the IECEX conformity mark license terms and conditions, OD-~~023~~ 423.

Such surveillance may be ~~considered as an extension to the existing~~ incorporated into the normal on-going surveillance audits for holders of an IECEX CoC.

The ExCB is required to investigate any claims of misuse of the IECEX conformity mark or where such evidence exists concerning IECEX conformity mark licenses that it has issued, in order to protect the integrity of the IECEX conformity mark and IEC.

2.3 Appeals

Given that an ExCB maintaining an appeals procedure has always been a requirement of the IECEX System, the ExCB shall ensure that such appeals procedures include decisions taken concerning the issuing and maintaining of an IECEX conformity mark license.

2.4 Procedure for an ExCB issuing IECEX conformity mark licenses

The procedures used by an ExCB to issue IECEX conformity mark licenses shall include the requirements outlined in Figure 2 with details specified in Table 2.

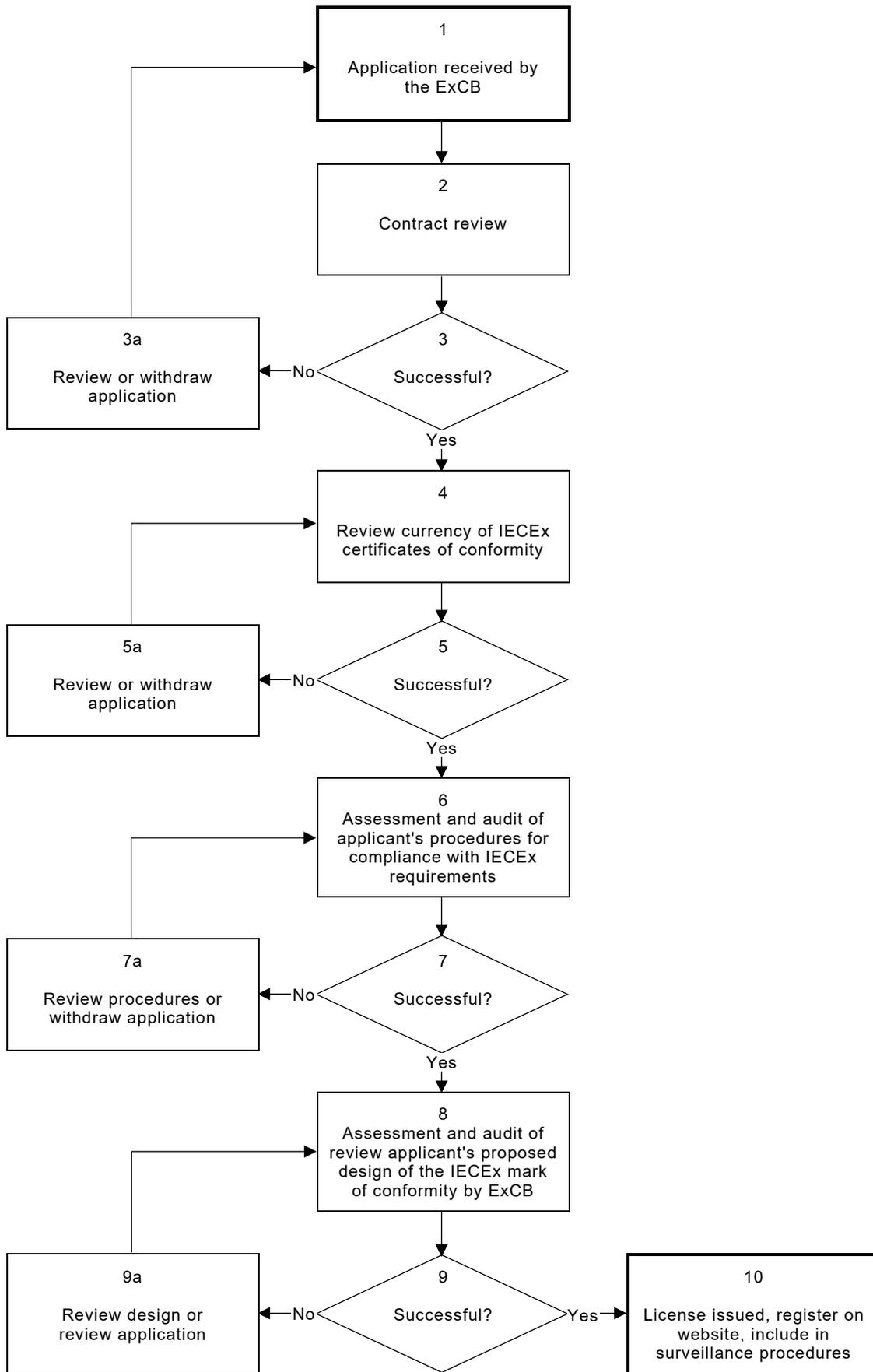


Figure 2 – Overview of ExCB process to issue IECEx conformity mark license

Table 2 – Minimum procedures to be followed by an ExCB when issuing and maintaining an IECEx conformity mark license

Step	Description of activity (see Figure 2)	Related documents	By whom	Notes/comments
1	<p>An ExCB receives an application for an IECEx conformity mark from a holder of an IECEx certificate of conformity, issued in accordance with the IECEx rules and procedures, IECEx 02 and supporting IECEx ODs.</p> <p>The application should consist of:</p> <ul style="list-style-type: none"> • The ExCB's nominated application form • Copies of the applicant's internal procedures for use, display and control of the IECEx conformity mark • A controlled document detailing the design of the IECEx conformity mark, proposed by the applicant (usually in the form of a manufacturer's drawing) • The signed license agreement between ExCB and manufacturer which shall include reference to the manufacturer's agreement with the terms and conditions (OD-023 423), as a minimum, and • Payment of any application fee as determined by the ExCB <p>In submitting such an application, the applicant declares that it has reviewed its internal procedures and that they comply with IECEx 04 and this OD.</p>	<p>IECEx 02</p> <p>ExCB's own procedures, as approved according to Section 1 of this OD</p> <p>ExCB's own application form</p>	ExCB	<p>The ExCB develops its own application form which is reviewed as part of Section 1 of this OD.</p> <p>The ExCB's license agreement between them and the manufacturer shall include all items of the terms and agreement detailed in OD-023 423 or at least a clear reference to these.</p>
2	<p>ExCB conducts contract review to evaluate the application to ensure the following is met:</p> <ul style="list-style-type: none"> • The application information is complete • The application for an IECEx conformity license identifies Ex products equipment covered by IECEx certificates of conformity, issued by the ExCB receiving the conformity mark license application 	Application information	ExCB	The ExCB may consult with the IECEx Executive Secretary when reviewing applications.

Step	Description of activity (see Figure 2)	Related documents	By whom	Notes/comments
3	Where the requirements have not been met the ExCB shall inform the applicant who may then arrange for review of their application.		ExCB	
3a	<p>Where the results of the contract review are not positive, the ExCB shall inform the applicant as soon as possible, preferably within 48 hours of arriving at this decision.</p> <p>The nature of why the contract review was unsuccessful would then suggest the possible next course of action which may include but not limited to:</p> <ul style="list-style-type: none"> • Submission of additional information by the applicant to the ExCB • Withdrawal of the application by the applicant • Termination of the application by the ExCB, where the application does meet IECEX requirements 		ExCB/ Applicant	
4	<p>The ExCB shall review the application and requested scope of coverage by the applicant to ensure that products equipment listed only relate to those products equipment covered by a current IECEX certificate of conformity</p> <ul style="list-style-type: none"> • Only IECEX Certificates of Conformity which the ExCB has issued 		ExCB	<p>ExCBs may only issue IECEX conformity mark licenses to cover IECEX CoC that they have issued have been issued by any ExCB. In the case where the applicant holds IECEX CoCs from different ExCBs, then separate Licenses from the ExCBs shall be sought, where the applicant wishes to use the IECEX Conformity Mark on all products. However the ExCB issuing the IECEX conformity mark license must be the ExCB responsible for issuing the QAR, except for IECEX unit verification certificates.</p>

Step	Description of activity (see Figure 2)	Related documents	By whom	Notes/comments
5+5a	<p>Where the requirements have not been met the ExCB shall inform the applicant who may then arrange for review of their application.</p> <p>The ExCB shall notify the applicant as soon as possible and preferably within 48 hours after arriving at its decision.</p>	IECEX CoCs	ExCB	
6	<p>The ExCB receiving the application for an IECEx conformity mark license shall arrange for conduct an assessment and audit of the applicant's procedures for compliance with the terms and conditions (OD-023 423) and this OD. Such assessment may coincide with the factory audit required for the issuing and maintaining of an IECEx CoC and shall include but not limited to the following:</p> <ul style="list-style-type: none"> • Ensuring the procedures require that the IECEx conformity mark is only associated with products equipment covered by IECEx certificates of conformity, listed in the application • A review of promotional material where the IECEx Conformity Mark is likely to be used • A review of the certified label drawings to ensure that the only change is the addition of the mark. This will not be regarded as a change to the issued certificate • A clear identification of the senior position with responsibility and authority to control use of the mark within the applicant's organization • Ensuring the requirements of the terms and conditions in OD-023 423 are met 	<p>IECEX 04</p> <p>Applicant's procedures</p> <p>OD-023 423</p>	<p>ExCB responsible for issuing the QAR</p>	<p>This assessment may be conducted either at the applicant's premises or the ExCB's offices and may also be included as an extension to the normal IECEx CoC surveillance visit by the ExCB.</p>

Step	Description of activity (see Figure 2)	Related documents	By whom	Notes/comments
7+7a	<p>Where the result of the assessment/audit is negative due to non-compliances being raised, the applicant may submit additional or revised information and procedures to the ExCB for additional reviews.</p> <p>Alternatively the applicant may choose to withdraw their application</p> <p>The ExCB shall notify the applicant as soon as possible and preferably within 48 hours after arriving at its decision.</p>	ExCB's procedures	ExCB	
8	<p>Upon successful completion of Step 6, the ExCB shall review the proposed design by the applicant.</p> <p>This proposed design shall have been submitted by the applicant in the form of a controlled document, usually in the form of a drawing.</p> <p>NOTE To assist the applicant with a proposed design, blank copies of the mark may be requested from the IECEx Secretariat by the ExCB.</p>	Applicant's design	ExCB	
9+9a	<p>Where the assessment according to Step 8 is successful the ExCB shall stamp or otherwise provide indication of its acceptance on the applicant's controlled document, create a copy for the ExCB's records and then forward the document back to the applicant.</p> <p>Where the result according to Step 8 is unsuccessful the applicant may re-submit a revised document showing a modified mark design for further review by the ExCB.</p> <p>Alternatively the applicant may choose to withdraw their application.</p> <p>The ExCB shall notify the applicant as soon as possible and preferably within 48 hours after arriving at its decision.</p>		ExCB	

Step	Description of activity (see Figure 2)	Related documents	By whom	Notes/comments
10	<p>With all steps now successfully completed and subject to payment of any fees by the applicant, the ExCB shall:</p> <ul style="list-style-type: none"> • Issue the IECEx conformity mark license • Register the license certificate on the IECEx website • Update the ExCB's surveillance procedures and audit plans, for the applicant, to include on-going assessment and review of the applicant's ability to comply with the IECEx conformity mark Regulations rules, this OD and terms and conditions (OD 023 423). • Request from the IECEx Secretariat two copies of a CD containing copies of the Mark, complete with number, in both colour and black and white 	IECEx website www.iecex.com	ExCB	

Annex A

LICENSE AGREEMENT BETWEEN THE INTERNATIONAL ELECTROTECHNICAL COMMISSION AND

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CONCERNING OPERATION AS AN IECEX CERTIFICATION BODY TO ISSUE IECEX CONFORMITY MARK LICENSES

AGREEMENT

~~This Agreement is made on [date] by and between:~~

This updated Agreement (herein after referred to as the "**Agreement**") becomes effective on **day month year** (herein after referred to as the "**Effective date**") and replaces all previous license agreements between:

The International Electrotechnical Commission, with offices at 3 rue de Varembe, 1211 Geneva 20, Switzerland (herein after referred to as "**the IEC**")

And

The Certification Body of xxxx with offices at xxxx (herein after referred to as "**the Certification Body**")

The IEC and **the Certification Body** are hereinafter sometimes referred to as the "**Parties**" or separately referred to as a "**Party**".

Whereas:

- a) **The IEC** owns the IECEX Conformity Mark and has published ~~Regulations~~ **Rules**, (**the IECEX Conformity Mark Rules IECEX 04**) describing the **IECEX Conformity Mark**, its meaning and the requirements for management and licensing of the **IECEX Conformity Mark**
- b) **The IEC** has approved the creation of the IECEX Conformity Mark Licensing ~~System~~ **Scheme** defined below for the purpose of managing the licensing of the use of the **IECEX Conformity Mark**
- c) **The Certification Body** is an accepted IECEX Certification Body (ExCB) in accordance with IECEX 02 and has applied to be recognized as an IECEX Conformity Mark License issuing Body to be authorized to license the use of the **IECEX Conformity Mark** in accordance with the IECEX Conformity Mark ~~Regulations~~ **Rules**, IECEX 04 and Rules and Procedures detailed in IECEX Operational Document OD 422, always in their currently valid versions available on the IECEX internet website www.iecex.com ~~as amended~~.

Definitions

- 1) "**Regulations Rules**" means the IECEX Conformity Mark ~~Regulations~~ **Rules**, IECEX 04, always in their currently valid versions.

- 2) "The **IECEX Management Committee (ExMC)**" means the Management Committee of the **IECEX System and all its Programmes, including the Licensing of the IECEX Conformity Mark** defined above.
- 3) "**IECEX Conformity Mark**" means the IECEX Conformity Mark owned and operated by the IEC as defined in the IECEX Conformity Mark ~~Regulation~~ Rules, IECEX 04 The IECEX Conformity Mark' is reproduced in Annex A of the Rules IECEX 04
- 4) "**Ex equipment**" means the equipment covered by an IECEX Certificate of Conformity issued in accordance with the IECEX Scheme Rules for Certified Equipment, and listed on the IECEX Conformity Mark License.

It is hereby agreed as follows:

1 Authorization

~~The IECEX Certification Body is authorized to issue IECEX Conformity Mark Licenses for the use of the IECEX Conformity Mark on or associated with Ex products which are covered by a current IECEX Certificate of Conformity, in accordance with IECEX 02 and issued by the IECEX Certification Body and meet all the requirements of the IECEX Conformity Mark Regulations (IECEX 04), the Rules and Procedures (OD 422) and the IECEX Conformity Mark Terms and Conditions (OD 023), subject to the conditions and limitations set out hereafter. In authorizing the IECEX Certification Body to issue IECEX Conformity Mark Licenses, this agreement does not give any other contractual rights to the IECEX Certification Body outside that as provided by the IECEX Conformity Mark License Regulations (IECEX 04).~~

The IEC hereby grants **The IECEX Certification Body** the non-exclusive right and license to issue IECEX Conformity Mark Licenses for the use of the **IECEX Conformity Mark** on or associated with Ex equipment which are covered by a current IECEX Certificate of Conformity, in accordance with IECEX 02. The **IECEX Certification Body is authorized to issue IECEX Conformity Mark Licenses strictly in accordance with all the requirements of the IECEX Conformity Mark Rules (IECEX 04), the Rules and Procedures (OD 422) and the IECEX Conformity Mark Terms and Conditions (OD 423)**, always in their currently valid versions available on the IECEX internet website www.iecex.com, subject to the conditions and limitations set out hereafter.

In authorizing **the Certification Body** to issue IECEX Conformity Mark Licenses, this **Agreement** provides the rights and obligations, and no other contractual rights to **the Certification Body** under the IECEX Conformity Mark License Rules (IECEX 04), the Rules and Procedures (OD 422) and the IECEX Conformity Mark Terms and Conditions (OD 023), always in their currently valid versions available on the IECEX internet website www.iecex.com, and the present **Agreement**.

In addition, **the Certification Body** shall only issue IECEX Conformity Mark Licenses that list IECEX Certificates of Conformity issued by ~~the any IECEX Certification Body, itself and~~ Bodies in accordance with IECEX 02.

2 Rights and obligations of the IECEX Certification Body

2.1 The **IECEX Conformity Mark** licensed for use shall be in accordance with the specimen shown in the ~~Regulations~~ Rules (IECEX 04) with the addition of **the Certification Body** identifier and license number in the format instructed by the IECEX Secretariat.

2.2 **The Certification Body** shall ensure that licenses are only issued for ~~products~~ equipment which are covered by a current IECEX Certificate of Conformity, in accordance with IECEX 02 and issued by ~~the IECEX Certification Body~~ Bodies.

2.3 **The Certification Body** shall ensure that their procedures for the issue, maintenance, withdrawal, and misuse of licenses conform to the IECEX Conformity Mark ~~Regulations~~ Rules (IECEX 04), Rules and Procedures (OD 422) and the Terms and Conditions (OD ~~023~~ 423) always in their currently valid versions available on the IECEX internet website www.iecex.com.

2.4 The Certification Body shall be responsible for its financial obligations deriving from its participation as an IECEx Conformity Mark License issuing body.

2.5 The Certification Body shall have the right to decide the fees it will charge for its certification services, within normal acceptable market rates, relating to the **IECEX Conformity Mark**.

2.6 The Certification Body shall be responsible for its own legal liabilities and shall maintain the necessary insurances including professional liability insurance as required by ~~ISO/IEC Guide 65 or~~ ISO/IEC 17065.

2.7 The Certification Body shall ~~use its best endeavours to~~ ensure that manufacturers and other applicants licensed to use the **IECEX Conformity Mark** on or associated with their ~~products~~ equipment comply with the duties and responsibilities placed on them by the **Regulations Rules (IECEX 04)**, Rules and Procedures (OD 422) and the Terms and Conditions (OD-023 423). ~~The IECEx Certification Body shall include such as part of its agreement with licensees.~~

The Certification Body undertakes that all license agreements made between **the Certification Body** and Licensees (usually manufacturers) shall refer to and include the Regulations (IECEX 04), Rules and Procedures (OD 422), IECEx Conformity Mark Terms and Conditions (OD 423), in their currently valid version (available on the IECEx internet website www.iecex.com), as integral and binding parts of those license agreements. It is not the intent for the **Certification Body** to perform market surveillance as part of their duties and responsibilities.

2.8 The Certification Body shall inform **the IEC** through the IECEx Secretariat of any cases either brought to its notice or where they become aware of misuse of the **IECEX Conformity Mark** and shall take appropriate action in cases of misuse of licenses which it has issued.

2.9 The Certification Body shall maintain compliance with the requirements of the IECEx System Rules and Procedures (IECEX 02), the ~~Regulations~~ **Mark Rules (IECEX 04)** and supporting Operational Documents, **always in their currently valid versions** available from the IECEx website www.iecex.com. **The Certification Body** shall immediately inform the IECEx Executive Secretary of any actions or inactions that may result in the IECEx Certification Body no longer maintaining such compliance.

2.10 The Certification Body agrees to pay license fees associated with the **IECEX Conformity Mark**, as approved by the IECEx Management Committee. **The current IECEx Conformity Mark License fee is zero.**

2.11 The Certification Body shall inform **the IEC** of any change to its legal status.

2.12 The Certification Body shall operate under their own responsibility and shall indemnify and hold harmless **IEC** from any and all claims, actions and judgements, including costs of defence incurred in defending claims arising from **the Certification Body's** operation in issuing IECEx Conformity Mark Licenses.

2.13 In operating this agreement, **the IEC** is not aware of any third parties whose rights may be infringed.

2.14 The Certification Body has the right to use the **IECEX Conformity Mark** for IECEx promotional purposes.

2.15 The Certification Body undertakes not to jeopardise **the IEC's** rights in the **IECEX Conformity Mark** by improper use of the trademark. **The Certification Body's** use of the **IECEX Conformity Mark** in connection with the Ex equipment, including all goodwill in the trademark generated thereby, shall inure exclusively to the benefit of **IEC**.

2.16 The Certification Body undertakes not to use on or in connection with any goods and services, including for the issuance of licenses, any trademarks so nearly resembling the **IECEX Conformity Mark** as to be likely to cause deception, confusion or mistake.

2.17 The Certification Body undertakes not at any time to attack, question or deny the validity of the **IECEX Conformity Mark** or the trademark and domain name registrations or applications of the same, and it shall not knowingly do anything which would or might invalidate any of the said registrations or applications.

2.18 The Certification Body acknowledges that **the IEC** is the exclusive owner of the **IECEX Conformity Mark** and shall not do anything which may be taken to indicate that it has any right, title or interest in or to the ownership or use of the **IECEX Conformity Mark** except under this **Agreement**.

2.19 The Certification Body shall not, and shall not assist or encourage any third party to, anywhere in the world, apply for, or obtain registration of, any trademark, or domain name which consists of, or comprises the **IECEX Conformity Mark**, any distinctive part thereof, any confusingly similar words, names, logos, marks or signs, in each case, either alone or in combination with any words, names, logos, marks or signs.

2.20 The Certification Body shall not, without the prior written approval of **the IEC**, use the **IECEX Conformity Mark** in conjunction with any other brand, trademark or distinctive word, name, logo, mark or sign.

2.21 The Certification Body shall not use, alter or modify the **IECEX Conformity Mark** in any way without the prior written approval of **the IEC**.

2.22 The Certification Body shall not use the **IECEX Conformity Mark**, or make any statement with reference to the **IECEX Conformity Mark**, that in the opinion of **the IEC** is misleading or could bring the **IECEX Conformity Mark** or **the IEC** into disrepute.

3 Obligations of the IEC

3.1 The IEC, as owner of the **IECEX Conformity Mark** shall be responsible for its legal protection in all countries where such protection is necessary.

3.2 The IEC will take action as described in the ~~Regulations~~ **Rules** (IECEX 04) in cases of misuse of the **IECEX Conformity Mark** where a license has not been issued.

4 Validity

4.1 This Agreement shall come into force from the ~~date that it is signed by both Parties for an initial~~ **Effective Date** for a period of three years, and shall be tacitly renewed for successive periods of equal duration.

5 Termination

5.1 This Agreement can be terminated by either **Party** after consultation and following the receipt of written notification. Each **Party** shall take the required measures to duly finalize its existing commitments.

5.2 The Certification Body agrees to comply with the termination requirements detailed in the Rules and Procedures (OD 422) and Terms and Conditions (OD ~~023~~ 423).

5.3 If either **Party** elects to terminate this **Agreement** under any of the foregoing provisions, the other shall not, unless termination shall clearly be due exclusively or primarily to the fault of the other **Party** hereto, be entitled to demand any damages, compensation or indemnity of any kind as a consequence of such termination. However, termination of this **Agreement** shall not affect any of the obligations having arisen hereunder prior to the date of termination.

6 Successors

The benefits and obligations of this **Agreement** shall only inure unto and bind the successors of the **Parties** hereto with the consent of the other **Party** hereto.

7 Non-Assignability of Rights

This **Agreement** may not without the prior consent of the other **Party** hereto be assigned or transferred by either party hereto.

8 Notices

Any notice, including Electronic Mail (E-Mail) or other communication given in connection with this **Agreement** shall be in writing and shall be given by personal delivery or registered mail or express courier addressed to the recipient as follows:

International Electrotechnical Commission

IEC

3 rue de Varembé (1st Floor)

CH-1211 Geneva 20 – Switzerland

XXXXXXXXX (The Certification Body)

XXXXXXXXX (Address of the Certification Body)

9 Confidentiality

9.1 Each **Party** (“Recipient”) agrees to keep confidential and not to use for another purpose than the performance of this **Agreement** all information belonging to the other **Party** (“Discloser”) with which they may come into contact during the performance of this **Agreement**, provided that such information has been clearly labelled as confidential by the Discloser or, if disclosed orally, has been designated as being confidential at the time of disclosure. Each **Party** shall be responsible for the compliance by its personnel with these obligations.

9.2 The obligations under clause 9.1 shall not apply to any information that:

- was in the public domain or open to the public at the time it was transmitted to the Recipient, or
- became public or open to the public, for reasons other than an action or omission attributable to the Recipient, or
- was in the Recipient’s possession, without any limitation regarding its disclosure at the time it was transmitted to the Recipient, provided that such prior possession is supported by written evidence, or
- was obtained in good faith by the Recipient and without any commitment relating to confidentiality from a third party entitled to disclose it,

- was independently developed by the Recipient without using the information received from the Discloser to be proven on demand by written evidence

9.3 The Recipient shall have the right to disclose to the relevant authority any confidential information which is required by law, a competent court or a governmental entity, provided however that the Disclosing **Party** shall first have been given an opportunity to obtain a protective order precluding or limiting the disclosure of the confidential information.

9.4 The obligations under this clause 9 shall remain effective for five (5) years after the termination or expiry of this Agreement.

10 Governing Law and dispute resolution

The **Agreement** and any dispute to arise about the interpretation of this **Agreement** shall be governed by the laws of Switzerland and the **Parties** agree to submit to the exclusive jurisdiction of the courts of Geneva, Switzerland any matter relating to this **Agreement**.

The **Parties** shall attempt to resolve any dispute arising out of or in connection with this **Agreement** through good faith negotiation between them or their representatives.

If negotiation does not result in a resolution of the dispute within 60 (sixty) days upon receipt of the other party's notice, the dispute shall be submitted to the exclusive jurisdiction of the courts of Geneva, Switzerland

In witness whereof each **Party** has caused this **Agreement** to be executed by its duly authorized representatives on the date first set forth above.

SIGNED

By Mr P. Metzger

.....

General Secretary and CEO - IEC
For and on behalf of **the IEC**

And Xx Xxxxx Xxxxxx (name)

.....

Xxxx (position)
For and on behalf of **the ~~IECEX~~ Certification Body**