



Conformity Assessment Rules

datenschutz cert GmbH
Version 1.2

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If datenschutz cert GmbH is commissioned with the performance of conformity assessments, the following conformity assessment rules (car) shall apply to the contracting parties.

1. Validity

- (1) By placing an order, the client recognises the current version of the CAR as binding as an essential part of the contract. The CAR is available at www.datenschutz-cert.de and will be sent on request.
- (2) Any conflicting or deviating terms and conditions of the client to this CAR are not accepted by datenschutz cert GmbH, unless datenschutz cert GmbH has explicitly agreed to their validity in writing. The CAR is also valid if datenschutz cert GmbH performs its services without reservation in the knowledge of conflicting or deviating conditions of the client
- (3) Changes to the CAR by datenschutz cert GmbH will be necessary in particular in the case of changes to regulations, standards, approval standards as well as in the case of requirements of approval bodies and will be communicated to the contractor in a timely manner. He/she can object to this within 6 weeks after notification. datenschutz cert GmbH reserves the right to terminate the contract after an objection.
- (4) In the event of disputes over translation, the CAR in the German language shall apply exclusively.

2. Definitions

- (1) Conformity assessments are services in particular within the scope of auditing, assessment, evaluation, verification, inspection, validation, measurement, testing, confirmation, attestation, revision, certification, testing, penetration test, test, quality sealing.
- (2) Conformity Assessment Body means datenschutz cert GmbH.
- (3) Conformity Assessment Document means all documents of conformity assessment which are drawn up by the Conformity Assessment Body and by the persons vocated by it, in particular reports, certificates, attestations, confirmations, proofs, certificates, attestations, quality seals, test certificates, certificates, attestations.
- (4) Work means in particular intellectual property in conformity assessment documents and their contents as well as in criteria catalogues, conformity assessment programmes, analyses, organisation charts, programmes, performance specifications, drafts, calculations, drawings, seminar and workshop contents, presentations, answers to questions, videos, patents, word/figurative marks, logos, signs, illustrations.
- (5) Assessors are natural and legal persons who carry out conformity assessments, in particular auditors, assessors, evaluators, experts (e.g., industry experts, technical experts) and certifiers.
- (6) Standards are rules which are formulated and/or issued by a recognised organisation and its standards bodies and which are to be applied within the framework

of conformity assessment. These include, among others, laws, regulations, case law, guidelines, criteria, characteristics, provisions as well as national, international or association-based standards and self-created testing and conformity programmes of datenschutz cert GmbH.

- (7) Rulebook means a collection of standards.
- (8) Accreditation Body means all natural and legal persons as well as bodies which can issue an accreditation, recognition, approval, vocation, licensing, notification, granting of authority, designation or certification of the Conformity Assessment Body, in particular the German DAkkS, BSI, BNetzA.
- (9) Approval means in particular the accreditation, recognition, approval, vocation, licensing, notification, granting of authority, designation or certification of the conformity assessment body of datenschutz cert GmbH by an accreditation body.
- (10) Approval standards are standards of an approval body, in particular accreditation regulations.
- (11) Scope is the subject matter of the conformity assessment (also referred to as "subject under investigation" or "scope").
- (12) Contracting Party means datenschutz cert GmbH and the contracting party of a conformity assessment.
- (13) GDPR means Regulation (EU) 2016/679 (General Data Protection Regulation).
- (14) DAkkS means the German Accreditation Body (Deutsche Akkreditierungsstelle GmbH).

3. Subject matter of the contract, approval

- (1) datenschutz cert GmbH offers conformity assessments in the field of data protection and information security for products, services, management systems, data processing procedures, IT systems, IT services and IT products on the basis of regulations, standards and approval standards.
- (2) datenschutz cert GmbH commits itself to impartiality, independence and confidentiality, openness and transparency as well as to data protection in the performance of all services, especially in conformity assessments.
- (3) Consultancy services shall not be provided. Furthermore, the conformity assessments shall take place independently of any consultancy by another natural or legal person or body.
- (4) If a conformity assessment is the subject of a contract between the contracting parties, this shall be deemed to be a service contract pursuant to §§611 ff. BGB (German Civil Code). The datenschutz cert GmbH does not guarantee a positive conformity assessment for the client or owe it as success.
- (5) All conformity assessments shall be governed by the relevant regulations, standards and approval standards, as well as by the regulations of CAR set out herein and any individual agreements concluded by the contracting parties, provided that these do not contradict the regulations, standards or approval standards.
- (6) datenschutz cert GmbH submits to the respective accreditation standards and accreditation bodies.

- (7) The contractual language is German. In the event of disputes regarding the translation of this KBO, the KBO in the German language shall apply exclusively.

4. Persons involved

- (1) For the conformity assessment, datenschutz cert GmbH employs competent, reliable personnel committed to impartiality, independence and confidentiality. The datenschutz cert GmbH can appoint experts by contract and oblige them to comply with the respective conformity assessment processes. External experts can also be used for the agreed activity, as long as this is not prohibited by the regulations, the standard or the accreditation standard.
- (2) Within the scope of a conformity assessment, datenschutz cert GmbH is entitled to admit observers (e.g. in a witness audit) from accreditation bodies at any time.
- (3) datenschutz cert GmbH is entitled to commission qualified subcontractors with the conformity assessment. The client will be informed about this.
- (4) datenschutz cert GmbH has appointed a committee to ensure the independence of datenschutz cert GmbH.
- (5) The employees of datenschutz cert GmbH, the experts appointed by datenschutz cert GmbH, any subcontractors of a conformity assessment as well as members of the committee for ensuring the independence of datenschutz cert GmbH have been committed to impartiality, independence and confidentiality as well as data protection in the performance of their activities.
- (6) Other service providers of datenschutz cert GmbH are obliged to confidentiality and data protection.
- (7) Information of the Client shall not be disclosed to third parties unless the disclosure is made with the consent of the Client or on the basis of official orders or on the basis of statutory provisions or licensing standards.

5. Special rights and obligations of datenschutz cert

- (1) Violations of the CAR entitle datenschutz cert GmbH to terminate the contract immediately and may lead to non-issuance or expiry of the conformity assessment.
- (2) datenschutz cert GmbH is obliged to publish as well as to present, report and provide information on conformity assessment procedures and related information to the accreditation bodies upon their request. The Ordering Party agrees to this without restriction with the acceptance of this CAR.
- (3) datenschutz cert GmbH is allowed to publish the name of the client and the scope as well as the validity of the conformity assessment, e.g., in a certificate list on the website of datenschutz cert GmbH. The client has the right to object to this publication, unless the applicable standards provide for a mandatory publication.
- (4) The permanent availability and retrievability of the websites of datenschutz cert GmbH as well as the conformity assessments, conformity assessment documents and works that can be retrieved online there is not guaranteed. In particular, downtimes may occur during necessary maintenance work.

- (5) Upon request, datenschutz cert GmbH shall report to the accreditation body which conformity assessment activities it has carried out within the scope of its accreditation and which other activities, including cross-border activities and subcontracting, it has performed. datenschutz cert GmbH shall notify the accreditation body of any refusal, restriction, suspension, withdrawal or misuse of a conformity assessment.
- (6) Documents, data carriers and test samples submitted by the Ordering Party shall be taken into custody by datenschutz cert GmbH and destroyed after 5 years after completion of the project in an orderly manner and without any claim for compensation against the Ordering Party, unless otherwise agreed. If the client demands the return of the documents, this shall be at the expense and risk of the client. Any further legal or normative obligations of datenschutz cert GmbH for storage remain unaffected.
- (7) datenschutz cert GmbH shall only be liable for damages to the provided objects and test samples of the Ordering Party in case of gross negligence or intent, unless a damage is subject of the commissioned conformity assessment.
- (8) datenschutz cert GmbH shall not be liable for any disadvantages incurred by the contracting authority due to the non-award, expiry, withdrawal, suspension, withdrawal or restriction of a conformity assessment.
- (9) Clients can contact datenschutz cert GmbH at any time with complaints or objections in writing or textually via e-mail. The decision of datenschutz cert GmbH based on the complaint or objection shall be justified to the petitioner.

6. Special rights and obligations of the clients

- (1) The Client undertakes to always fully implement the requirements of the applicable regulations, standards or approval standards and this CAR, including the implementation of changes. The client shall keep himself/herself regularly and independently informed of these changes. Changes to this CAR in an ongoing conformity assessment procedure shall be communicated by datenschutz cert GmbH.
- (2) As a rule, conformity assessments shall be carried out at the premises of the Ordering Party or at the premises of datenschutz cert GmbH. Other locations can be agreed with the client. If employees or service providers or vicarious agents of the client culpably commit a breach of duty on site, the client shall indemnify datenschutz cert GmbH from all claims of third parties resulting therefrom.
- (3) The client is obliged to admit observers (e.g. in a witness audit) from accreditation bodies at any time within the framework of a conformity assessment. The client will be notified of this and is obliged to make the necessary arrangements. This includes arrangements for the conduct of evaluation and monitoring (if required), including consideration of the review of documentation and records, access to appropriate equipment, site(s), area(s) and personnel, and subcontractors of the Principal. This shall also include arrangements for the investigation of complaints and the participation of observers, if applicable.
- (4) The Ordering Party shall ensure that all information, documents, objects, technical equipment or test pieces necessary for the performance of the conformity assessment are made available to datenschutz cert GmbH and its experts as well as,

upon request, to the accreditation body and, if applicable, to the competent and involved authorities, free of charge, conscientiously, completely and in due time. The Ordering Party shall grant datenschutz cert GmbH and the appointed assessor, as well as the accreditation body upon request, free, unrestricted access to all areas required for the conformity assessment. The Ordering Party is responsible for ensuring that all necessary contact persons for the conformity assessment can be reached.

- (5) Requested documents and information may be transmitted in digital form or by post. Packaging, dispatch and delivery shall be at the expense and risk of the Client.
- (6) As a rule, documents and information shall be made available in German. As a rule, the conformity assessment shall be carried out in German. Other languages, such as English, may be agreed separately.
- (7) The Ordering Party shall inform datenschutz cert GmbH without delay of any changes that may affect the scope or the course of the conformity assessment, in particular changes in the following areas
 - the legal or organisational form, the economic circumstances or the ownership structure,
 - the personnel organisation or management, insofar as this is involved in the assessment,
 - the contact address or the locations included in the assessment,
 - the scope.
- (8) The contracting entity undertakes, in the case of identified non-conformities within the scope, to analyse the causes and to describe the specific, implemented or planned corrections and corrective actions to eliminate the identified non-conformities within a specified period of time. The conformity assessment body shall be entitled to consult this description.
- (9) The contracting authority undertakes to take appropriate measures with regard to any complaints and deficiencies discovered in the scope of application which affect compliance with the conformity assessment requirements. He/she undertakes to document these measures, to keep records of them and to make these records available to datenschutz cert GmbH and upon request to the accreditation body.
- (10) The obligation to always comply with the general certification requirements, especially in the case of conformity assessments according to Art. 42 and 43 GDPR, also includes the certification criteria that have been approved or endorsed by the competent data protection supervisory authority or the European Data Protection Board. The obligation of the principal to make the necessary arrangements for evaluation and monitoring also includes regulations that specify appropriate intervals for a renewed evaluation or review (regularity). There is an obligation to grant the competent supervisory authority full transparency with regard to the certification procedure, including contractually confidential matters relating to data protection compliance in accordance with Art. 42 (7) GDPR and Art. 58 (1) lit. c GDPR. There is also an obligation to provide the certification body with all

information and access to its processing activities that are necessary for the implementation of the certification procedure. There is an obligation to comply with the GDPR and, without prejudice, a reference to the tasks and powers of the competent supervisory authorities pursuant to Art. 42 (5) GDPR. In addition, the certification body is entitled to disclose all information necessary for the granting of certification in accordance with Art. 42 (8) GDPR and Art. 43 (5) GDPR. There is also an obligation to make necessary arrangements for the investigation of complaints. Records of all complaints shall thereafter be kept which have been brought to the attention of the client regarding compliance with the certification requirements and these records shall be made available to the certification body upon request. No. 6 para. 8 of this CAR shall apply accordingly.

- (11) The Ordering Party shall provide datenschutz cert GmbH or the employees commissioned with the execution of the project, audit or contract with all documents and information necessary for the execution of the agreed service in due time and free of charge and shall fulfil all obligations to cooperate which are necessary for the fulfilment of the contract by datenschutz cert GmbH. If an inspection of systems or an on-site visit within the sphere of influence of the Customer is necessary for the performance of the contract, the Customer shall grant access to these.
- (12) If the ordering party does not fulfil his obligations to cooperate necessary for the fulfilment of the contract despite two requests with setting a deadline, datenschutz cert GmbH is entitled to terminate the contract or to withdraw from the contract according to § 323 BGB (German Civil Code) and to invoice the contractual services rendered until the time of withdrawal as well as to demand compensation for damages due to non-fulfilment.

7. Award

- (1) Prerequisite for the award of conformity assessments and conformity assessment documents including associated seals, logos or word/figurative marks is the successful conformity assessment in accordance with the respective applicable regulations, standards or approval standards by authorised experts of datenschutz cert GmbH and the acceptance of the conformity assessment and/or the conformity assessment documents by the conformity assessment body.
- (2) After completion of the assessment, the contracting authority receives a written or textual result (e.g., a test report; e.g., a certificate in case of a positive assessment).
- (3) The award is effective as soon as the contracting authority has received the conformity assessment document issued by datenschutz cert GmbH. The document issued in paper form is always legally binding.
- (4) The validity of the conformity assessment documents and the conformity assessment depends on the regulations, the standards or approval standards as well as the compliance with these CAR.
- (5) Within the framework of the regulations, standards and approval standards, conformity assessments and conformity assessment documents may contain conditions for validity as well as requirements for the client.

- (6) Deadlines and procedures must be observed. If regulations, standards or approval standards do not regulate specific procedures or deadlines for the conformity assessment, these shall be communicated to datenschutz cert GmbH, in particular in the tender procedure. With the order confirmation of the principal these are considered as agreed.

8. Expiry and Transfer

- (1) Conformity assessments and conformity assessment documents shall expire in accordance with the provisions of the respective regulations, standards and approval standards and this CAR.
- (2) A conformity assessment expires if the period of validity stated in the conformity assessment document has expired and this period is not extended upon request of the client or if the client waives this in writing to datenschutz cert GmbH.
- (3) It shall also expire if the client is no longer permitted to place the object of the conformity assessment on the market or has to shut it down or ceases its business operations without legal succession or insolvency proceedings have been opened against the client or have been rejected for lack of assets or the client no longer recognises the CAR or objects to reasonable amendments to the CAR.
- (4) (4) It shall further expire if the accreditation of datenschutz cert GmbH for the concerned set of rules, standard or approval standard expires. The suspension or withdrawal (expiration or revocation) of the accreditation of datenschutz cert GmbH leads to the invalidity of the certification or conformity assessment. The datenschutz cert GmbH shall inform the client and the holder of conformity assessment documents of the reasons in due time. In accordance with the relevant regulations, standards and accreditation standards, a transfer of the conformity assessment to a receiving conformity assessment body can be provided for in case of expiry of accreditation.
- (5) A transfer of certification within the meaning of Art. 42 and 43 GDPR shall also take place upon expiry of accreditation within the meaning of Art. 43 GDPR. If the conformity assessment body ceases or renounces its activity, the DAkKS or the body responsible according to Art. 42 and 43 GDPR shall assess at the receiving certification body whether a transfer of certification is taking place in accordance with the rules.
- (6) In case of expiry of a conformity assessment or a conformity assessment document published online on the web pages of datenschutz cert GmbH, it will also be removed or changed online. The datenschutz cert GmbH is not liable for links set here.
- (7) In case of expiry of a conformity assessment or a conformity assessment document, all claims for damages, recourse and repayment of the client or third parties resulting from this against datenschutz cert GmbH are excluded. Claims for damages according to the applicable laws remain unaffected.

9. Suspension, withdrawal, restriction, review

- (1) Conformity assessments and conformity assessment documents shall be withdrawn, suspended, withdrawn or restricted in accordance with the provisions of

the respective regulations, standards and approval standards and this CAR. datenschutz cert GmbH shall inform the procuring entity and holders of conformity assessment documents of the reasons in due time.

- (2) Conformity assessments, in particular certificates, shall be restricted, suspended or withdrawn in particular if the contracting entity
- grossly negligently or intentionally violates this CAR, provided that the violation is substantial,
 - fails to take appropriate corrective action despite being requested to do so, if datenschutz cert GmbH has determined that the requirements of the conformity assessment are no longer fulfilled,
 - makes incorrect statements to datenschutz cert GmbH or conceals information which is relevant for the conformity assessment,
 - is responsible for reasons why the conformity assessment, in particular a surveillance, cannot be carried out within the prescribed period,
 - despite a request for payment, does not pay the fees in full or only partially within the set period. In case of doubt datenschutz cert GmbH decides to which conformity assessment the request for payment refers,
 - does not provide evidence of a proper performance of tests despite a written request,
 - engages in or tolerates misleading or otherwise inadmissible advertising with the work, the conformity assessment or the conformity assessment document,
 - brings datenschutz cert GmbH and the certification body into disrepute.
- (3) Conformity assessments, in particular certificates, may furthermore be restricted, suspended or withdrawn by datenschutz cert GmbH within the regulations, standards and approval standards if
- they have been altered and thus falsified by the client or certificate holder,
 - it is established that the object of examination is a plagiarism,
 - the contracting entity or the holder of the conformity assessment document is no longer in a position to fulfil the obligations arising from this CAR due to a loss of assets (e.g., cessation of payments or insolvency),
 - the requirements of the regulations, standards, approval standards and approval bodies or the generally recognised state of the art on which the conformity assessment is based change,
 - the underlying conformity assessment document is no longer suitable to substantiate the conformity assessment,
 - the object of the investigation poses a risk to a natural person,
 - no approval was available for the conformity assessment,
 - the approval body orders the restriction, suspension or withdrawal.
- (4) Prior to suspension, restriction or withdrawal, datenschutz cert GmbH shall give the contracting agency or the owner the opportunity to comment and to restore conformity through appropriate corrective measures within a reasonable period of at least 4 weeks.

- (5) A certificate and a certificate of conformity assessment must be returned to datenschutz cert GmbH in the original without delay after restriction, suspension or withdrawal. If the certificate and the certificate were issued digitally, they shall be deleted immediately. In case of a restriction, datenschutz cert GmbH issues a new certificate with restricted content to the client. In case of a suspension the certificate and the certificate remain with datenschutz cert GmbH until the suspension is lifted.
- (6) The contracting entity or the holder shall automatically lose the right to place or keep on the market or to advertise the test item with a conformity assessment marking upon its expiry, restriction, suspension or withdrawal. In such cases, references to the conformity assessment shall be recalled or removed.
- (7) In the event of restriction, suspension or withdrawal, inspections shall be possible at the expense of the Client. A separate offer shall be made for the costs. Verifications are subject to this CAR. The validity of a conformity assessment document which has been suspended, withdrawn or restricted shall be prolonged if it is established by a re-examination within a period set by datenschutz cert GmbH that the subject of the examination complies with the regulations, standards or approval standards.
- (8) In case of suspension, withdrawal or restriction of a conformity assessment or a conformity assessment document which has been published online on the websites of datenschutz cert GmbH, it will also be removed or changed online. The datenschutz cert GmbH is not liable for links placed here.
- (9) In case of suspension, withdrawal or restriction of a conformity assessment or a conformity assessment document, all claims for damages, recourse and repayment of the client or third parties resulting from this against datenschutz cert GmbH are excluded. Claims for damages according to the applicable laws remain unaffected.

10. Rights of use, obligations, prohibitions, contractual penalty, intellectual property and third party rights

- (1) (1) Conformity assessments and conformity assessment documents as well as works such as word/figurative marks, seals, logos and illustrations Criteria catalogues, offers, reports, analyses, expert opinions, organisation charts, programmes, performance specifications, drafts, calculations, drawings, data carriers, documents, seminar and workshop contents, presentations, question answers etc. as well as copies thereof shall remain the property of datenschutz cert GmbH or the authorised holder (e.g. document templates or logos of DAkkS or other authorised third parties).
- (2) Upon issuance of the conformity assessment document, the conformity assessment or the work produced by datenschutz cert GmbH or its experts, the client shall receive the simple, non-transferable and non-exclusive right to use it in accordance with the relevant regulations, standards or approval standards and the CAR. If this contains a validity, the right of use is limited to the validity. Under no circumstances does the client receive licensing rights to the intellectual property

- (including industrial property rights and copyrights) of datenschutz cert GmbH or authorised third parties.
- (3) Conformity assessment documents, in particular certificates and attestations, shall be valid only for the material, territorial and temporal scope specified in them and only for the persons and bodies expressly indicated in them.
 - (4) Clients are prohibited from making changes to the intellectual property of datenschutz cert GmbH or authorised third parties and to works received, conformity assessments as well as to the conformity assessment document including seals, logos, word/figurative marks and images. Also, rights of use received from datenschutz cert GmbH may not be passed on to third parties for third party use or third-party use may not be permitted by the client.
 - (5) All copyrights to the works, conformity assessment documents and conformity assessments created by datenschutz cert GmbH, its employees, experts and commissioned third parties remain with datenschutz cert GmbH. They may be used by the client during and after termination of the contractual relationship exclusively for purposes covered by the contract. Clients are not entitled to duplicate and/or distribute them without the express, textual or written consent of datenschutz cert GmbH. Under no circumstances shall an unauthorised duplication/dissemination result in a liability of datenschutz cert GmbH - in particular for the correctness - towards the client or third parties.
 - (6) When using the works, conformity assessments and conformity assessment documents, the Client shall be obliged to present them correctly and unambiguously. In particular, he/she undertakes to,
 - to use them only in full text and with indication of the date of issue internally or towards third parties as well as for publication. Any reproduction in part only requires the written consent of datenschutz cert GmbH.
 - to present and comply with the scope and validity correctly in all media, declarations and documents used,
 - not to use them in a misleading manner or to permit such use,
 - in the event of lapse, suspension or withdrawal as well as restriction of the conformity assessment, to terminate or modify the use thereof including the conformity assessment documents and works in all relevant media, declarations and documents,
 - not to imply, expressly or by implication, that the conformity assessment applies to activities which are outside its scope,
 - not to use the conformity assessment in a manner that discredits datenschutz cert GmbH and/or the conformity assessment system, is misleading or is likely to undermine public confidence in it.
 - (7) The client is obliged to inform datenschutz cert GmbH immediately about any misuse or misleading use as soon as he/she becomes aware of it.
 - (8) Rights of use of the works, conformity assessments and conformity assessment documents shall expire upon expiry of the associated validity. They shall also expire if the contracting party uses the work, the conformity assessment or the

conformity assessment document contrary to the regulations, standards or approval standards or contrary to this CAR or permits such use.

- (9) Rights of use of the works, conformity assessments and conformity assessment documents expire immediately if the associated recognition, approval, licensing or accreditation of datenschutz cert GmbH is revoked, expires, becomes invalid or expires. The datenschutz cert GmbH shall inform the client immediately. In these cases, all claims for damages, recourse and repayment of the client resulting from the expiration of the right of use against datenschutz cert GmbH are excluded. Claims for damages according to the applicable laws remain unaffected.
- (10) The Ordering Party is obliged to return the right of use immediately and completely to datenschutz cert GmbH after termination.
- (11) datenschutz cert GmbH is entitled to verify the use of the works, conformity assessments and conformity assessment documents.
- (12) datenschutz cert GmbH is entitled to demand a contractual penalty in the amount of 5% of the order amount, but at least 1000 €, for each case of violation in case of gross negligence or intentional violation of the CAR, especially in case of illegal use of a certificate, test mark or test report. The contractual penalty shall be due immediately. Its amount can be reviewed in court with regard to its appropriateness. If costs are incurred by datenschutz cert GmbH from registration offices as a result of the aforementioned violation of the CAR by the contractor, the contractor shall bear these costs. Further claims for damages remain unaffected.
- (13) The datenschutz cert GmbH is entitled to use the name of the client as well as their company logo for reference purposes on the websites of the datenschutz cert GmbH (especially www.datenschutz-cert.de) as well as in print media and presentations, unless otherwise expressly agreed.

11. Confidentiality and non-disclosure

- (1) All information exchanged between datenschutz cert GmbH and the client within the framework of the contractual relationship and also during preliminary negotiations prior to the conclusion of a contract (including documents, files, concepts, ideas, images and other physical or non-physical intellectual creations) shall be considered confidential and shall only be made accessible to those persons who require this information for the fulfilment of the purpose of the contract or who are authorised to inspect it on the basis of legal provisions or according to the requirements of the respective regulations, standards and approval norms. This also applies to information that has not been expressly designated as confidential or secret. This also includes information which is protected by industrial or other property rights or which is subject to a legal or contractual obligation of secrecy or which results from the nature of the information or which is to be regarded as confidential or secret by virtue of the factual context. In the event of a disclosure of confidential information, the contracting parties shall inform each other of this in advance, unless the disclosure is obvious, based on a legal basis or official order or a duty to disclose.
- (2) The parties shall communicate using appropriate, state-of-the-art security standards.

- (3) (Unless otherwise agreed, the obligation to maintain confidentiality shall apply permanently to all contracting parties even beyond the end of the respective contractual relationship.

12. Liability

- (1) datenschutz cert GmbH guarantees the performance of the service with the usual care and on the basis of the state of science and technology known to datenschutz cert GmbH.
- (2) The datenschutz cert GmbH is only liable for damages - regardless of the legal reason - if the datenschutz cert GmbH, a legal representative or its vicarious agents have demonstrably caused these damages intentionally or grossly negligently or if the datenschutz cert GmbH, a legal representative or its vicarious agents have negligently violated an essential contractual obligation ("cardinal obligation"). In case of violation of the cardinal obligation the liability is limited to twice the amount of the order or the work package concerned as well as to such damages which can typically be expected at the time of placing the order or at the time of execution of the contract (contract-typical, foreseeable damages). Possible compensation for damages due to non-performance pursuant to § 281 para. 1 in conjunction with § 280 para. 1 BGB (German Civil Code) is limited to the damage typically to be expected at the time of conclusion of the contract, up to a maximum of 20% of the order value, unless the vicarious agents or legal representatives employed by datenschutz cert GmbH are guilty of intent or gross negligence. The customer is only entitled to claim damages for non-fulfilment after setting a deadline. In case of injury to life, body or health the legal regulations apply.
- (3) datenschutz cert GmbH is not liable for the usability or usability of final work results of the conformity assessments (e.g. in expert opinions or reports) in contractually owed form for a specific purpose. Liability for indirect consequential damage (e.g. loss of profit) is excluded.
- (4) For the loss of information, data and programmes of the contracting party and their recovery, datenschutz cert GmbH is only liable insofar as this loss could not have been avoided by reasonable precautionary measures by the contracting party, in particular the making of backup copies.

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