

digitalSTROM Certification General Terms and Conditions

1 Scope

The digitalSTROM Alliance Certification General Terms and Conditions apply to all services rendered by the digitalSTROM Alliance Certification Department to the Partner Members of the digitalSTROM Alliance (hereinafter referred to as "Partner Member"), among other things for the following specified activities:

- Testing and certifying of technical products and software applications (hereinafter referred to as "products") with respect to proper behavior within the digitalSTROM System based on the rules defined by the digitalSTROM Standard.

2 Contractual Basis

The following regulations apply in addition to this digitalSTROM Alliance Certification General Terms and Conditions:

- dS-ready Certification Overview as published on <https://www.digitalstrom.org/en/alliance/certification/download/>
- All digitalSTROM Standard publications as published on <https://www.digitalstrom.org/en/alliance/standardization/device-behavior/download/>
- dS-ready Certification Price List as published on <https://www.digitalstrom.org/en/alliance/certification/download/>
- Articles of the digitalSTROM Alliance as published on <https://www.digitalstrom.org/en/alliance/office/download/>
- Fees regulations of the digitalSTROM Alliance as published on <https://www.digitalstrom.org/en/alliance/office/download/>

3 Basic Provisions

- 1 The digitalSTROM Alliance Certification Department operates according to fundamental rules and procedures which guarantee it is independent, impartial and nondiscriminatory. Adjustments of digitalSTROM Standard publications and testing and certification requirements are made public.
- 2 The digitalSTROM Alliance has the right to commission selected third parties to provide the services.
- 3 Information obtained as part of the certification activity shall be kept in confidence. However, a disclosure of said information e.g. to the authorities and accreditation bodies is permissible to the extent that the purpose of the contract or the accreditation rules so require or it fulfills statutory obligations. The Partner Member hereby confirms that the digitalSTROM Alliance may disclose such information and the Partner Member grants access to public authorities and accreditation bodies if requested.

- 4 If the Partner Member is provided with documents by the digitalSTROM Alliance Certification Department, these remain the property of the digitalSTROM Alliance Certification Department. The Partner Member undertakes to keep these documents in confidence and not to forward such documents to third parties without the prior consent of the digitalSTROM Alliance Certification Department.
- 5 The Partner Member may disclose the test reports, expert opinions, and other such documents obtained from the digitalSTROM Alliance Certification Department to third parties only verbatim including their respective preliminary remark and with specification of the date of issue.
- 6 The digitalSTROM Alliance has the right to provide third parties with information as to the validity of a certification by means of any kind.
- 7 The Partner Member consents to having its documents and data electronically stored in data processing systems of the digitalSTROM Alliance and its third party data processors.
- 8 The Certification Department of the digitalSTROM Alliance is responsible for its decisions with respect to granting, retention, expansion, limitation, rescission and withdrawal of a certification. There is no enforceable claim in this regard against digitalSTROM Alliance.
- 9 The digitalSTROM Alliance Certification Department shall advise the certificate holder in a timely manner of any relevant changes in the basis of certification.

4 Placement of Orders and Accounting

- 1 The Partner Member shall place an order in writing using the application forms provided by the digitalSTROM Alliance Certification Department.
- 2 When placing the order, the Partner Member shall provide the digitalSTROM Alliance Certification Department with all documents and information necessary for the testing and certification procedure.
- 3 The required payment must be received before the commissioned services will be provided.
- 4 The fees do not include VAT or possibly incurring foreign taxes and other charges. VAT is applicable at the respective statutory rate. Foreign taxes and other charges of any kind are strictly borne by the Partner Member.
- 5 The amounts invoiced are payable without discount upon receipt of the invoice. A right of retention and a right to set-off are excluded.
- 6 The results of the commissioned service will be delivered to the Partner Member only if the final invoice has been settled.

5 Certification of Technical Products

5.1 General Provisions

- 1 The Partner Member confirms to own the product and to be the holder of all required rights to the product presented for certification.
- 2 The Partner Member shall send one test sample with the accompanying documents at his own expense to the address specified. The test sample must bear the Partner Member's name and the reference specified by the digitalSTROM Alliance Certification Department. It shall be shipped in packaging that can be re-used for their return.
- 3 If the digitalSTROM Alliance Certification Department refuses to grant a certificate, it shall substantiate this decision in writing to the Partner Member. The digitalSTROM Alliance shall not be liable for any damage incurred by the Partner Member as a result of this denial. The decision of the digitalSTROM Alliance Certification Department is final and cannot be challenged and / or appealed against.

5.2 Product Testing

- 1 Product samples shall be tested according to current applicable normative requirements defined in the digitalSTROM Standard.

5.3 Use of Test Samples

- 1 Test samples that are no longer required will be returned by the digitalSTROM Alliance Certification Department at the Partner Member's risk and expense.

5.4 Certification of Products

- 1 If a tested product meets the requirements of the relevant test basis, a Certificate of Conformity including the right to use the conformity label of digitalSTROM Alliance can be granted.
- 2 The certificate holder shall inform the digitalSTROM Alliance Certification Department of serious marketplace incidents with respect to his digitalSTROM-certified products (e.g. product recalls or complaints from market regulatory authorities).

5.5 Recertification of Products

- 1 If a certified product is modified by a hard- or software update, the product needs to be re-certified in order to keep the certificate. The holder of a certificate is obliged to inform the digitalSTROM Alliance of all intended changes that could impact the certified product.
- 2 The certificate holder shall inform the digitalSTROM Alliance Certification Department of the hard- or software modification prior to their market release by initiating the recertification process described in the document digitalSTROM Certification Overview.

6 Additional Provisions regarding Certificates and Certification Marks

- 1 A certificate granted in connection with a marks approval is only valid if and as long it is published on <http://www.digitalstrom.org/certificates/> .
- 2 Certificates and marks approvals are not transferable and cannot be sub-licensed to any third party.
- 3 Upon positive certification, the Partner Member obtains a non-exclusive, revocable, non-transferrable and not sub-licensable right to use the respective certificate and certification mark(s) in accordance with the provisions of the digitalSTROM Alliance certification general terms and conditions for business and advertising purposes. A misleading and unauthorized use is not permitted and constitutes an infringement of the trademark rights of digitalSTROM.
- 4 The digitalSTROM marks license allows to apply the dS-ready marks on the certified product itself and on the product packaging and advertisement material of the certified product. The dS-ready mark signals plug and play compatibility to the end user. The mark is shown whenever possible green on white (positive), but can also be white on green (negative). Illustration size shall be 10mm wide or larger.
Special care is to be taken if a digitalSTROM certified product integrates a third party product into the digitalSTROM system. The integrated third party product cannot be called digitalSTROM-certified. Wording like "the third party product is dS-ready with the digitalSTROM third party - App" is allowed if the certificate holder owns the third party marks or is entitled to use them. The use of the dS-ready Marks is allowed for such scenarios.
The certificate holder is responsible for the correct use of the dS-ready Marks and the use of third party marks not owned by the certificate holder and holds harmless the digitalSTROM Alliance from any such claims from third parties upon first request of digitalSTROM Alliance.

7 Expiration of a Certificate

- 1 The certificate shall expire
 - upon termination
 - upon withdrawal
 - upon expiry of the validity
 - if the certificate holder becomes insolvent or bankruptcy proceedings have been initiated against him
 - if defects are found when retesting the product bearing a certification mark or the product does not conform to the approved test samples
 - if a soft- or hardware update is applied to the certified product without prior re-certification of the changes.
 - If a Partner Member is in breach of its information duties according to section 5.5 above.
- 2 If a certificate expires, the certificate holder loses the right to use the certificate and respective certification mark(s) at the moment of expiration. In particular, the certificate holder is not allowed to put into circulation any products specified in the certificate that bear the respective certification mark(s).

8 Termination of Certificates

- 1 The term of notice is six months for both parties. However, a certificate is not valid beyond the expiry of certificate requirements.
- 2 The digitalSTROM Alliance Certification Department may terminate the certificate if the requirements for the granting of a certificate change.
- 3 The termination must be made in writing.

9 Withdrawal of Certificates

- 1 A certificate can be withdrawn without notice if the requirements for the certification no longer exist.
- 2 A withdrawal is particularly possible
 - if the certificate holder has ceased to perform his activities as part of the certification
 - if, after the certificate is granted, circumstances become known which would have negatively impacted the certification procedure
 - if defects are determined during the term of the certificate
 - if the Partner Member violates certification regulations of the digitalSTROM Alliance Certification Department
 - if the Partner Member does not pay the invoices of the digitalSTROM Alliance Certification Department within the specified payment periods.
 - if the certificate holder does not accept the amendments to this digitalSTROM Alliance Certification General Terms and Conditions after expiry of the transitional period set forth.
 - if, after a certificate is granted, it becomes known that the trademark(s) of digitalSTROM has already been protected for a third party.
 - if another important reason exists that particularly disturbs the relationship between the digitalSTROM Alliance and the certificate holder (e.g. certificate counterfeiting).
- 3 The digitalSTROM Alliance has the right to make public the withdrawal of a certificate.

10 Warranty, Liability, Rescission

- 1 The warranty of the digitalSTROM Alliance is first limited to the supplementary performance within a reasonable amount of time. If supplementary performance is not successful, i.e. it is not possible, unacceptable for the Partner Member, unjustifiably refused by the digitalSTROM Alliance Certification Department or improperly delayed then the Partner Member is entitled to request reduction of payment or rescission of the contract at the Partner Member's discretion.
- 2 The warranty period is one year from the notification concerning certification results by the digitalSTROM Alliance Certification Department.
- 3 The digitalSTROM Alliance Certification Department assumes no liability towards the Partner Member and towards third parties that the product and / or equipment of the Partner Member is free of defects, suitable for use and / or ready for use nor for its merchantability. Therefore, digitalSTROM Alliance is not liable for damages caused by the product or equipment or respectively their use.
- 4 The digitalSTROM Alliance shall not be liable for any damage and impairment to the samples resulting from testing, burglary, theft, fire, water, or other force majeure events. This applies also to documents provided by the Partner Member.
- 5 A liability for the fact that the service is appropriate for the intended purpose and use is only assumed by the digitalSTROM Alliance if a respective warranty statement has been expressly provided in writing.
- 6 To the extent that third parties assert claims against the digitalSTROM Alliance, the Partner Member indemnifies and holds harmless the digitalSTROM Alliance from any such claims upon first request of digitalSTROM Alliance.
- 7 The liability limitations of the digitalSTROM Alliance are similarly applicable for personal liability of the employees of the digitalSTROM Alliance as well as the vicarious agents appointed by the digitalSTROM Alliance.
- 8 The digitalSTROM Alliance is entitled, in the following cases, to rescind the contract without the Partner Member being able to assert loss or damage.
 - impossibility
 - default or a material breach of duty on the part of the Partner Member
 - force majeure
 - strike and lock-outs
 - natural disasters

11 Miscellaneous

- 1 This document is subject to material the laws of Switzerland under exclusion of the Swiss International Private Law. Exclusive place of jurisdiction for disputes arising of or in connection with this agreement is Zurich, Canton of Zurich, Switzerland.
- 2 Should any provision of these regulations be or become invalid, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by another, which corresponds to the same or at least the similar intention of affected regulations.
- 3 This digitalSTROM Alliance Certification General Terms and Conditions shall be effective as of September 1, 2014. digitalSTROM Alliance reserves the right to amend and alter this General Terms and Conditions at any time and to inform the Partner Member accordingly.