



## German Biogas Register

### Terms and Conditions of Use for Registered Audit Organisations and Registered Auditors

As per: 24/07/2017

#### Preamble

The Biogas Register is an electronic, accounts-based documentation system that is used to manage verifications for biogas batches that are injected into the natural gas grid. These verifications are provided by third parties (registered audit organisations and registered auditors: referred to in the following as “registered audit organisations and auditors”) acting on behalf of companies registered in the register.

The system allows its registered companies to manage their verifications of the origin and properties of biogas batches in a standardised documentation system. The registered companies can document their verifications and make them available to third parties according to the requirements of a balancing system that builds on the interpretation aids by the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) Section 27c paragraph 1 point 2 Renewable Energy Sources Act (EEG) of 29/6/2012 (hereafter: interpretation aids). In particular, the German Biogas Register enables simple transfer of verification concerning individual partial batches due to its accounts system. The Biogas Register statement generated when performing book-outs in the documentation system helps the authorised holders of the verifications furnish evidence to third parties (recipients of Biogas Register statements). The register statements provide structured documentation of verifications that were entered in the Biogas Register by the registered company or the audit organisation it commissions.

Registered companies can use the Biogas Register to obtain confirmation of the biogenic properties of the biogas plants and biogas batches from its commissioned audit organisations and registered auditors. The registered auditors perform these tasks as contracted agents and to satisfy their contractual obligations toward the registered company. The prepared audit reports are confirmed electronically. For this purpose, the Biogas Register provides registered auditors with proprietary login details to the accounts of the registered audit organisations.

However, audit organisations and auditors must demonstrate their appropriate accreditation and qualifications to perform operations in the Biogas Register as a means of preserving the German Biogas Register’s high standards of quality.

These terms and conditions of use apply to all registered audit organisations and auditors that act on behalf of registered companies in the Biogas Register.



# 1 Definitions

These Terms and Conditions of Use for Registered Audit Organisations and Registered Auditors use specific technical terms in some cases. The terms themselves – especially the terms of registered audit organisation and auditor – are explained and placed in their correct contexts in the “General Principles Concerning its Mode of Operation” for the Biogas Register (section 2, annex 1).

## 1.1 Requirements for registration as an audit organisation and auditor in the Biogas Register

### 1.1.1 Qualification and authorisation to conduct audits

Audit organisations wishing to register with the Biogas Register must provide the registrar with the name of at least one auditor during registration. Audit organisations are only entitled to entrust the performance of operations in the Biogas Register to auditors who are registered by name with the registrar and whose qualifications have been submitted to the registrar. The qualifications that must be demonstrated to obtain auditing authorisation for the Biogas Register and the scope of evidence that must be presented are shown in the following table. The registrar may demand that further evidence be presented.

Assessor type and audit body	Role and scope of auditing authorisation for the Biogas Register (in regard to the Biogas Register Criteria Catalogue)	Document/s or proof of qualification that must be presented on registration	Scope of review by the registrar during registration
Auditor - DAkkS	<b>Auditor</b>  <u>Auditing authorisation</u> Entire Criteria Catalogue, apart from criteria 15, 18, 24, 25, 26, 28, 29, 30, 31	<ul style="list-style-type: none"> <li>Accreditation/authorisation of the certification body (audit organisation) by DAkkS</li> </ul>	<ul style="list-style-type: none"> <li>Name</li> <li>Address</li> <li>Accreditation according to UMS/ISO 14001</li> <li>Details concerning the certification body</li> <li>Registration number</li> <li>Review of the DAkkS public register</li> </ul>
		<ul style="list-style-type: none"> <li>Declaration of aptitude/certificate of appointment from the certification body (audit organisation) for the auditor in question</li> </ul>	<ul style="list-style-type: none"> <li>Name</li> <li>Scopes of the author (IAF/EA 25 – Energy Production or IAF/EA 26 – Gas Supply)</li> <li>DAkkS stamp and registration number for the certification body</li> </ul>
		<ul style="list-style-type: none"> <li>Copy of the auditor’s ID document</li> </ul>	<ul style="list-style-type: none"> <li>Name</li> <li>Validity</li> </ul>
Assessor – Chamber of Industry and Commerce (IHK)	<b>Auditor</b>  <u>Auditing authorisation</u> Entire Criteria Catalogue, apart from criteria 15, 18, 24, 25, 26, 28, 29, 30, 31	<ul style="list-style-type: none"> <li>Assessor’s note of authorisation for the field in question</li> <li>Copy of the appointment certificate</li> <li>Stamped copy of the licence</li> </ul>	<ul style="list-style-type: none"> <li>Name</li> <li>Appointment to the field of “Measuring and billing for electricity and/or gas” (refer to the IFS catalogue).</li> <li>Review of the DAkkS public register</li> </ul>
		<ul style="list-style-type: none"> <li>Copy of the assessor’s ID document</li> </ul>	<ul style="list-style-type: none"> <li>Name</li> <li>Validity</li> </ul>



Assessor type and audit body	Role and scope of auditing authorisation for the Biogas Register (in regard to the Biogas Register Criteria Catalogue)	Document/s or proof of qualification that must be presented on registration	Scope of review by the registrar during registration
Authorised assessor – approved inspection agency (ZÜS)	<b>Auditor</b>  <u>Auditing authorisation</u> Entire Criteria Catalogue, apart from criteria 15, 18, 24, 25, 26, 28, 29, 30, 31	<ul style="list-style-type: none"> <li>Copy of the certificate of recognition from ZLS, the central body of the German regional authorities responsible for safety technology, for the approved inspection agency (ZÜS) (audit organisation)</li> </ul>	<ul style="list-style-type: none"> <li>Recognition for the field of “Pressure equipment and simple pressure containers”, system group 2 (pressure container systems)</li> </ul> or <ul style="list-style-type: none"> <li>Recognition for the field of “Explosion-proof systems or systems for flammable, highly flammable or extremely flammable liquids”, system groups 1 and 2 (explosion protection)</li> <li>Review of the ZLS public register</li> </ul>
		<ul style="list-style-type: none"> <li>Copy of the appointment certificate for the assessor by his/her approved inspection agency (audit organisation)</li> </ul>	<ul style="list-style-type: none"> <li>Field of “pressure containers”, technical skills “according to the ZLS accreditation regulation”: Module 1, 2, 4; – Induction: Module 1 and 2 with at least 2 years of professional experience</li> <li>Field of “explosion protection” – technical skills “according to the ZLS accreditation regulation”: Module A1 – Induction: at least 6 months with at least 5 years of professional experience</li> </ul>
		<ul style="list-style-type: none"> <li>Copy of the assessor’s ID document</li> </ul>	<ul style="list-style-type: none"> <li>Name</li> <li>Validity</li> </ul>
Environmental verifier – DAU	<b>Environmental verifier – DAU</b>  <u>Auditing authorisation</u> Entire Criteria Catalogue, apart from criteria 24, 25	<ul style="list-style-type: none"> <li>Personal, current certificate of authorisation from DAU</li> </ul>	<ul style="list-style-type: none"> <li>Name</li> <li>Verifier number</li> <li>NACE Code 35.11.6</li> <li>Review of the DAU public register</li> </ul>
		<ul style="list-style-type: none"> <li>Copy of the environmental verifier’s ID document</li> </ul>	<ul style="list-style-type: none"> <li>Name</li> <li>Validity</li> </ul>

Assessor type and audit body	Role and scope of auditing authorisation for the Biogas Register (in regard to the Biogas Register Criteria Catalogue)	Document/s or proof of qualification that must be presented on registration	Scope of review by the registrar during registration
Auditor or environmental verifier – BLE	<b>Auditor with BLE authorisation</b>  <u>Auditing authorisation</u> Entire Criteria Catalogue, apart from criteria 15, 18, 24, 26, 28, 29, 30, 31	<ul style="list-style-type: none"> <li>■ Certification body certificate of recognition from BLE pursuant to the Directive on the Requirements for Sustainable Production of Biofuels (Biokraft-NachV)/Directive on the Requirements for Sustainable Production of Biomass for the Generation of Electricity (Bio-Strom-NachV)</li> </ul>	<ul style="list-style-type: none"> <li>■ Name of the certification body</li> <li>■ Register number for the certification body</li> <li>■ Review of the BLE public register</li> </ul>
		<ul style="list-style-type: none"> <li>■ Certificate of appointment from the certification body for the auditor in question</li> </ul> or <ul style="list-style-type: none"> <li>■ Inclusion on a list of auditors appointed in this field, which is signed by the director of the certification body</li> </ul>	<ul style="list-style-type: none"> <li>■ Name</li> <li>■ Appointment as auditor pursuant to Biokraft-NachV</li> </ul>
		<ul style="list-style-type: none"> <li>■ Copy of the auditor's ID document</li> </ul>	<ul style="list-style-type: none"> <li>■ Name</li> <li>■ Validity</li> </ul>
	<b>Environmental verifier with BLE authorisation</b>  <u>Auditing authorisation</u> Entire Criteria Catalogue, apart from criterion 24	<ul style="list-style-type: none"> <li>■ Certificate of appointment from the certification body for the environmental verifier in question</li> </ul> or <ul style="list-style-type: none"> <li>■ Inclusion on a list of auditors appointed in this field, which is signed by the director of the certification body</li> </ul>	<ul style="list-style-type: none"> <li>■ Name of the certification body</li> <li>■ Register number for the certification body</li> <li>■ Review of the BLE public register</li> </ul>
		<ul style="list-style-type: none"> <li>■ Copy of the auditor's ID document</li> <li>■ The DAU certification stated above must also be presented</li> </ul>	<ul style="list-style-type: none"> <li>■ Name</li> <li>■ Validity</li> <li>■ Checking in the scope as indicated</li> </ul>
Financial auditors Chamber of Public Accountants (WPK)	<b>Auditor</b>  Auditing authorisation: Entire Criteria Catalogue, apart from criteria 15, 18, 24, 25, 26, 28, 29, 30, 31	<ul style="list-style-type: none"> <li>■ Certificate of recognition by the Chamber of Public Accountants pursuant to section 29(3) Public Accountant Act (WPO)</li> </ul> or <ul style="list-style-type: none"> <li>■ Certificate of appointment for the financial auditor pursuant to section 15 WPO</li> </ul>	<ul style="list-style-type: none"> <li>■ Name</li> <li>■ Address</li> <li>■ Register number for the financial auditing firm or the financial auditor</li> <li>■ Check in the WPK public register</li> </ul>
		<ul style="list-style-type: none"> <li>■ Copy of the ID card of the financial auditor or the person acting on behalf of the financial auditing firm</li> </ul>	<ul style="list-style-type: none"> <li>■ Name</li> <li>■ Validity</li> </ul>



### **1.1.2 Recognition of the “General Principles Concerning its Mode of Operation”**

Audit organisations and auditors registering with the Biogas Register recognise the “General Principles Concerning its Mode of Operation” for the German Biogas Register in their entirety and have acknowledged section 9 of the “General Principles Concerning its Mode of Operation” (annex 1) in particular.

### **1.1.3 Management of audit reports, the input materials journal and other documents**

Registered audit organisations and auditors undertake to upload the audit reports prepared for a registered company in a complete and readable form. The batches cannot be switched to green in the Biogas Register unless the audit report has been uploaded (cf. the green status process in section 6.6 of the “General Principles Concerning the Mode of Operation” (annex 1)).

The registered audit organisations and auditors grant to the registrar, upon conclusion of this contract, a right to use the uploaded documents that is neither restricted in time nor space, in the scope that is necessary for operation of the Biogas Register. The registrar is authorised in particular to store, duplicate and transfer the documents to other companies registered in the Biogas Register or to recipients of register statements.

Registered audit organisations and auditors warrant that they possess the necessary rights of use and exploitation to the documents in each case. The registrar shall otherwise be authorised to block the account of the registered audit organisations and the login details of the auditor/s. The registered audit organisations and auditors hold the registrar harmless of all claims exercised by third parties in connection with a violation of rights of use and exploitation.

### **1.1.4 Inclusion on the list of audit organisations and auditors**

Registered audit organisations and auditors are included on a list (the “List of Registered audit organisations and auditors”), which is published on [www.biogasregister.de](http://www.biogasregister.de). This list contains the details provided by the registered audit organisations and auditors upon registration – e.g. their name, address, qualification and accreditation.

## **2 Account of the auditing organisation**

Registered audit organisations are assigned an account in the name that is shown on commercial register (approved trading name). Where an organisation is not entered in the commercial register, the assigned name shall be the name of the organisation or environmental verifier that is used in legal transactions. The registered audit organisation will also receive an individual username (login) and password for each registered auditor, which the registered author can use to perform operations in the Biogas Register on behalf of the registered audit organisation.

## **3 Actions by the audit organisation**

Enquiries from companies registered in the Biogas Register for the confirmation of biogas batches or biogas plants are shown in the account of the registered audit organisation. The registered auditors of the audit organisation can perform the following operations in this regard:



- editing of audit documentation
- completion of audit documentation and its return to the registered company for transfer,
- return of audit documentation to registered users .

The scope of confirmations that registered auditors can submit for biogas plants or biogas batches is described in section 6.6 of the “General Principles Concerning the Mode of Operation” (annex 1) for the German Biogas Register.

#### **4 Obligations of the audit organisation**

The registered audit organisation and the auditors are jointly responsible for the accuracy of the information in the audit reports. Sections 2.3(4) and (5) of the “General Principles Concerning its Mode of Operation” set out the terms under which declarations by the registered auditor shall be attributed to the registered audit organisation. The registered audit organisation is responsible for the auditors it registers as it would be for vicarious agents.

The specific biogas batch to be documented in the Biogas Register must be stated in the audit reports both as a total quantity and for a total period, and where necessary as a list of the partial quantities and periods. Moreover, the audit report must state the total quantity of biogas produced in a documentation period and the quantity documented within the German Biogas Register.

Biogas batches may only be confirmed in the German Biogas Register that satisfy the requirements of mass balancing pursuant to the interpretation aids by the first stage of documentation. This shall mean in particular that upon first documentation of the batch in the German Biogas Register, the registered company must document and the registered auditor must confirm by statements in the audit report and within the register that each transfer of rights associated with this biogas batch for the production of raw biogas, its processing into biomethane and its injection into the natural gas grid took place in a traceable and transparent form that is consistent with the mass balancing system.

In cases in which different gaseous biomass products from various gas generation plants are processed in a jointly used gas processing plant, the auditor must, in the audit report, describe the raw biogas and biogas fractions and the total raw biogas and biogas quantities with sufficient precision to enable their complete tracing to the individual gas generation plant. Moreover, the audit report must state which companies jointly use the gas processing plant and which biogas quantities are attributable to each one of them.

Section 8 of the “General Principles Concerning its Mode of Operation” (annex) applies to the import of verifications based on the profile of properties for biogas batches injected abroad.

Inasmuch as the registered audit organisation, i.e. the registered auditor, does not, does not punctually or does not properly satisfy its obligations in this regard, the registrar shall be entitled to demand indemnification for the damage it incurs, including any additional expenditure. The registered audit organisation and the auditors hold the registrar harmless of all claims exercised by third parties in connection with a violation of the obligations set out above.

#### **5 Legal relationship between registered audit organisations, registered compa-**



## **ies and the registrar**

The obligations of the registrar in its relationship with the registered audit organisation, i.e. its registered auditors, is restricted to operation of the register and provision of access to the Biogas Register. The registrar shall provide the registered audit organisation, i.e. its registered auditors, with access to the Biogas Register and shall check compliance with the registration requirements.

## **6 Liability**

The registrar is fully liable for wilful intent or gross negligence, but is only liable for ordinary negligence in the following cases:

- violation of essential contractual obligations, i.e. obligations without which performance of the contract would not be possible and on whose fulfilment the contracting party may ordinarily rely (so-called cardinal obligations), and
- damages arising from injury to a person's life, limb or health.

In the following cases, the extent of the parties' liability is limited to damages that were foreseeable at the time contractual conclusion and are that typical of this type of contract:

- violation of essential duties as a result of minor negligence; and
- grossly negligent behaviour on the part of ordinary vicarious agents (non-management staff) outside the area of essential contract duties and damages to life, limb or health.

The registered company must report any damage to the registrar without undue delay. The provisions under product liability law remain unaffected.

## **7 Annual renewal of registration**

The registered audit organisation is obliged to submit to the registrar the verifications indicated in section 1.1.1 in their most recent form by no later than 30/11 of each year. The registered audit organisation is responsible for providing the certifications, also for its auditors.

Where the verifications submitted pursuant to section 1.1.1 become invalid, the registrar must be notified without undue delay.

Where the audit organisation and/or the auditor no longer satisfy the requirements for registration, the registrar will, without undue delay, block the account of the registered audit organisation and/or the auditor's login details and add a blocking notice to the list of auditors. Insofar as the registered audit organisation has only appointed one registered auditor and this auditor is blocked, the account of the audit organisation will be blocked as well. This blocking notice will not be withdrawn until the registered audit organisation and/or the auditor has/have again satisfied the requirements for registration, i.e. a new auditor is appointed by the audit organisation who satisfies the requirements for registration.

The audit organisation has nine months time to resubmit the verifications pursuant to section 1.1.1 after notification is received according to section 7.2. It may alternatively appoint a different auditor, for whom



verifications pursuant to section 1.1.1 can be presented. The account of the registered audit organisation will be shut down completely at the end of this period, and the auditor in question removed from the list of auditors.

Neither audit organisations nor auditors themselves have an entitlement to be registered as such with the Biogas Register. The registrar is entitled to refuse registration where a material reason applies.

## **8 Contractual amendments**

The provisions of these terms of use and the “General Principles Concerning its Mode of Operation” (annex 1) for the Biogas Register are based on the statutory and other framework conditions at the time of contractual conclusion. Unforeseen changes to the statutory or other framework conditions (e.g. by amendments of laws where the contents of these amendments were not already predictable – for instance in the period between conclusion of the formal legislative process and the entry into force of new provisions) that were neither caused by the registrar nor can be influenced by the registrar may have potentially significant implications for the balance of contractual rights and obligations. Moreover, an omission that emerges in these terms of use and the “General Principles Concerning its Mode of Operation” (annex 1) after conclusion of the contract may have potentially significant implications for the performance of the contract (for instance if case law rules a provision to be void), which can only be remedied by modifications or additions. The registrar shall be obliged in these cases to amend and/or add to the corresponding provisions – excepting only the fees – in such a way as is necessary to restore the balance of contractual rights and obligations and/or to accommodate an omission in the contract. Modifications of the corresponding provisions may only take effect on the first of a month. The modifications only become effective if the registrar notifies the registered audit organisation in writing by no later than three weeks prior to their entry into force. The registered audit organisation may terminate the contract in these cases, effective from the time at which the contractual modification enters into force. The registered audit organisation will be informed of this termination right in the notification of changes according to sentence 1.

## **9 Final provisions**

The registered auditor must notify the registrar of any inadequacies associated with operation of the Biogas Register.

Subsidiary agreements, changes and additions to this contract and cancellation of the requirement for the written form must be in writing.

If any individual provisions of this assignment should be or become void, the validity of the remaining provisions will not be affected. In these cases the contracting parties shall replace the invalid provision with a lawful provision that most closely resembles the purpose of the removed provision.

German law applies. The place of jurisdiction is Berlin.