

## KENYA FLOWER COUNCIL CERTIFICATION SCHEME QUALITY SYSTEM REGULATIONS

### F1.0 CERTIFICATION APPROVAL, SANCTIONS, RESOLUTION OF COMPLAINTS, APPEALS, AND DISPUTE PROCEDURE

1. This is a summarized version of the certification approval, sanctions, resolution of complaints, appeals, and dispute procedure that is guiding the KFC certification scheme sanction process: -

#### SCOPE

2. This procedure is applicable to the Flowers and Ornamentals Sustainability Standard and other standards that are audited and certified under the KFC Certification Scheme, by the approved certification body.

#### NONCOMPLIANCE AND NONCONFORMITY

3. Failure by the producer or producer group to comply with the standard clause or the agreements between the certification body and the producer or producer group is defined either as non-compliance or non-conformity respectively.
4. Where there is failure to comply with a clause in the standard is referred to as noncompliance.
5. Where there is failure to comply with Certification Scheme regulations, such as payment of fees is referred as nonconformity.
6. There are three types of non-compliance within KFC **Certification Scheme** auditing process.
  - a. Major must.
  - b. Major contractual.
  - c. Critical non-compliance
7. The major must non-compliance occurs when the producer or producer group fails to comply with one or more of the clauses designated as major must of the standard checklist.
8. A **major contractual non-conformity** occurs when the producer or producer group fails to comply with any of the signed agreements between the producer or producer group and the certification scheme.
9. A **Critical non-compliance** has occurred; where a finding has been detected with respect to the following but not limited to: -

- a. A serious imminent threat to the safety of persons, environment and consumer is present.
  - b. A serious threat / risk to the reputation of the Certification Scheme.
  - c. A serious or significant violation of employee human rights.
  - d. A proven attempt to fraud, coerce, deceive, intimidate or interference with the audit / auditors.
  - e. Clauses labelled “critical” in the standard e.g. those that have serious threat to the safety of persons, environment and consumers.
  - f. In case a major non-compliance has not been satisfactorily addressed or no significant improvement has been made by the time of a follow up audit, in spite of the producer commitment to resolve the issue; the non-compliance is up graded from major must to critical.
10. No time is given for such non-compliance. The farm is required to take corrective actions immediately, and the producer or producer group may be suspended without delay in such circumstances. The producer is required to provide a corrective action report to the certification body / company / institution that had requested for the audit / within 24 hours of the non-compliance detection.

## SANCTIONS

11. KFC Certification Scheme has three types of sanctions applicable to the products and the producer or producer group on failure to comply with the standard and agreements: -
- a. Warnings
  - b. Suspensions
  - c. Cancellations
12. A warning is applied in case of the following: -
- a. In case non-compliance is detected and substantiated during the Initial Certification and Re-certification audits. The producer or producer group is required to carry out satisfactory corrective actions and close the non-compliance within 28 days' time frame.
  - b. However, the time given to close the non-compliance is dependent on the criticality of the non-compliance, in terms of safety of the people, environment, and consumers, as evaluated by the auditor carrying out the

decision on the period for implementing the corrective actions. This time does not exceed 28 days and three months in case of initial audits.

- c. The certified producer or producer group is downgraded from the certified status if the previous certificate expires before all the detected non-conformities are satisfactorily addressed and evidence of compliance is received by the certification body and acknowledged within a 28 days' time frame after a re-certification audit.

**13.** The product suspensions occur and are resolved as follows: -

- a. The certified producer or producer group has not provided satisfactory corrective action within 28 days' effective from the date or day after the 28-day time frame.
- b. **There is a serious threat to the safety of persons, environment and consumer is present**, bringing the KFC Certification Scheme into disrepute, immediate corrective action is taken by the producer or producer group.
- c. Where, a suspension is required, and the certification committee is not due to meet within one month from the 28 days' time frame, the Chief Executive Officer or the Certification Manager informs the chair of certification committee to approve the suspension or cancellation from the audit. The decision is ratified by the certification committee in the next meeting.
- d. The producer or producer group has requested voluntarily, of one, several or all of the products covered by the certificate (unless the certification body has already imposed a sanction).
- e. The suspension letter issued defines the time frame required for carrying out satisfactory corrective actions. The maximum suspension period is (6) six months or less as decided by the Certification Committee.
- f. If the suspension is voluntary the period for taking corrective actions is decided by producer or producer group and agreed by the Certification Committee Chairman.
- g. If a producer or producer group notifies KFC that the non-compliance is resolved before the defined period, the respective sanction is lifted, subject to satisfactory evidence and closing off.
- h. A complete suspension of the product within the scope applied by the producer or producer group is possible. However, partial suspension of part or parts of the product within the scope applied is not permitted. A suspension can be applied to one, several or all of the products covered by the certificate.

- i. If a clear link has been established between a producer or producer group and public health outbreak by a reputable governmental regulatory authority, suspension of the certification shall be imposed while a review of the producer or producer group's certification is performed.
  - j. The producer or producer group is prevented by the certification body from using the applicable logos after the suspension from the certification process by the Certification Committee. A letter signed by the Chief Executive Officer is given to the producer or producer group with one-month notice to cease the use of the logo and the consequences for the failure to adhere. The action to take in case of failure to adhere is agreed by the Board of Directors.
  - k. A suspension is maintained until all the corrective actions are satisfactorily addressed and verified by the auditors, lifted and approved by the Certification Committee within the 6-month period.
- 14.** Cancellations from the certification program occur in case of: -
- a. A producer or producer group who fails to comply within the 6 month's suspension period.
  - b. Where the certification body auditors have found evidence of fraud.
  - c. When a major breach of contract between the certification body and the producer or producer group is detected.
- 15.** Cancellations from the certification program are handled as follows: -
- a. A producer or producer group who has been cancelled is not eligible to re-apply for certification registration until after 12 months are over.
  - b. The producer or producer group is prevented by the certification body from using the applicable logos after the suspension or cancellation from the certification. A letter signed by the certification body is given to the producer or producer group with one-month notice to cease the use of the logo and the consequences for the failure to adhere. The consequence on failure to adhere is determined by the certification body.
  - c. Sanctions raised on a producer or producer group by the certification body apply across all the sites or farms where similar flower crops products are being grown.
  - d. The producer or producer group certification status is updated appropriately in the certification body website and in the other stakeholder Data Bases where the KFC Certification Scheme has signed agreements.

- e. Contractual non-compliances are dealt with as per this procedure and Certification agreement signed between the producer and certification body.
16. The sanctions that arise during the certification, re-certification and un-announced audits or otherwise are not dependent on the certification cycle. However, the sanctions can be lifted if the certificate has expired and the producer or producer group has not applied for re-certification or if the sanction has been satisfactorily addressed. The reason of the lifted sanction is however, fully shared with the next CB to which the producer or producer group has applied.

#### **WITHDRAWAL OF PRODUCTS FROM CERTIFICATION.**

17. The producer or producer group has a right to terminate the whole product certification or withdraw all the certified products by writing to the certification body. The producer or producer group has a right to withdraw certification within the following grounds: -
- a. If the producer or producer group feels her company cannot meet the code of practice.
  - b. If the producer or producer group feels that the certification body is not meeting its part of the contractual agreement.
  - c. If the producer or producer group feels that the certification status requirement cannot be sustained.
  - d. Without giving any reason.
  - e. In case of bankruptcy of the producer or producer group company.
18. Where a producer or producer group wishes to withdraw all the products from certification the producer or producer group must apply to the certification body for approval. On approval; a suspension of the products affected is raised. This suspension is only lifted and the certificate re-awarded after a satisfactory corrective action is done within a time frame of six months or shorter as set by the producer or producer group and agreed by the certification body. The suspension of the products by a registered individual producer or producer group does not result in a waiver or non-payment of fees due to the certification body.
19. When a producer or producer group has applied for certification for other products besides cut flowers and ornamentals to other Certification Bodies, the company agrees in writing that all reports, sanctions, corrective actions,

records and information can be sent to KFC certification body and vice versa and that the CBs can freely discuss the information.

- 20.** A producer or producer group who has an outstanding non-compliance is not allowed to apply for certification for the scope for which the non-compliance is in place to other Certification Bodies until all the corrective actions are taken and verified by the certification body.

### **CERTIFICATION APPROVAL**

- 21.** After certification approval, the certification body prepares the certificate whose initial validity date is the Certification Committee meeting day and sent to the producer within two weeks. For subsequent inspections, the validity date of the certificate reverts back to the original dates. The certificate is valid for a period of one year from the approval date and this is indicated on the Certificate. The certificate is prepared by the certification body.
- 22.** The approval of certificate validity extension beyond 12 months is done only for the following reasons: -
- a.** There is an application for product certification which the certification body has accepted within the last certification cycle i.e. within the original certificate validity period. For GLOBALG.A.P. flowers and ornamentals, the product has been up loaded and re-accepted in the GG data base for a full next cycle within the original certificate validity period.
  - b.** The producer or producer group is going to be re-inspected during the four-month extension period.
  - c.** The third reason; which is applicable to GLOBALG.A.P. certification is that the producer or producer group has already paid the applicable license and the registration fees.
- 23.** After the initial certification audit, subsequent certification assessments fall within an inspection window that occurs in a period of 12 months from the 8th month before the original expiry date of the certificate and up to 4 months after the original expiry date of the certificate i.e. the certification body can extend the certificate validity by up to four months. There is a minimum of a 6-month period between 2 audits for a re-certification audit to take place.
- 24.** In case a producer or producer group has been suspended and complies within a 6-month period, the validity date of the certificate is from the date of the certification Committee meeting or the date of approval by the Certification Committee Chairman.

25. All locations or sites of the producer or producer group are registered and are audited. The certificate is issued only for the declared products.
26. If the Certification Committee fails to approve a farm which has been recommended by the auditors; the committee indicates the reasons for taking the action, what action the certification body is to take; the corrective action the producer is required to take and the time frames required. A letter is sent to the concerned producer or producer group by the certification body with the recommendation or instructions on what the Certification Committee has decided within one week.
27. The compliance progress on the recommendations made by the Certification Committee is reported back and forth to the Certification Committee and the certification body.
28. The certification committee reserves the right to approve or fail to approve certification after examining the Certification, Re-certification or a Follow-up audit report and can recommend a suspension of the Certificate or issue a warning letter without a suspension. The committee can also suspend a producer or producer group as a result of a violation of an existing agreement between certification body and the producer or producer group and also in case of a finding that fundamental requirements especially legally binding ones have not been complied with by the producer or producer group before and after certification.
29. In case the certification body certification committee declines to approve the certification; the reasons and justification for this action is recorded and is communicated to the producer or producer group by the certification body in writing.
30. If the certification body forwards a matter arising out of its certification to the KFC Technical Committee without any request from the producer or producer group affected by this matter for guidance or interpretation of an issue; the producer or producer group affected by this decision is approved for certification pending the outcome of the Technical Committee recommendations.

### **SIGNIFICANT CHANGES IN A CERTIFIED PRODUCER OR PRODUCER GROUP**

31. The significant changes that take place within the certified producer or producer groups are reported to the certification body as required by the Flowers and Ornamentals Sustainability Standard. The certification body; has taken decisions within the specifications of the standard that include one of the following: -

- a. Re-certification of areas where changes have taken place or evaluation of the producer depending on the previous audit evaluation plan.
- b. Revision of the certification scope and certificate.
- c. Surveillance or un-announced audit.
- d. Recall of the certificate in case of change of ownership.

**32.** In case there is a change in the list of certified flower products; the certification body shall: -

- a. Recall the certificate previously issued to the producer or producer group within 3 months.
- b. Revise the certificate appropriately and re-issue another one to the producer or producer group within 14 days.
- c. Update the producer or producer group and product certification status registers within the certification body; the websites, and the applicable data bases to reflect the current status.

#### **COMPLAINTS, APPEALS AND DISPUTE RESOLUTION**

**33.** A complaint is defined as any expression of grievance or dissatisfaction with a service provided The Kenya Flower Council. The complaint may arise from but not limited to: -

- a. Failure to provide a service at the agreed time or to the standard expected of the service.
- b. Lack of satisfaction in answering a query or responding to a request for the contracted activities or service.
- c. Failure to follow the Certification Scheme agreed policies, orders or procedures.
- d. Failure to take proper account of relevant matters in coming to a decision.
- e. Discourteous or dishonest behavior by a member of staff.
- f. Fraud, bribery, and all other issues relating to the behavior of the auditors and other contracted staff.

**34.** The Complaints, Appeals and Dispute are received and resolved as follows: -



- a. The complaint is received in writing by the certification body is recorded appropriately.
  - b. All complaints on the council and on the producer or producer groups are dealt with as long as they relate to the certification and other activities within the scope of the company.
  - c. The council certification body has acknowledged receipt of the complaint within 15 days from the date of receipt.
- 35.** The complaints are divided into three categories and handled as follows: -
- a. On the producer or producer group from the stakeholders.
  - b. On the auditors and the certification body from the producer or producer groups and other stakeholders.
  - c. On the certification scheme standard, rules and procedures from the producer or producer group and other stakeholders.
- 36.** The complaints on the producer or producer group from other stakeholders include but not limited to those raised by employees of the producer; customers and the community among others on the producer or producer group. The corrective actions are taken by the Scheme Manager and approved by the Chief Executive Officer.
- 37.** The complaints on the auditors and the certification body from the producer or producer groups and other stakeholders include but not limited to those emanating from the audit processes such as lateness, indiscipline, poor implementation of certification cycles, timeliness and scheduling of audits. The corrective actions are taken by the Scheme Manager and approved by the Chief Executive Officer.
- 38.** The complaints on the certification scheme standard, rules and procedures from the producer or producer group and other stakeholders include but not limited to those relating to the scope or interpretation of the standard; failure by the Certification Committee to approve the producer or producer group, complaints relating to lack of certification; audit performance or mismanagement of audits. The corrective actions are taken by the Certification Committee and the Technical Committee. A report on those corrective actions taken is presented to the Certification Body and Scheme Owners.

39. In case the corrective action by the Certification Body is not accepted by the appellant the Appeals, Complaints and Dispute Resolution committee is formed to deal with the matter.
40. There is an investigation for every complaint and if a corrective action is taken or necessary, it is recorded and kept for traceability. Feedback is given to the complainant within 7 days after resolution of the matter.
41. A producer or producer group, or any other interested party may file an appeal by writing or apply to appear in person before the appeals committee if they have a complaint regarding the certification or by sending a letter to the certification body Chief Executive Officer.
42. The members of the Appeals Committee are appointed when the need arises by the certification body certification committee and approved by the certification body Board of Directors. The members are appointed from the Certification Committee and the Technical Committee. The process is led by the chairperson of the above committees.
43. The Board of Directors ensure that those investigating an appeal are independent from the complaint or the activities surrounding the complaint and also that the producer or producer groups are informed of the results of their complaints as soon as the results are found and a copy of the same is maintained by the certification body.
44. The Appeals Committee members must not have any commercial, financial and other pressures that influence decisions. The members are such that they provide a balance of interest where no single interest predominates. Therefore, committee members who have business interests with a producer or producer group appearing before the committee are not eligible to deliberate on matters affecting such a company. An example of an interested company associated with a director is a farm supplying cut flowers or ornamentals to his/her company, or related company in Kenya or abroad.
45. The Appeals Committee member who has a conflict of interest must declare any such conflict of interest with the appellant is not permitted to appear before the committee and is required to decline the appointment to the committee.
46. After receiving complaints on the certification body or complaints on producer or producer groups from interested parties, the problem statement and or the non-compliance is recorded by the appointed responsible persons.
47. The necessary information required by the Appeals Committee is gathered by the persons appointed to do so by a resolution passed by the committee. The

information is gathered by a verification audit or any other method designed by the committee.

48. If sufficient or unsatisfactory; evidence of compliance is found during the verification assessment which is done after an appeal application is received by the certification body within the 6-month suspension period, the committee, lifts or uphold the suspension.
49. The Appeals Committee may decide to conduct a follow-up to ensure that the corrective actions are taken within the set time frame and to assess the effectiveness of the corrective action/s taken. If corrective actions taken are not satisfactory the suspension status is maintained. If corrective actions are taken within the set time frame the sanction is lifted by the certification body.
50. The decisions of the Appeals committee are binding to the complainant who appear or appeal to the committee.
51. In case the feedback given is rejected by the appellate; the appealing producer or producer group or stakeholder is free to get justice or arbitration from the Kenyan Judiciary as per laws of Kenya.
52. The producer or producer group and other stakeholders are not subjected to any form of discrimination; harassment, malice or any other unethical behavior from the secretariat on raising any complaint, dispute, clarification, request, or appeal of any form that require to be addressed by the certification body.

#### **CLARIFICATIONS FROM THE CERTIFICATION SCHEME OWNERS AND CERTIFICATION BODIES**

53. The producers are free to seek further clarifications after an audit from the certification body or the scheme owner. The requests for clarification or further information for example on standard clauses; audit schedules or other certification body activities do not constitute a complaint.

#### **RIGHTS OF THE SCHEME OWNERS**

54. The scheme owner of the standard with certification agreement with the certification body, reserves the right to impose certain sanctions for certain non-compliances which affect their standard. These are detailed in the terms of agreement between the producer or producer group and the certification body.