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Agreement

between

the

Foundation for the Accreditation of Study Programmes in Germany

– hereinafter: Accreditation Council –

and the

XXXXXXXXXXXXXXXXXXXXXXXXXX

– hereinafter: Agency –

(adopted at the 61st meeting of the Accreditation Council on 08.12.2009¹ in the version of 28.06.2012)

The Accreditation Council and the Agency conclude this Agreement with the aim of jointly contributing to a securing and enhancement of the quality of study programmes and the realisation of the European Higher Education Area (Bologna Process) with consideration of the autonomy of higher education institutions and state responsibility for learning and teaching. This specifically includes that the agencies ensure compliance of study programmes with the structural guidelines and fulfilment of minimum disciplinary- and content-related requirements with regard to their professional relevance while simultaneously respecting the structural freedom of the higher education institutions².

§ 1 Subject and basis of the Agreement

(1) Subject of the Agreement are the reciprocal rights and obligations of both partners in the accreditation system.

¹ The provisions in this resolution replace the resolution “Consequences of negative accreditation decisions” in the version of 31.10.2008.

(2) The Accreditation Council acts for the *Foundation for the Accreditation of Study Programmes in Germany* as the body responsible for relationships with the agencies.

(3) The Accreditation Council and Agency collaborate on the basis of trust. This specifically includes reciprocal information.

§ 2 Duty to consult of the Accreditation Council

The Accreditation Council obliges to consult with the Agency before making fundamental decisions. This particularly applies to matters regarding the structure of the accreditation system and accreditation procedures (§ 5), as well as the statute on fees (§ 18).

§ 3 Duty to report of the Accreditation Council

(1) The Accreditation Council will immediately inform the Agency of changes in the guidelines for the accreditation of agencies, for system accreditation and for programme accreditation. The duty to inform equally comprises significant new developments in accreditation at the European level.

(2) The Accreditation Council obliges to regularly publish a report on the development of the German accreditation system. This report also comprises statistics on programme- and system accreditations.

§ 4 Applicability of the accreditation of the Agency

(1) The term-related and spatial applicability of the accreditation of the Agency is established in the content of the Accreditation Council's corresponding notification. Furthermore, the general provisions on the content of decisions of the Accreditation Council apply in their respective current version.

(2) Should the Agency change major elements of its legal status, internal organisation, or accreditation-relevant criteria and procedures on which the accreditation is based during the term of accreditation, or if such a change is intended, this is to be immediately advised to the Accreditation Council and the Council's declaration of non-objection is to be sought, provided the Agency is not pursuing reaccreditation for this reason. If this notification is not made, or if the Accreditation Council finds that the change is questionable as it could lead to a refusal of accreditation in a re-

accreditation procedure or to the issuing of a condition, the Accreditation Council may demand that the Agency desist from making the change or reinstate the former status within an appropriate term. Should the Agency fail to make these adjustments within the term provided, accreditation may be revoked after a warning and setting of a three-month additional respite, provided the Agency has not applied for the opening of reaccreditation within the additional respite term at the latest.

§ 5 Quality demands on the internal organisation of the Agency, the programme accreditation and the system accreditation

(1) The Agency obliges to apply the “Common Structural Guidelines of the Länder pursuant to § 9 para. 2 of the Framework Act for Higher Education for the Accreditation of Bachelor’s- and Master’s study programmes” and these supplementary or substituting structural guidelines in the respective current versions, along with any state-specific structural guidelines in their respective current versions, provided the structural guidelines pursuant to § 2 para. 1 no. 2 of the Law Establishing the Foundation “Foundation for the Accreditation of Study Programmes in Germany” of 15 February 2005 (hereinafter ASG) have been compiled into binding guidelines for the agencies.

(2) The Agency obliges to apply the further guidelines adopted by the Accreditation Council in implementation of § 2 ASG. The Accreditation Council reserves the right to amend these guidelines also during the term of the accreditation.

(3) On amendments of structural guidelines in all cases of para. 1 and the guidelines stated in para. 2, the Accreditation Council may, if required, demand that the Agency suitably adapt its legal structures, internal organisation and accreditation-relevant criteria and procedures within a reasonable term. Should this adaptation not follow within due time, and after a warning of revocation and setting of a three-month additional respite, accreditation may be revoked.

§ 6 Revocation of accreditation on non-fulfilment of a condition

(1) If accreditation has been granted under the proviso of revocation in the case of non-fulfilment of a condition, and the higher education institution has not fulfilled a condition issued on accreditation within the stipulated term, then, after a warning and on expiry of an appropriate additional respite, the Agency is to immediately re-

voke the accreditation with effect of the next following end of semester. If accreditation for programme accreditation has been limited to the decision on the fulfilment of conditions, then, if condition fulfilment is not demonstrated, the Agency should extend the programme accreditation not by the standard term but only until the end of the respective semester. The possibilities to extend the term pursuant to the provisions of the relevant guidelines of the Accreditation Council remain unaffected.

(2) For the case mentioned in paragraph 1, the Agency creates the required basis for actions by suitably structuring its contracts with the higher education institutions.

(3) In the case of proceedings or intended proceedings pursuant to paragraph 1, the Agency obliges to immediately inform the affected higher education institution of this.

§ 7 Revocation of the accreditation decision on the complaint of the Accreditation Council

(1) The Accreditation Council can oblige the Agency to revoke a decision for programme- or system accreditation, or, provided there are defects that may be remedied within nine months, to issue a condition, when the decision was made under non-compliance with or inappropriate application of an accreditation criterion, or under breach of a significant procedural rule. The revocation or subsequent issuing of conditions must take place immediately with effect of the next following end of semester. This obligation is not present when the same accreditation decision would have been made even if the error had been prevented; the Agency bears the burden of producing evidence for this.

(2) If, in the case of para. 1, a positive-, negative- or accreditation decision would have had to be enacted under conditions, the Agency immediately makes the corresponding decision.

(3) For the cases mentioned in the paragraphs above, the Agency creates the required basis for actions by suitably structuring its contracts with the higher education institutions.

(4) The Agency obliges to immediately inform the affected higher education institution of the complaint of the Accreditation Council pursuant to para. 1 and to imme-

diately advise of the decision of the affected higher education institution pursuant to para. 1 or para. 2.

§ 8 Significant change of an accredited study programme or internal quality assurance system of a higher education institution

(1) In the case of significant changes to the concept or profile of a study programme, the Agency decides whether the change reduces the quality, thereby rendering a new accreditation necessary. With changes to the internal quality assurance system, the Agency decides whether the change is significant with a reduction of the quality of the study programme as a consequence. In both cases, the Agency immediately suspends the accreditation with effect of the next following end of semester, provided a new accreditation has not been applied for.

(2) The Agency must ensure that it is informed of changes by the higher education institution pursuant to para. 1 by providing for this in its agreements with the higher education institutions.

(3) Should the higher education institution find it necessary to apply for new system- or programme accreditation, the Agency previously involved in the accreditation obliges to carry out the accreditation procedure at the wish of the higher education institution provided an agreement has been reached on the fees.

(4) The Agency is obliged to immediately advise the higher education institution that it has suspended or intends to suspend an accreditation. In the case that programme accreditation is revoked, the Agency removes the study programme from the file of accredited study programmes and informs the responsible state ministry. In the case of system accreditation, the transitional periods standardised in the “Rules of the Accreditation Council for the Accreditation of Study Programmes and for System Accreditation” apply for the accreditation of the study programmes.

(5) For the cases mentioned in the paragraphs above, the Agency creates the required basis for actions through a suitable composition of its agreements with the higher education institutions.

§ 9 Negative accreditation decisions, and pending- or withdrawn accreditation applications

(1) With received applications, the Agency assesses whether the study programme or internal quality assurance system of a higher education institution to be accred-

ited is the subject of another pending accreditation procedure with another Agency, or whether it was a negative decision (procedure identity). If there is a suspicion of procedure identity, it immediately contacts the previously involved Agency.

(2) If the Agency was or is involved in the procedure in question, this Agency is obliged to immediately send all relevant procedural documents to other involved agencies and, on the basis of these, to jointly consult regarding the presence of procedure identity.

(3) If the non-presence of procedure identity is jointly established, the procedure is continued. If procedure identity is jointly established, the second Agency refuses the opening of the accreditation procedure. If no agreement is reached, the decision of the Board of the Accreditation Council is sought; its decision is binding among those involved.

(4) All costs incurred are borne by the second Agency. This Agency may charge the applicant higher education institution for these costs if identity is established or if there were sufficient grounds for assessing the identity.

(5) The agencies involved may agree on a deviating procedure in a manner that serves the purpose.

(6) To enable the assessment above, the Agency is obliged to immediately inform the head office of the Accreditation Council of negative decisions. The head office of the Accreditation Council publishes negative decisions in the internal section of the website of the Accreditation Council.

(7) In addition, the Agency obliges to contractually demand that the higher education institution declare on application that no negative decision has already been made with regard to the study programme or quality assurance system to be accredited, or that no procedure is pending with another Agency. In other respects as well, the Agency creates the required basis for actions for the procedure mentioned above by suitably composing its agreements with the higher education institutions.

(8) The Agency may not restrict the right of the higher education institution to withdraw its application for accreditation. However, the Agency also informs the Accreditation Council of withdrawn applications pursuant to para. 6 sentence 2.

§ 10 Duty of good faith

(1) The Agency obliges to only award the seal of the Accreditation Council in legally admissible cases, particularly pursuant to the provisions of this Agreement.

(2) The Agency obliges to prevent creating the impression on the part of third parties, particularly contract partners, that the Agency is active in other areas besides that of an Agency certified by the Accreditation Council.

§ 11 Duty to report and publish of the Agency

(1) The Agency obliges to immediately inform the Accreditation Council of all decisions for programme- and system accreditation, for non-extension of accreditation, the suspension of an accreditation decision pursuant to § 6, decisions of the Agency pursuant to § 7, and the suspension of an accreditation decision pursuant to § 8. The duty to report normally comprises the decision including conditions and the notification sent to the higher education institution. The duty to report is normally to be fulfilled by electronic means. Duties to report pursuant to other provisions of this Agreement remain unaffected.

(2) The Agency obliges to immediately publish decisions on accreditation procedures it has performed, along with the report with the names of the participating experts. For this purpose, the Agency immediately enters the corresponding data in the database and, if required, updates it.

§ 12 Duty to preserve records of the Agency

(1) The Agency obliges to file important documents for the respective accreditation procedure for the duration of the validity of the accreditation decision plus two additional years – in the case of a refusal for accreditation, for two years beginning with the sending of the refusal letter.

(2) Important documents include the documentation submitted by the higher education institution, the expert report, the statement of the Agency commission appointed for the decision, the decision including conditions and the report sent to the higher education institution. Should a procedure present a particularity that may be of significance for future measures or decisions, then the corresponding documents are to be considered important; under this condition, archiving is to be appropriately extended.

§ 13 Cooperation in the task fulfilment verification of the Agency

(1) The Agency obliges to make all appropriate information relating to procedures carried out by the Agency available at the request of the Accreditation Council, at any time, to the Accreditation Council, its members, or, in agreement with the Agency, expert third parties, and to allow a comprehensive examination of the accreditation procedures (on-site visits, meetings of the committees preparing and making the decisions). This comprises the right to participate in the committee meetings of the Agency as an observer.

(2) The Accreditation Council obliges to maintain confidentiality with regard to the information obtained through a procedure pursuant to para. 1; it may, however, publish the result thereof. The Agency is to be given the opportunity to make a statement before the establishment of the result. It is to be informed of the result in writing.

§ 14 Performance of international tasks

(1) This Agreement does not restrict the Agency's entitlement to carry out consultations, evaluations and accreditations in foreign countries, or to participate in international quality assurance associations and other international organisations dealing with quality assurance matters.

(2) The Agency's authorisation for programme accreditation with effect for the German accreditation system only applies to study programmes that are completed with a higher education degree that is recognised under German law. This also includes degrees jointly granted by a German and a foreign higher education institution (*Joint Degrees*). Equally, system accreditation only extends to these study programmes.

§ 15 Non-fulfilment of the obligations of the Agency

(1) Should an Agency fail to fulfil an obligation assigned to it (§§ 4 to 13), the Accreditation Council may first demand fulfilment or a different, suitable remedy within a specific term. In the case of non-fulfilment or the failure to remedy, the Accreditation Council may, after a warning and the setting of an additional respite of three months, raise an administrative fine as a contract penalty up to the amount of 50,000.00 Euros; or, in grave cases, the term of accreditation of the Agency may

be shortened or the accreditation revoked. In cases in which an Agency does not fulfil obligations pursuant to § 7, sentence 2 applies without prior application of sentence 1.

(2) The special provisions in §§ 4 and 5 remain unaffected.

§ 16 Requirements for the reaccreditation of the Agency

(1) Should an Agency pursue direct reaccreditation on expiry of accreditation, it must apply for reaccreditation in writing with the Accreditation Council nine months prior to the expiry of the accreditation at the latest.

(2) The Agency obliges to submit requested information and documents to the Accreditation Council required for the decision on the application for reaccreditation in due time. In addition, the Agency obliges to allow members of the Accreditation Council or, in agreement with the Agency, expert third parties, to participate in accreditation procedures (on-site visit, meetings of the committees who prepare and who make the decisions), and to make all related documents available.

(3) The Accreditation Council obliges to immediately open the procedure for accreditation on receipt of the application and to ensure completion of the procedure within eight months.

(4) Should it be the responsibility of the Accreditation Council that an accreditation procedure is not completed before expiry of accreditation, the Council extends the accreditation by an appropriate term.

§ 17 Appeals

The Agency can appeal decisions of the Accreditation Council on the accreditation and reaccreditation of agencies pursuant to § 2 para. 1 ASG, the revocation of accreditation pursuant to § 5 para. 2 ASG, and decisions related to the monitoring of the accreditations pursuant to § 2 para. 1 no. 4 ASG within one month of their entering into force with the Appeals Commission. In the case of revocation of accreditation or the refusal of a reaccreditation, the Accreditation Council decides pursuant to § 7 para. 2 of the statutes after consulting with the Foundation Council. In other respects, the possibility to institute legal proceedings remains unaffected.

§ 18 Fees

Should the Foundation for the Accreditation of Study Programmes in Germany issue a statute on the obligation of the agencies to pay fees in agreement with the Agency (§ 2) pursuant to § 4 para. 4 of the ASG, the parties to this Agreement oblige to correspondingly amend this contract. Should an agreement not be reached, the right to revoke the accreditation is reserved.

§ 19 Amendments

Amendments to this Agreement must be made in writing.

§ 20 Entry into force

This Agreement enters into force with the signing of the contract and is valid until the expiry of the accreditation term. It replaces the Agreement of xxxxxxxx.

For the Foundation for the Accreditation
of Study Programmes in Germany:

For the Agency:

Bonn, date:.....

....., date

Professor Dr. Reinhold R. Grimm
Chairperson of the Accreditation Council