



**CERTIFICATION AGREEMENT FOR COMPLIANCE APPROVAL
ON COMMUNICATION, MULTIMEDIA AND HYBRID EQUIPMENT**

THIS AGREEMENT is made on this _____ day of _____

BETWEEN

SIRIM QAS INTERNATIONAL SDN. BHD. (Company No. 199601037981 (410334-X)), a company incorporated in Malaysia under the Companies Act 2016 and having its business address at SIRIM Complex, No. 1, Persiaran Dato' Menteri, Section 2, P.O. Box 7035, 40700 Shah Alam, Selangor Darul Ehsan, Malaysia (hereinafter referred to as "SIRIM QAS International") of the one part;

AND

Company's Name
(Company Registration No:) and having its business address at
.....
.....
.....
(hereinafter referred to as "the Certificate Holder") of the other part.

SIRIM QAS International and the Certificate Holder shall hereinafter collectively be referred to as the "Parties" or individually as the "Party".

WHEREAS:

- A) SIRIM QAS International is the leading certification, inspection and testing body in Malaysia that provides a comprehensive range of certification, inspection and testing services that conform to national standards, international standards and guidelines.
- B) SIRIM QAS International has been appointed as a registered Certifying Agency (as hereinafter defined) by the Malaysian Communications and Multimedia Commission ("MCMC") pursuant to the Communications and Multimedia Act 1998 ("CMA 1998") and Communications and Multimedia (Technical Standards) Regulations 2000 ("TSR 2000") to provide Compliance Approval (as hereinafter defined) for the Communications Equipment (as hereinafter defined).
- C) SIRIM QAS International also has been appointed as a Cross Border Regulatory Agency ("CBRA") or Permit Issuance Agency ("PIA") by Jabatan Kastam Diraja Malaysia ("JKDM") pursuant to the Customs Act 1967 ("CA 1967") to issue Certificate of Approval ("CoA") (as hereinafter defined) to the Certified Equipment (as hereinafter defined) for customs clearance purposes.

- D) Certificate Holder refers to the Applicant or Consultant (as hereinafter defined) who is applying or has been granted with the Certificate of Conformity ("CoC") (as hereinafter defined) by SIRIM QAS International.
- E) This Agreement shall be read together with Certification Requirements for Communication, Multimedia and Hybrid Equipment (eTAC/DOC/01-1.1) (hereinafter referred to as "Requirements") and all related undertaking letter signed by the Certificate Holder.
- F) Certificate Holder shall subject to the CMA 1998, TSR 2000, CA 1967, including any and other relevant Malaysian Acts and Regulations (hereinafter referred to as "the Act & Regulations").

NOW THEREFORE the Parties hereby agree as follows:

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In this Agreement, the following terms and expressions shall have the meaning stated hereunder unless the context otherwise required:

Accreditation	refers to third party attestation related to a conformity assessment body conveying formal demonstration of its competence to carry out specific conformity assessments task;
Accreditation Bodies	refers to authoritative bodies that give formal recognition of the competence of a Certification Body to provide certification services against specified standard such as STANDARDS MALAYSIA;
Applicant	refers to an individual body corporate or body unincorporated registered under Company Commission of Malaysia (CCM) and owned the Registration of Company (ROC) / Registration of Business (ROB);
Business Day	refers to a day in which commercial banks in Selangor, Malaysia are normally open for business but excludes Saturday, Sunday and gazetted public holidays in Malaysia. In the event any time provided in this Agreement shall commence or expire on a day which is not a Business Day, the same shall be deemed to commence or expire on the next day which is a Business Day;
Certificate of Conformity (CoC)	refers to document issued by SIRIM QAS International to the Certificate Holder in recognizing the conformance of the Certificate Holder's Communications Equipment to the Standards, procedures, Requirements and the Act & Regulations;
Certificate of Approval (CoA)	refers to the import permit document issued by SIRIM QAS International to the Certificate Holder for customs clearance purposes in accordance to the Standards, procedures, Requirements and the Act & Regulations;

Certification Mark	refers to a protected mark in accordance to the guidelines by MCMC on Certification Mark for Self-Labeling which is applied or issued under the rules of Compliance Approval, indicating that adequate confidence is provided in that the relevant Communications Equipment is in conformity with the Standards, procedures, Requirements and the Act & Regulations;
Certification Label	refers to SIRIM Label with unique serial number and inherent security features to be applied only to the Certified Equipment as a means of control and traceability;
Certified Equipment	refers to the Certificate Holder's Communications Equipment that is owned by its principal and produced at the Production Site and has undergone Certification Activities in accordance with the Scope of Certification by SIRIM QAS International and complied with Standards, procedures, Requirements and the Act & Regulations;
Certification Activities	refers to a program, including its processes or procedures, to certify Communications Equipment or persons based on national standards, international standards, guidelines and pursuant to the Act & Regulations;
Certifying Agency	refers to certifying agency registered under Section 186 of CMA 1998 for the purposes of certifying compliance with codes or standards under this Part;
Communications Equipment	refers to either wired or wireless or a combination of both and/or integrated with communications modules which requires Compliance Approval which categorized as Network Facilities and/or Customer Premise Equipment (CPE);
Compliance Approval	refers to Type Approval granted to a specific model of Communications Equipment when the MCMC or SIRIM QAS International, as the case may be, is satisfied that the Communications Equipment complies with the Standards, procedures, Requirements and the Act & Regulations;
Consultant	refers to an authorized agent of the manufacturer or importer of Communications Equipment which is registered with the Company Commission of Malaysia (CCM) and owned the Registration of Company (ROC) / Registration of Business (ROB);
Design Freeze	refers to a procedure where upon successful completion of type testing, the design of all major and critical components and materials in the equipment and manufacturing, assembly and testing processes shall be documented and frozen. The design freeze shall include labelling, packaging and instruction for use, care, installation and maintenance as applicable;

Effective Date	refers to the submission date of first application of the Compliance Approval;
Electronic labelling	refers to one of the Self-Labeling method for the Certified Equipment that has a built-in display and supported by firmware or operating system (OS) which can be displayed, stored and retrieved from the equipment;
Intellectual Property Rights	refers to SIRIM QAS International's copyright, trademark, know-how, trade secrets, design and patent including its company data, corporate logo, CoC, Certification Mark (including MCMC's HID and CID number) and/or Certification Label granted and certified by SIRIM QAS International;
Production Site	refers to the place where the equipment is produced and where the inspection may be carried out by SIRIM QAS International to determine the compliance of the equipment to the Standards, procedures, Requirements, the Act & Regulations;
Recall	refers to the act of removing the equipment including the labelling and/or promotional literature from commerce when there is/are enough evidence that the equipment may be adulterated or misbranded and violated the Standards, procedures, Requirements, the Act & Regulations upon direction by MCMC;
Scheme Rule	refers to the Information Booklet for Hybrid Product Certification, Labelling and Importation (eTAC/DOC/01-3);
Scope of Certification	refers to the Certified Equipment which complies with the Standards, procedures, Requirements, the Act & Regulations;
Self-Labeling	refers to the logo design and word of "MCMC" and its unique ID that carries information of the Certified Equipment which associated with Certificate Holder, manufacturer and principal, which is similar with the submitted Compliance Approval. For avoidance of doubt, the Self-Labeling can be in the form of Surface Labelling or Electronic Labelling;
Standards	refers to the applicable Technical Code/ Technical Specification/ Standard/ Technical Checklist/ Technical Declaration or proficiency tests including processes and procedures, whether set out in the mandatory standards, technical codes or Malaysian Standards and established for the purpose of ensuring proficiency levels of persons and the safety, non-interference levels, performance levels and interoperability of any Communications Equipment;
Surface Labelling	refers to one of the Self-Labeling method which is a permanent feature placed on the Certified Equipment. It must be applied to a surface of the Certified Equipment that is readily accessible to the user. The labelling should be durable and applied by any suitable means including printing, painting, moulding, etching, engraving or embossing;

Surveillance	refers to a systematic iteration of conformity assessment activities as a basis for maintaining the validity of the statement of conformity;
Unlimited Access	refers to access by SIRIM QAS International's personnel, with or without prior notification, to the Production Site and the Certified Equipment as defined in this agreement. Unscheduled ad-hoc audit without prior notification is permitted under ISO 19011 (Guideline for Auditing Management System) to ensure continued compliance of the Certified Equipment. This requirement excludes the enforcement activities carried out by the relevant authorities;
Technical Checklist	refers to technical or specification issued by SIRIM QAS International;
Technical Code/ Technical Specification	refers to the documents registered by the MCMC under the Act & Regulations;
Technical Declaration	refers to the manufacturer's specification which shall conform to; <ul style="list-style-type: none"> i) The Malaysian's Spectrum Allocation registered by the MCMC under the Act & Regulations; and/or ii) Network Interoperability.

1.2 Interpretations

In this Agreement, unless the context requires otherwise:

- (a) Words importing the singular number shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter gender and vice versa;
- (b) Any reference to a statutory provision shall include such provision and any regulation made in pursuance thereof as from time to time modified or re-enacted and any reference to any agreement or instrument shall refer to that agreement or instrument as amended, modified and varied from time to time;
- (c) References to a person include an individual, firm, body corporate, unincorporated association, government or governmental, semi-governmental or local authority or agency;
- (d) References to appendices, schedules and clauses are references to the appendices, schedules and clauses of this Agreement and references to clauses shall be read as references to sub-clauses where appropriate;
- (e) References to any party to this Agreement or any other agreement or instrument shall include the party's successors and permitted assigns;
- (f) Headings are for convenience only and shall not affect interpretation;

- (g) References to any document other than Standards referred to in this Agreement, it shall mean the latest version of the document itself and shall supersede any document so referred to in this Agreement that is not the latest;
- (h) No rule of construction applies to the disadvantage of a Party because that Party was responsible for the preparation of this Agreement or any part of it; and
- (i) Exercise by SIRIM QAS International of any of its rights or remedies shall be without prejudice to the other rights and remedies of SIRIM QAS International under this Agreement or at law.

2. INCORPORATION OF TERMS

- 2.1 The Parties hereby confirm and agree to abide by any relevant statutory requirements and regulations by regulatory bodies, procedures, Requirements, Standards and Accreditation Bodies and/or organizations providing the recognition during the term of this Agreement.
- 2.2 For avoidance of doubt, any relevant regulatory provisions and legislations shall prevail and supersede any Standards if there are issues or any inconsistency arising out of the provisions of this Agreement.

3. SCOPE OF THIS AGREEMENT

- 3.1 SIRIM QAS International as the Certifying Agency appointed by the MCMC hereby agree to provide the Compliance Approval and grant to the Certificate Holder a non-exclusive and non-transferable CoC and to use the Certification Mark and/or Certification Label for the Certified Equipment in accordance with the Certification Activities and the Scope of Certification at the Certificate Holder's request, PROVIDED ALWAYS that the Certificate Holder abide by and fulfill any and all its obligations stated under Clause 6 herein.
- 3.2 SIRIM QAS International as the CBRA or PIA appointed by the JKDM hereby agree to grant to the Certificate Holder a CoA for the Certified Equipment in accordance with the Certification Activities and the Scope of Certification at the Certificate Holder's request for customs clearance purposes, PROVIDED ALWAYS that the Certificate Holder abide by and fulfill any and all its obligations stated under Clause 6 herein.
- 3.3 The MCMC may delegate certain responsibilities under Scope of Certification to be carried out by SIRIM QAS International.

4. TERM AND RENEWAL OF CERTIFICATE OF CONFORMITY (CoC)

- 4.1 Any CoC shall be valid for a minimum period of one (1) year or maximum period of five (5) years from the current year of issuance, unless otherwise specified.
- 4.2 Any CoC may be renewed further for a minimum period of one (1) year or maximum period of five (5) years from the current year of issuance, unless otherwise specified.

- 4.3 If the CoC has expired for more than six (6) months from the date of its expiry, the CoC shall automatically be suspended by the system with prior notice from SIRIM QAS International. If there is no action taken by the Certificate Holder within fourteen (14) working days from the suspension date of the CoC, the CoC shall be recommended to the MCMC for cancellation without further notice to the Certificate Holder and a new Compliance Approval is required.

5. DURATION OF AGREEMENT

- 5.1 This Agreement shall commence on the Effective Date and shall be valid in accordance with the validity period of the CoC unless this Agreement is terminated pursuant to Clause 14 herein.
- 5.2 This Agreement shall be valid if any of the CoC is valid.

6. OBLIGATIONS OF THE CERTIFICATE HOLDER

The Certificate Holder shall at all times during the validity of this Agreement: -

- 6.1 comply with Standards, procedures, Requirements, the Act & Regulations including the Scope of Certification;
- 6.2 comply with other requirements issued by SIRIM QAS International to the Certificate Holder from time to time to ensure continued compliance with the Standards, procedures, Requirements, the Act & Regulations including the Scope of Certification;
- 6.3 notify SIRIM QAS International immediately of any changes that may affect its ability to conform to the Standards, procedures, Requirements, the Act & Regulations, i.e. changes of information contained in the CoC, Product Specifications / Features, equipment's particular, manufacturer / principal, Production Site, major changes to the quality management system and its management representative including but not limited to changes in the legal status, commercial status, organizational or ownership status, name, address or location of facilities of the Certificate Holder, modification to the product or the production method;
- 6.4 submit the samples for evaluation prior to issuance of CoC. For the avoidance of doubt, only new sample is accepted for evaluation, unless being specified in the Scheme Rule. SIRIM QAS International shall not be held responsible for any damage to the samples during evaluation and/or equipment verification;
- 6.5 allow SIRIM QAS International to retain the submitted sample for further evaluation and investigation for any other reason SIRIM QAS International deems fit;
- 6.6 pay to SIRIM QAS International the Fees as described under Clause 10 herein;
- 6.7 provide to SIRIM QAS International with adequate and necessary information and documents in the possession of the Certificate Holder (including but not limited to test samples, technical materials, test reports and corresponding technical support) and any assistance and clarification on technical matters pertaining to the equipment for the purpose of evaluation to enable SIRIM QAS International to grant the Compliance Approval;

- 6.8 comply with all applicable relevant regulatory provisions and legislations in performing its obligations under this Agreement;
- 6.9 permit the representative(s) of SIRIM QAS International to have Unlimited Access during working hours for the purpose of ensuring continued compliance with the Standards, procedures, Requirements, the Act & Regulations without prior notification to the Production Site covered by the Certificate Holder;
- 6.10 permit the representative(s) of SIRIM QAS International to conduct additional inspection without prior notification as required by the Scope of Certification for the purpose of ensuring continued compliance;
- 6.11 produce and/or supply the Certified Equipment based on the CoC granted which shall comply with this Agreement and Scope of Certification;
- 6.12 be responsible to ensure the Certified Equipment which has been granted with the CoC, is produced and placed in commerce in accordance with the same specifications as the sample that SIRIM QAS International found to be in conformity with the Scope of Certification during the initial testing / evaluation;
- 6.13 if it is required to provide copies of the certification documents to other party, the documents shall be reproduced in its entirety or as specified in the certification scheme;
- 6.14 make necessary arrangements for: -
 - (a) the conduct of the evaluation and surveillance (if required), including provision for examining documentation and records, and access to the relevant equipment, location(s), area(s), personnel, and client's subcontractors;
 - (b) investigation of complaints;
 - (c) the participation of observers, if applicable.
- 6.15 not to use its Compliance Approval in such a manner as to bring SIRIM QAS International and/or the MCMC into disrepute and shall not make any statement or representation regarding its Compliance Approval that SIRIM QAS International and/or the MCMC may consider misleading or unauthorized, including, but not limited to, any statement or representation that implies the Compliance Approval includes any features, capabilities or functions which are not within the Scope of Certification;
- 6.16 in making reference to its Certified Equipment in communication media such as documents, brochures or advertising, it shall comply with the Scope of Certification.
- 6.17 not to participate in promoting illegal activities or engage in any act in breach of the Scope of Certification, including but not limited to, promoting illegal streaming of copyright contents and shall not use the Certified Equipment for illegal activities;
- 6.18 restrain its authorized distributors or dealers in promoting illegal activities or engage in any act in breach of the Scope of Certification including but not limited to, promoting illegal streaming of copyright contents and shall not use the Certified Equipment for illegal activities;

- 6.19 keep a record of all complaints made known to it relating to its Certified Equipment covered by the CoC and make these records available to SIRIM QAS International when requested and take appropriate action and document the actions taken with respect to such complaints that affect compliance with the requirements for certification;
- 6.20 allow the Accreditation Bodies / regulators to accompany and witness SIRIM QAS International's personnel in carrying out inspection for the Certificate Holder;
- 6.21 investigate and take adequate corrective actions within the agreed time frame where non-compliance is/are identified by SIRIM QAS International during evaluation or site inspection;
- 6.22 undertake full responsibility for any Certification Mark and/or Certification Label in their premises and its application where the Certificate Holder shall take any action to prevent the Certification Mark and/or Certification Label from being misused. The Certificate Holder shall not be held responsible if it is proven that the Certification Mark and/or Certification Label is being misused by other person other than the Certificate Holder; and
- 6.23 upon suspension or cancellation of the CoC, discontinue the use of Certification Mark and/or Certification Label and all publications including advertising materials which may have reference to the Certified Equipment with immediate effect. The Certificate Holder shall return the CoC and the balance of Certification Label, if any, to SIRIM QAS International upon written notice by SIRIM QAS International.

7. OBLIGATIONS OF SIRIM QAS INTERNATIONAL

SIRIM QAS International shall at all times during the validity of this Agreement: -

- 7.1 carry out Compliance Approval activities and/or processes in accordance with the Scope of Certification using its qualified personnel;
- 7.2 evaluate and/or conduct site inspection at the Certificate Holder's premises or Production Site depending on the significant effects of the Certificate Holder's equipment and/or production activities at a time determined by SIRIM QAS International in accordance with its scheme for the purpose of verifying the equipment;
- 7.3 reserves the right not to accept an application from any Certificate Holder if the Certificate Holder fails to provide adequate and necessary information and documents when requested by SIRIM QAS International;
- 7.4 reserves the right not to accept an application from any Certificate Holder when it is known that any member(s) of its Board of Directors had violated the Requirements when they were serving as member(s) of Board of Directors of a previous Certificate Holder;
- 7.5 notify the Certificate Holder when deem necessary of any changes on the Scope of Certification within a reasonable time for the Certificate Holder to adjust its processes and relevant procedures in order to meet the revised requirements; and
- 7.6 have the right to deny the services of the Certificate Holder when it considers necessary without prior notice.

8. SURVEILLANCE

- 8.1 SIRIM QAS International shall carry out continuous Surveillance of the Certificate Holder's conformity with its obligations to ensure ongoing and continued fulfillment of requirements of the Scope of Certification.
- 8.2 SIRIM QAS International reserves the right to carry out Surveillance activities upon its discretion which shall include: -
- (a) routine market sampling; and/or
 - (b) sampling of the Certified Equipment for the purpose of complaint validation.
- 8.3 The Certificate Holder hereby agree and acknowledge that SIRIM QAS International shall have the right to carry out either with or without notice of its Surveillance activities.
- 8.4 SIRIM QAS International shall have the right to tighten up or make the Surveillance stricter for the equipment that potentially can cause non-compliance(s) but not limited to frequency interference, safety impairment, malfunction or harm to users, networks, other communications product, etc.

9. PUBLICITY

- 9.1 The Certificate Holder has the right to publish its equipment as Certified Equipment to which the CoC applies.
- 9.2 SIRIM QAS International shall maintain, update and publish the particulars of the CoC granted to the Certificate Holder in the Directory of Certified Equipment (Comm. Certified) that is available to the public (www.sirim-qas.com.my) and in e-ComM (<http://ecomm.sirim.my/>).

10. FEES / PAYMENT

- 10.1 In consideration of SIRIM QAS International providing the Compliance Approval and the non-exclusive rights to use its Certification Mark and/or Certification Label and the Certificate of Approval (CoA), the Certificate Holder shall pay fees to SIRIM QAS International based on the certification fees issued to the Certificate Holder (hereinafter referred to as "the Fees").
- 10.2 The Certificate Holder shall pay all the Fees in full and advance without any reduction such as bank charges, administrative fees, handling charges and any other charges (if any) imposed by any bank, financial institution or credit/debit agencies which shall be borne by the Certificate Holder. SIRIM QAS International also reserves the right to amend or revise the Fees associated with the Certification Activities.
- 10.3 If there is any excess in the Fees, it may be reimbursed by SIRIM QAS International at its absolute discretion. If during the evaluation it becomes evident that the Fees collected earlier is insufficient, the Certificate Holder shall make payment for the balance of the Fees. Failure to make such payment within the time stipulated by SIRIM QAS International, shall result in non-issuance of the Compliance Approval.

- 10.4 The Fees payable to SIRIM QAS International by the Certificate Holder shall be as follows: -
- (a) Processing fee;
 - (b) Registration fee;
 - (c) Commitment fee;
 - (d) Certification Activities / Evaluation fees for documentation audit, equipment evaluation and all other associated costs for conducting such evaluation / site inspection including fees for employing technical specialists;
 - (e) Annual renewal fee for the renewal of each CoC granted;
 - (f) Any additional costs incurred by SIRIM QAS International due to the Certificate Holder's non-compliance to this Agreement or for evaluating changes to the Certificate Holder's equipment which shall be borne by the Certificate Holder at the rate to be determined by SIRIM QAS International;
 - (g) Any additional cost that SIRIM QAS International deems necessary for the purpose of certification related activities.
- 10.5 All the Fees shall subject to the Sales and Services Tax (SST) (if applicable) and all other applicable taxes.
- 10.6 The Certificate Holder shall pay the Fees to SIRIM QAS International prior to the Certification Activities being carried out.
- 10.7 In the event the Certificate Holder is unable to adhere to the schedule stipulated in the Fees and Compliance Approval issued by SIRIM QAS International, the Certificate Holder shall give a written notice to SIRIM QAS International prior to the Certification Activities being carried out.
- 10.8 If the Certificate Holder fails to notify SIRIM QAS International for any reason whatsoever, SIRIM QAS International shall be entitled to impose a surcharge on the Certificate Holder. The amount of surcharge payable by the Certificate Holder shall be determined by SIRIM QAS International.
- 10.9 In the event the Certification Activities fails to meet one or more of the requirements of the Standards, and the remaining evaluation has not been carried out by SIRIM QAS International, the Certificate Holder may request for the refund of the balance of the Fees. SIRIM QAS International may at its absolute discretion reimburse the balance of the Fees to the Certificate Holder.
- 10.10 In the event that sampling and testing of the Certified Equipment is required, the Certificate Holder hereby agree to pay for all the associated costs to ensure continued compliance with this Agreement and Scope of Certification.
- 10.11 In the event that any Certified Equipment is/are found not in compliance with the Scope of Certification and therefore Recall (subject to Clause 13 below) is required, the Certificate Holder shall bear all the associated costs involved.

11. REQUIREMENTS FOR RE-EVALUATION OF EQUIPMENT

- 11.1 In addition to and subsequent to the equipment being certified, the Certificate Holder shall re-test (either full or partial test) of the Certified Equipment to ensure continued compliance with the Scope of Certification.
- 11.2 The Certificate Holder shall allow SIRIM QAS International to carry out its Surveillance activities as described under Clause 8 above.
- 11.3 The Certificate Holder shall submit the equipment for re-evaluation upon being notified in writing of its non-compliance with the Scope of Certification. An application for re-evaluation shall be submitted by the Certificate Holder within six (6) months from the date of official notification of the results by SIRIM QAS International. Application for re-evaluation submitted later than such period shall be treated as a new application and the respective Fees shall be applicable. For avoidance of doubt, a full evaluation shall be conducted on the modified equipment.

12. SUSPENSION OR CANCELLATION

- 12.1 In the event the Certificate Holder is unable to comply with the Scope of Certification, SIRIM QAS International shall be entitled to undertake the necessary actions against the Certificate Holder as follows;
 - (a) to request the Certificate Holder to undertake suitable corrective and/or preventive measures to ensure that the non-compliance is rectified and there will be no recurrence of the non-compliance; and/or
 - (b) to submit a recommendation to the MCMC for the suspension or cancellation of the CoC.
- 12.2 In the event the CoC is suspended or cancelled by the MCMC, the Certificate Holder shall discontinue the use of the Certification Mark and/or Certification Label and shall cease to supply or sell the Communications Equipment. Subject to the MCMC's advice, the Certificate Holder may also be required to recall the communications equipment within a stipulated time and in the manner specified by the MCMC.
- 12.3 In the event the CoC is reinstated after the suspension, SIRIM QAS International shall make all the necessary modifications to the CoC, public information, and authorizations for the use of the Certification Mark and/ or Certification Label in order to ensure that all appropriate indications exist that the Certified Equipment continues to be certified.
- 12.4 Notwithstanding Clause 12.1 above, any breach of the conditions under this Agreement and/or the Scope of Certification shall result in cancellation of the CoC as per advice given by the MCMC and shall result in the termination of this Agreement.

13. RECALL OF COMMUNICATION EQUIPMENT

- 13.1 SIRIM QAS International shall initiate to do a Recall on the Communications Equipment upon direction by the MCMC based on the following situations;
- (a) CoC has been suspended or cancelled;
 - (b) Misuse of Certification Mark and/or Certification Label on non-certified Communications Equipment;
 - (c) Unauthorized variation from the Design Freeze of the Certified Equipment which may jeopardize the safety of user;
 - (d) Certified Equipment with critical or major defects detected during Surveillance, market sampling or complaint investigation which:
 - i) have been released for sale; or
 - ii) are being offered for sale; or
 - iii) have already been sold.
- 13.2 The MCMC may direct the Certificate Holder to do a Recall on the Certified Equipment within a reasonable time and in the manner specified by the MCMC.
- 13.3 The Certificate Holder shall advertise the Certified Equipment which have been recalled as stipulated in the Requirements and shall bear all the costs involved including the cost of its advertisement.

14. DISPOSAL OF EQUIPMENT SAMPLE

- 14.1 The Certificate Holder shall collect the sample of the Certified Equipment within fourteen (14) working days from the date of the CoC is issued. Failure to collect the equipment within such period may result in the equipment being disposed in any manner deems fit by SIRIM QAS International. SIRIM QAS International shall not be held liable in whatsoever manner for any loss or damage suffered by the Certificate Holder as a result of the disposal of the equipment after such period or in any manner account for the disposal of the equipment after such period.
- 14.2 The Certificate Holder hereby agree to dispose the equipment or any part of the equipment that SIRIM QAS International has notified the Certificate Holder of its intention if: -
- (a) SIRIM QAS International is satisfied that the Certified Equipment or any part of it has failed to comply with the Scope of Certification and the Certificate Holder is unable to resolve the matter within two (2) months;
 - (b) The CoC has been suspended or terminated; and
 - (c) The equipment or any part of it has not been certified.

15. TERMINATION OF AGREEMENT

15.1 This Agreement may be terminated by either Party as follows: -

(a) By the Certificate Holder

The Certificate Holder may terminate this Agreement by giving three (3) months' notice in writing to SIRIM QAS International. The termination shall not affect any rights, obligations or liabilities of the Certificate Holder that has accrued prior to the date of termination and shall not relieve the Certificate Holder of its obligation to indemnify SIRIM QAS International hereunder.

(b) By SIRIM QAS International

- i) If the Certificate Holder commits any breach of the terms and conditions under this Agreement and/or the Scope of Certification (and in the case of a breach capable of remedy, the Certificate Holder fails to remedy such breach within seven (7) Business Day from the date of SIRIM QAS International's notice requesting remedy); or
- ii) If the Certificate Holder ceases or threatens to cease to carry on its business or has been suspended from carrying on its business by the Courts; or
- iii) If a receiver, administrator or similar officer is appointed over all or any part of the assets or undertaking of the Certificate Holder or is threatening to do so; or
- iv) If the Certificate Holder enters into any compromise or arrangement for the benefit of its creditors or is about to do so; or
- v) If a petition for the winding up of the Certificate Holder has been presented against it in a court of competent jurisdiction or if the Certificate Holder goes into liquidation,

then SIRIM QAS International may terminate this Agreement with immediate effect by giving a written notice to the Certificate Holder.

15.2 In addition to the above, SIRIM QAS International may terminate this Agreement by giving thirty (30) days' prior written notice to the Certificate Holder if: -

- (a) the Certificate Holder misused the Certification Mark and/or Certification Label after suspension or cancellation of the CoC and warning letter has been issued by SIRIM QAS International; or
- (b) there is any legal action taken from any other related authority on the Certificate Holder; or
- (c) in the opinion of SIRIM QAS International that its interest or rights under this Agreement is in jeopardy or for any reason whatsoever; or
- (d) the Certificate Holder fails to notify SIRIM QAS International immediately of any changes of its name, location of facilities or any significant changes to its organization; or
- (e) the Certificate Holder fails to notify SIRIM QAS International immediately when there is a change of particulars in CoC, Equipment Specifications/ Features, and Production Site of the equipment and/or any changes that may affect its ability to conform with the Requirements; or

- (f) the Certificate Holder refuse to allow SIRIM QAS International to carry out its surveillance audit when requested by SIRIM QAS International without reasonable cause; or
 - (g) SIRIM QAS International has the evidence that the Certificate Holder has infringed and breached its Intellectual Property Rights.
- 15.3 The termination of this Agreement shall not affect any accrued rights or liabilities or obligations of either Party existing as at the date of such termination and/or shall not relieve the Certificate Holder of its obligation to indemnify SIRIM QAS International hereunder.
- 15.4 Exercise by SIRIM QAS International of its rights under this Clause shall be in addition and without prejudice to any other rights or remedies available to SIRIM QAS International under this Agreement or at law.

16. EFFECT OF TERMINATION

- 16.1 In the event this Agreement is terminated hereunder, the following provisions shall apply with immediate effect with or without written notice by SIRIM QAS International: -
- (a) all the CoC shall be terminated;
 - (b) the Certificate Holder shall cease in using all Certification Mark and/or Certification Label to all equipment;
 - (c) the Certificate Holder shall cease in using all company data and/or SIRIM QAS International Intellectual Property Rights and proprietary rights related to the equipment; and
 - (d) the Certificate Holder shall cease in using all data for importation purposes.
- 16.2 The termination of this Agreement shall not prevent SIRIM QAS International to:
- (a) file an actions or suits in the court of law against the Certificate Holder for any infringements or allegations of infringement in respect of SIRIM QAS International's Intellectual Property Rights;
 - (b) publish a public notice through either printed or electronic media in relation to the infringements or allegations of infringement of SIRIM QAS International's Intellectual Property Rights made by the Certificate Holder;
 - (c) claim for any outstanding Fees which is still due and payable by the Certificate Holder;
 - (d) claim any cost which has directly incurred due to the termination; and
 - (e) conduct inspection within twelve (12) months after the termination date of CoC and this Agreement in order to verify that neither production of equipment with Certification Mark nor Certification Label at the Certificate Holder's premises is being carried out.
- 16.3 Exercise by SIRIM QAS International of its rights under this Clause shall be in addition and without prejudice to any other rights or remedies available to SIRIM QAS International under this Agreement or at law.

17. INTELLECTUAL PROPERTY RIGHTS

17.1 The Certificate Holder hereby agree and acknowledge the following(s):

- (a) that any Intellectual Property Rights currently owned by SIRIM QAS International shall remain the absolute property of SIRIM QAS International;
- (b) that the Intellectual Property Rights in CoC, CoA, Certification Mark and/or Certification Label granted and certified by SIRIM QAS International to all equipment of the Certificate Holder shall remain vested in SIRIM QAS International;
- (c) that it shall not by itself procuring or assisting any third party without SIRIM QAS International's written consent to assemble any part of SIRIM QAS International Intellectual Property Rights during the term of this Agreement and the Certificate Holder undertake to ensure that its employee, affiliates, consultants, and/or any third party (where applicable) who are given the access to the same shall aware to the provision under this Clause 17.

17.2 Without prejudice to the generality of sub-clause 17.1, all SIRIM QAS International's company data provided or accessible to the Certificate Holder pursuant to this Agreement shall remain the absolute property of SIRIM QAS International.

17.3 The Certificate Holder shall not utilise SIRIM QAS International's Intellectual Property Rights, or other proprietary rights belonged or licensed to SIRIM QAS International for any purpose other than in relation to its obligations under this Agreement only.

17.4 The Certificate Holder shall forthwith notify SIRIM QAS International if any claim or demand is made or action brought against the Certificate Holder for infringement or alleged infringement of any Intellectual Property Rights of SIRIM QAS International in connection with this Agreement.

17.5 SIRIM QAS International shall have at its own expense to conduct any litigation arising and all negotiations in connection of its Intellectual Property Rights and SIRIM QAS International shall have an exclusive control of any such litigation and such negotiations.

17.6 The Certificate Holder shall at the request of SIRIM QAS International afford to SIRIM QAS International all reasonable assistance for the purpose of contesting any claim or demand made or action brought against Certificate Holder or SIRIM QAS International for infringement or alleged infringement of any such Intellectual Property Rights of SIRIM QAS International.

18. CERTIFICATE HOLDER'S REPRESENTATIONS AND WARRANTIES

The Certificate Holder hereby represents and warrants that:

18.1 It is a company and/or business validly existing under the laws of Malaysia or of any similar local laws in other country outside Malaysia;

18.2 It has the company and/or business power, legal capacity and authority to enter into and independently perform its obligations under this Agreement and are authorized to carry out the transaction and to carry on its business as contemplated by this Agreement;

18.3 It has taken all the necessary company and/or business actions to authorize the entry into and the performance of this Agreement and to carry out the transactions contemplated by this Agreement;

- 18.4 that the execution, delivery and performance of this Agreement shall not exceed the power granted to the Certificate Holder or violate the provisions and legislations of the following(s): -
- (a) any law or regulation or any order or decree of any governmental authority, agency or court to which it is subject;
 - (b) its Constitution; and
 - (c) any mortgage, agreement or other undertaking or instrument to which it is a party, or which is binding upon it or upon its assets.

19. SIRIM QAS INTERNATIONAL'S REPRESENTATIONS AND WARRANTIES

SIRIM QAS International hereby represents and warrants that:

- 19.1 It is duly organized and validly existing under the laws of Malaysia and has all requisite legal power and authority to execute this Agreement and carry out the terms, conditions and provisions and legislations hereof;
- 19.2 This Agreement constitute the valid, legal and binding obligations of SIRIM QAS International and enforceable in accordance with the terms hereof;
- 19.3 There are no actions, suit or proceedings pending or, to the best knowledge of SIRIM QAS International, threatened against or affecting SIRIM QAS International before any court or authority that might materially adversely affect the ability of SIRIM QAS International to meet and carry out its obligations under this Agreement;
- 19.4 That the execution, delivery or performance of this Agreement shall not exceed the power granted to SIRIM QAS International or violate the provisions and legislations of the following:
- (a) any law or regulation or any order or decree of any governmental authority, agency or court to which it is subject;
 - (b) its Constitution; and
 - (c) any mortgage, agreement or other undertaking or instrument to which it is a party, or which is binding upon it or upon its assets.
- 19.5 It shall carry out the Certification Activities in accordance with the Scope of Certification including relevant regulatory provisions and legislations required for the Certification Activities by using its authorized representatives.

20. CONFIDENTIALITY

- 20.1 SIRIM QAS International shall not disclose, communicate or publish, without the prior written permission of the Certificate Holder, any Certificate Holder's Confidential Information provided by the Certificate Holder to SIRIM QAS International except as required by law. "Certificate Holder's Confidential Information" means business and technical information regarding Certified Equipment technical specifications, materials information, test procedures and methods, manufacturing process and case studies relating to the Certified Equipment.

- 20.2 The obligation of confidentiality shall not apply to information which: -
- (a) is already in the public domain or becomes part of the public domain other than a result of the wrongful disclosure by SIRIM QAS International; or
 - (b) is disclosed to SIRIM QAS International by a third party who obtain the information not as a result of breach of confidentiality obligations; or
 - (c) is independently developed or procured by SIRIM QAS International; or
 - (d) is required to be disclosed by law, order of a court of competent jurisdiction, or of a regulatory or governmental authority or pursuant to the Scope of Certification to be disclosed.

21. LIABILITY AND INDEMNITY

- 21.1 The Certificate Holder hereby agree that SIRIM QAS International neither assumes nor accepts any responsibility for any injury or damage to the Certificate Holder's property or personnel that may occur during or as a result of the Certification Activities, wherever performed, whether performed in whole or in part by the Certificate Holder or SIRIM QAS International, under the terms of this Agreement and whether or not any equipment, facility or personnel for or in connection with the activity is furnished by the Certificate Holder or SIRIM QAS International, except when such injury or damage results solely from the negligence on the part of SIRIM QAS International.
- 21.2 The Certificate Holder shall defend and hold harmless SIRIM QAS International and agree that SIRIM QAS International shall not be held responsible for any liabilities, damages, injuries, losses, costs and expenses including equipment liability claims suffered by any third party due to third party reliance on the Certificate Holder's Certified Equipment.
- 21.3 The Certificate Holder shall not in any manner and whatsoever reason involve SIRIM QAS International, its directors, officers and authorized representatives in any court or legal proceedings on any disputes that may arise between the Certificate Holder and other parties including but not limited to users or consumers.
- 21.4 The Certificate Holder shall be held liable for any non-compliance(s) but not limited to frequency interference, safety impairment, malfunction or harm to users, networks, other communications product, etc. of the Certified Equipment under this Agreement.
- 21.5 This indemnity shall be operative whether or not legal proceedings are instituted and if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination.

22. LIMITATION OF LIABILITY

- 22.1 In any event and notwithstanding anything contained in this Agreement, SIRIM QAS International's liability to the Certificate Holder, if any, under this Agreement shall be limited only to whatever amount that has already been paid to SIRIM QAS International under this Agreement.
- 22.2 The amount that will be paid by SIRIM QAS International shall exclude liability for any loss or damage suffered by any third party whether directly, indirectly or consequential arising in any way out of the services rendered by SIRIM QAS International.
- 22.3 SIRIM QAS International shall not be held liable and shall not accept any liability, obligation or responsibility of whatsoever reason for any loss or damage suffered by the Certificate Holder arising out of the Certificate Holder's reliance on the consultant or any other external or third parties.

23. ANTI-BRIBERY COMPLIANCE

- 23.1 Either Party or any of its subsidiaries or affiliates, or any directors, officers, agents, servants, employees or other persons associated with or acting on behalf of the Party, or any of its subsidiaries or affiliates shall:
- (a) comply with all applicable laws and policies relating to anti-bribery and anti-corruption including the Malaysian Anti-Corruption Commission Act 2009 and any amendments thereto ("Anti-Corruption Laws");
 - (b) not engage in any act which would constitute an offence under the Anti-Corruption Laws irrespective of whether or not such act had been carried out inside or outside Malaysia;
 - (c) comply with the ethics, anti-bribery and anti-corruption policies pursuant to the Anti-Corruption Laws;
 - (d) have and shall maintain in place adequate procedures under the Anti-Corruption Laws to ensure compliance thereunder.
- 23.2 If the Certificate Holder or any of its subsidiaries or affiliates, or any directors, officers, agents, servants, employees or other persons associated with or acting on behalf of the Certificate Holder, or any of its subsidiaries or affiliates, is convicted by a court of law for involvement in bribery or corruption or unlawful or illegal activities, SIRIM QAS International shall be entitled to terminate this Agreement at any time, by giving immediate written notice to that effect to the Certificate Holder.
- 23.3 Upon such termination in Clause 23.2 above, SIRIM QAS International shall be entitled to all losses, costs, damages and expenses (including any incidental costs and expenses) incurred by SIRIM QAS International arising from such termination. For the avoidance of doubt, the Parties hereby agree that the Certificate Holder shall not be entitled to claim from SIRIM QAS International any form of losses including loss of profit, damages, claims or whatsoever upon termination of this Agreement under this Clause.

24. FORCE MAJEURE

- 24.1 For the purpose of this Agreement, the term '*Force Majeure*' shall refer to any acts of God, strikes, lock outs and other industrial disturbances, wars, insurrections, riots, epidemic, pandemic, act of governmental authority, and/or state of emergency, prohibitive governmental regulations, landslides, earthquakes, storms, lightning, floods, civil disturbances, explosions, and any other similar events not within the control of either Party and which by the exercise of due diligence neither Party is able to overcome.
- 24.2 If the Parties are temporarily unable by reason of *Force Majeure* to meet any of its obligation under this Agreement and if such Party promptly gives to the other Party written notice of the event after its occurrence, such obligations of the Party shall be suspended as it is unable to perform by reason of the event as long as the inability continues.

25. NOTICE

- 25.1 Any notice under this Agreement to the other Party shall be in writing at the address stated in this Agreement or such other address as may be specified by the Parties by notice to the other Party from time to time.
- 25.2 Any notice given shall be in the English language or Bahasa Malaysia and shall be deemed to have been served if:
- (a) sent by prepaid AR registered post, on the third Business Day after the date of posting;
 - (b) sent by a reputable "next day guaranteed" courier service, on that next Business Day;
 - (c) hand delivered, upon delivery provided that delivery is made during normal business hours; or
 - (d) sent by fax, upon notification that the message was successfully transmitted in its entirety and a confirming copy is dispatched by one of the other permitted means under this Clause;
- provided that under sub-clauses 25.2(a), (b) and (c) above, there shall be an acknowledged delivery slip or similar evidence of successful delivery of the notice when sent to either Party.

26. DISPUTE RESOLUTION

Any dispute arising out of this Agreement shall be settled by way of amicable settlement, failing which, such dispute shall be referred to arbitration in accordance with the rules and regulations of the Asian International Arbitration Centre (AIAC). The Parties hereby agree that the dispute shall be conducted in the following manner:

- (a) The appointing authority shall be the Director of AIAC;
- (b) The number of arbitrators shall be one (1); and
- (c) The place of arbitration shall be Kuala Lumpur.

27. SUCCESSORS BOUND

This Agreement shall be binding upon the Parties and their permitted legal assigns and successors-in-title by operation of law or otherwise.

28. ASSIGNMENT

Neither Party shall be entitled to assign, transfer or novate this Agreement or any of their rights or obligations hereunder without the prior written approval of the other Party.

29. SEVERABILITY

If any provision of this Agreement is held to be illegal or invalid under present or future laws or regulations effective and applicable during the term of this Agreement, such provisions and legislations shall be fully separable and this Agreement shall be construed as if such illegal or invalid provision had never comprised a part of this Agreement. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal or invalid provision or by its severance from this Agreement.

30. WAIVER

Failure by any Party to enforce any provision of this Agreement shall not be construed as a waiver of its right to enforce such provision or any other provision of this Agreement, or as a waiver of any continuing, succeeding or subsequent breach of any provision or other provision of this Agreement or as waiver of any right under this Agreement.

31. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of Malaysia.

32. NATURE OF AGREEMENT

Nothing in this Agreement shall create, or be deemed to create a partnership or the relationship of principal and agent between the Parties.

33. AMENDMENT

Any amendment or variation to this Agreement shall not be effective unless made in writing and signed by the authorized representatives of the Parties herein.

34. COST

Each Party shall bear its own respective legal costs and incidental expenses to the preparation of this Agreement save and except the stamping fees which shall be borne by SIRIM QAS International.

35. CORPORATE LOGO

The use of SIRIM QAS International and/or the MCMC corporate logo, trademarks or any other Intellectual Property Rights under any circumstances without prior written approval from the Chief Executive Officer of SIRIM QAS International and/or the Chairman of the MCMC is strictly prohibited.

36. CUMULATIVE RIGHTS AND REMEDIES

The rights and remedies provided in this Agreement are cumulative, and the exercise of any right or remedy by either Party hereto (or by its successor), whether pursuant to this Agreement or to any other agreement, or to law, shall not preclude or waive its right to exercise any or all other rights and remedies.

37. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties with respect to the matters dealt with and supersedes any previous agreement or understanding between the Parties in relation to such matters.

[END OF CLAUSES]

(The remainder of this page intentionally left blank)

IN WITNESS WHEREOF the Parties have hereunto caused this Agreement to be signed in their respective names as of the day and year first above written.

Signed on behalf of
SIRIM QAS INTERNATIONAL SDN. BHD.
(199601037981 (410334-X))

Signed on behalf of the Certificate Holder
(Company's name)

.....
Authorized Signatory
Name:
Designation:

.....
Authorized Signatory
Name:
Designation:

Witnessed by;

Witnessed by;

.....
Name:
Designation:

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Name:
Designation: