

Terms and Conditions for FeliCa Card Performance Certification Test

The following terms and conditions (the “Terms and Conditions”) apply with respect to the Card Performance Certification Test of your Product (hereinafter defined) conducted by Sony Corporation (“Sony”). The Terms and Conditions apply to individual applications for the Card Performance Certification Test submitted on the FeliCa Card RF Performance Certification Application. These Terms and Conditions become an agreement with respect to the Card Performance Certification Test (the “Agreement”) between you and Sony upon Sony’s acceptance of your application for the Card Performance Certification Test submitted in accordance with Section 2.01 hereof (such acceptance date is referred to as “Effective Date”).

ARTICLE I. DEFINITIONS

The following terms as used in these Terms and Conditions shall have the meanings set forth below.

- (1) “FeliCa” shall mean the Contactless IC technology called “FeliCa” which includes “Command Standard” and Security Standard.
- (2) “FeliCa IC” shall mean a chip for contactless IC card which is manufactured based on FeliCa.
- (3) “Product” shall mean contactless IC cards and any other devices based on FeliCa which incorporate “FeliCa IC” provided by Sony. However, “Product” shall not include reader/writer or mobile phone. In this Section, (a) reader/writer shall mean reader/writer products (including module products) for contactless IC card system based on “FeliCa” and (b) “Mobile phone” shall mean a mobile device (i) of which primary function is communication call and (ii) which is sold, rented, leased or otherwise provided with the trademarks of Telecommunication Carriers (a provider of trans receiver functionalities via mobile communication system to users of mobile devices that are sold, rented, leased or otherwise provided to them with such providers’ trademarks.), third party or your company.
- (4) “Certification Specification” shall mean the specification designated by Sony which is called FeliCa Card RF Performance Certification Specification.
- (5) “Card Performance Certification Test” or “Test” shall mean ‘FeliCa Card RF Performance Certification Specification’ defined in Certification Specification.
- (6) “Test Institute” shall mean the third-party agency that Sony designates as an institute who conducts the Card Performance Certification Test.

ARTICLE II. CERTIFICATION TEST

2.01 An application for the Card Performance Certification Test shall be made for each model of your Product, in accordance with the provisions of the Certification Specification. Your application is deemed to be accepted unless it is rejected by Sony with reasonable cause within five (5) business days (of Sony in Japan) from the date of submission of your application. You shall arrange the test schedule with the Test Institute directly.

2.02 You must submit forty (40) samples (of which breakdown is hereinafter provided) of your Product and the data of your Product which is separately designated by Sony and ownership of such samples will be transferred to Sony, free of charge, when such samples arrives at the Test Institute. Sony shall not be responsible for any damages to the samples in connection with the Card Performance Certification Test of the Products performed by Sony. After the completion of the Card Performance Certification Test, Sony may keep such samples at Sony or the Test Institute for Sony and/or its subcontractor to use for the FeliCa Reader/Writer RF Performance Certification and/or the FeliCa Reader/Writer RF Performance Pre-test of Felica Reader/Writer products. Such forty (40) samples shall consist of 10 maximum-frequency samples, 20 standard-frequency samples, and 10 minimum-frequency samples (Of all the manufactured units of the Product being tested, the maximum-frequency sample must be the sample of the Product that has minimally the highest resonance frequency value, the minimum-frequency sample must be the sample of the Product that has the lowest resonance frequency value, and the standard-frequency sample must be the sample of the Product that has a resonance frequency value between the highest resonance frequency value and

the lowest resonance frequency value.)

2.03 Sony will, after the Agreement becomes effective and Sony receives the samples set forth in Section 2.02 above, promptly conduct the Card Performance Certification Test in accordance with the Certification Standards and notify you the results thereof. Upon passing of the Card Performance Certification Test, Sony will issue a pass certificate (the "Pass Certificate") with respect to the specific model of the Product for which the samples were provided.

2.04 If (a) you request to add a new Product model which has not yet passed the Test but has the same communication performance under the same measurement conditions as the Product which has passed the Test to a Product series whose models have already passed the Test, by means separately designated by Sony, and (b) Sony approves such request by the form separately designated by Sony, then such a new Product model is deemed to have passed the Test without being Tested, provided that you warrant such sameness of the communication performance thereto.

2.05 The Pass Certificate shall be valid for ten (10) years from the date of issuance (the "Term"), unless invalidated by Sony pursuant to these Terms and Conditions. The Term will be indicated on the Pass Certificate. Provided that the Term of the Pass Certificate for a new Product model which has been added as set forth in the Section 2.04 (without being Tested) shall be the same period with the Term of the model of Products which has actually passed the Test pursuant to Section 2.03.

ARTICLE III. EFFECT OF THE PASS CERTIFICATE

3.01 During the Term of the Pass Certificate, you may publicly announce or indicate that the applicable model of the Product has passed the Card Performance Certification Test. Such announcement or indication must include the name of the certification test, the version of the Certification Specification and the applicable model name of the Product, all exactly as set forth on the Pass Certificate.

3.02 Sony reserves the right to cancel the rights granted to you under Section 3.01 immediately if you fail to comply with the requirements set forth in Section 3.01.

3.03 In response to your request by means separately designated by Sony, Sony may list on its Web site your name along with the model name and other information of your Product that has passed the Card Performance Certification Test.

3.04 Your announcement or indication permitted under Section 3.01 shall be made with respect to the model of the Product that has passed Card Performance Certification Test.

3.05 Upon expiration or termination of the Term of the Pass Certificate, you will no longer have the rights granted to you under Section 3.01.

ARTICLE IV. FEES

4.01 In consideration for the completion of the Card Performance Certification Test, you shall pay to Sony (a) the fees in the amount of eight hundred thousand (800,000) Japanese Yen (not including any applicable taxes respectively) where you apply for interoperability test by the Test Institute only or (b) the fees in the amount of one million (1,000,000) Japanese Yen (not including any applicable taxes respectively) where you apply for both basic performance test and interoperability test by the Test Institute. The payment of the fees and any applicable taxes shall be made to Sony in Japanese Yen by means of wire transfer remittance into a bank account designated by Sony, at least one (1) week prior to the estimated date of sample submission in accordance with Section 2.02. Sony may withhold performance as set forth in Section 2.03 until receipt of such payment.

4.02 The fees paid to Sony hereunder are non-refundable.

ARTICLE V. CHANGES AND INVALIDATION

5.01 The Pass Certificate is valid only with respect to the Product model that is identical to the sample Product model that passed the Card Performance Certification Test. To obtain the Pass Certificate for any other Product model, you must separately apply for and pass the Card Performance Certification Test with respect to such other Product model.

5.02 If you make modifications to the Product, such modified Product is not deemed to be passed the Test and the Pass Certificate is no longer valid for such modified Product even if the model of the Product is the same as the Product which has passed the Test and you need to apply for the Test for such modified Product. Notwithstanding above, if (i) you notify Sony of such modification in the form separately designated by Sony and (ii) Sony, at its sole discretion, determined and approved that such modification does not affect the RF communication performance, and (iii) you warrant the same communication performance under the same measurement conditions as the Product without such modification, then you do not need re-apply for the Test despite of the modification to the Product.

5.03 Sony may amend or update the Certification Standards at its discretion from time to time in part or in whole. In such event, Sony will update the version number of the Certification Specification, and you may, at your option, apply for the Card Performance Certification Test under the updated Certification Specification in order to obtain a Pass Certificate under the updated Certification Specification. However, any amendment or the update to the Certification Standards will not affect the validity of any Pass Certificate issued under previous version(s) of the Certification Specification.

5.04 If Sony finds that, as to any Product that has passed the Card Performance Certification Test, such Product made available in the market does not meet the Certification Standards applied at the time of the issuance of the relevant Pass Certificate, Sony may, at its option, invalidate such Pass Certificate.

5.05 If you make any public announcement or indication with respect to your Product pursuant to Section 3.01 (a) without having re-applied or passed the Card Performance Certification Test even though you have made one or more modifications to your Product that require re-application for the Card Performance Certification Test pursuant to Section 5.01, (b) without notifying Sony of modification to the Product or without receiving Sony's approval pursuant to Section 5.02 or (c) under any updated version of the Certification Specification when you have not passed the Card Performance Certification Test under such updated version of the Certification Specification, Sony may, at its option, immediately invalidate the relevant Pass Certificate.

ARTICLE VI. CONFIDENTIALITY

6.01 You and Sony (each, a "Party" and collectively, the "Parties") shall each maintain as confidential and shall not disclose to any third party any technical, business or other proprietary information of the other Party disclosed during the course of the Card Performance Certification Test (the "Confidential Information") without the prior written consent of such other Party, for three (3) years after such disclosure. Further, Sony will not use your Confidential Information for any purpose other than the purposes contemplated under these Terms and Conditions.

6.02 Notwithstanding the provisions of Section 6.01, such restrictions shall not apply to any portion of the Confidential Information which a Party can prove:

- (a) was part of the public domain at the time of disclosure;
- (b) was previously known to the receiving Party at the time of disclosure;
- (c) subsequently becomes part of the public domain through no fault of the receiving Party or its employees; or

- (d) is rightfully obtained by the receiving Party from a third-party source without any restriction on disclosure or use; or
- (e) is independently ascertainable or developed by the receiving Party who have not had access to the Confidential Information.

6.03 If the receiving Party is required to disclose any of the Confidential Information of the other Party by government authorities or required by law, ordinance, rule, regulation or court order applicable to the receiving Party, notwithstanding the provisions of Section 6.01, the receiving Party may so disclose such Confidential Information; provided that the receiving Party shall take reasonable steps to obtain confidential treatment of such Confidential Information and shall make reasonable efforts to give the other Party prior written notice of such requirement together with a copy of the information to be disclosed.

6.04 Notwithstanding the provisions of Section 6.01, Sony may disclose the results of FeliCa Reader/Writer RF Performance Certification Test and FeliCa Reader/Writer RF Performance Pre-test using your sample cards set forth in the Section 2.02 to a third party without your prior written consent. Provided that if Sony discloses such a result before the Product become available on the market, Sony will not disclose the name of manufacturer and product model name to a third party until your Product become available on the market.

6.05 Notwithstanding the provisions of Section 6.01, Sony may disclose your Confidential Information to the Test Institute, the subcontractors set forth in Section 11.03 and Sony's affiliates for the purposes contemplated under these Terms and Conditions. In such case, Sony shall cause the Test Institute, the subcontractors and the affiliates to be bound by the obligations no less restrictive than those of Sony under the provisions of Section 6.01. Failure by the Test Institute, the subcontractors or the affiliates to observe such obligations shall constitute a breach of this Agreement by Sony.

ARTICLE VII. WARRANTIES AND LIMITATION OF LIABILITY

7.01 SONY MAKES NO REPRESENTATION OR WARRANTIES, EXPRESSLY OR BY IMPLICATION, STATUTORY OR OTHERWISE, IN CONNECTION WITH PASSING OF THE CARD PERFORMANCE CERTIFICATION TEST, INCLUDING BUT NOT LIMITED TO REPRESENTATIONS OR WARRANTIES OF QUALITY, FUNCTIONALITY, PERFORMANCE, SAFETY, UTILITY, MERCHANTABILITY, OR FITNESS FOR PARTICULAR PURPOSE OF YOUR PRODUCT.

7.02 IN NO EVENT SHALL SONY BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OR LOSSES WHATSOEVER UNDER ANY CIRCUMSTANCES (INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR OTHER PECUNIARY LOSS) THAT ARISE IN CONNECTION WITH THE PRODUCTS THAT HAVE PASSED THE CARD PERFORMANCE CERTIFICATION TEST, EVEN IF SONY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ARTICLE VIII. EXCLUSION OF UNSOCIAL SYNDICATE

8.01 Each of you and Sony represents to the other Party that at the time of the conclusion of this Agreement, the Party, its directors and corporate executive officers are not Antisocial Forces and warrants that they are not Antisocial Forces during the terms of this Agreement. Antisocial Forces hereinafter means that organized gangster crime groups defined in the Section 2.02 of Act on Prevention of Unjust Acts by Organized Crime Group Members ("Act") and organized gangster crime groups members defined in the Section 2.06 of the Act, any crime syndicates or gangs, a quasi-member of any crime syndicates or gangs, individuals for whom left an organized gangster crime group within the past 5 years have not yet elapsed since leaving any crime syndicate or gang, quasi-members of any organized gangster crime groups ("boryokudan junkose-in"), an enterprises affiliated with organized

gangster crime groups (“boryokudan kankei kigyō”) a crime syndicates or gangs. Corporate extortionists (“sokai-ya”) corporate swindler acting groups engaging in criminal activities under the pretext of conducting social movements or political activities (“shakai undou hyoubou goro”, “seiji katsudou hyoubou goro”), groups of individuals specialized in intellectual crimes (“tokushu chinou bouryoku shuudan”), individuals being in closely contact affiliated with to any organized gangster crime groups (“boryokudan missetsu-kankeisha”), crime syndicates or gangs, and any individual or a group of individuals being equivalent thereto.

8.02 Each of you and Sony also warrants that, in connection with this Agreement, it shall not, either by itself or by way of third parties, conduct any of the following acts: (i) violent demands, (ii) improper demands in excess of legal responsibilities, (iii) acts of violence or menacing statements in relation to a transaction, (iv) spreading of rumors, use of fraudulent means or use of obstruction to harm the reputation of the other party, or to obstruct the business of the other party; or (v) any other act equivalent to any of the previous items.

8.03 Each of you and Sony may terminate, in whole or in any part, of the Agreement without any demands or notice, if (a) the other Party breaches the representations and warranties set forth in Section 8.01 or 8.02 above, or (b) you or Sony determines that performance of this Agreement helps or otherwise promote the activities of such Antisocial Forces.

8.04 Each of Sony and you shall not be liable to the other party for any damage arising out of termination of this Agreement in accordance with Section 8.03.

8.05 In the event that any of items set forth in Section 9.03 applies to Sony or you, the applicable party shall, upon the other party’s request, lose the benefit of time relating to any debt against such other party and immediately pay such debt.

ARTICLE IX. TERM

9.01 This Agreement shall become effective as from the Effective Date and thereafter shall remain in effect (unless terminated earlier as set forth in this Agreement) until either the Card Performance Certification Test shall have been completed or the payment for the Card Performance Certification Test shall have been completed pursuant to Section 4.01, whichever comes later.

9.02 Each Party reserves the right to terminate the Agreement immediately without any notice or demand in the event that:

- (a) the other Party is adjudicated a bankrupt, makes assignment for the benefit of its creditors; takes advantage of any insolvency act; or is the subject of a case for its liquidation or reorganization under any law;
- (b) the other Party breaches any provision of these Terms and Conditions and does not cure such breach within thirty (30) days after receipt of notice thereof;
- (c) the other Party ceases to function as a going concern or to conduct its operations in the normal course of business;
- (d) the other Party uses Card Performance Certification Test and/or Product in an illegal or unlawful way.

9.03 Sony reserves the right to invalidate the Pass Certificate issued to you hereunder immediately without notice or demand in the event that you:

- (a) fail to make any payment required under the Agreement for more than two (2) months from the due date;
- (b) harm Sony or any third party designated by Sony in any way (including but not limited to damage to reputation and business obstruction);
- (c) destroy or damage (or cause to destroy or damage) any building or storage of Sony or any third party designated by Sony.

9.04 In the event that the Agreement becomes terminable by Sony under this Article IX, all of your obligations under the Agreement shall immediately accelerate.

9.05 Sections 2.02, 2.04 and 2.05, Article III, Section 4.02, Articles V, VI and VII, Sections 8.04 and 8.05, and Articles X and XI shall survive any expiration or termination of the Agreement.

ARTICLE X. NO ASSIGNMENT

10.01 You may not assign, transfer or mortgage any of your rights and obligations hereunder without the prior written consent of Sony.

ARTICLE XI. MISCELLANEOUS

11.01 Sony may, at any time with prior notice to you, cease to conduct the Card Performance Certification Test or assign or transfer its rights and obligations hereunder with respect to the Card Performance Certification Test to a third party in part or in whole, and you shall not object to any of such assignment or transfer.

11.02 You must observe and comply with all relevant laws, ordinances, rules and regulations of relevant countries in performing your obligations and exercising your rights hereunder.

11.03 Sony may use subcontractors to conduct the Test.

11.04 These Terms and Conditions and the Agreement shall be construed under and governed by the laws of Japan. If any provision of these Terms and Conditions is held by a court or other tribunal of competent jurisdiction to be invalid or unenforceable, that provision of these Terms and Conditions shall be enforced to the maximum extent permissible so as to effect the intent of the parties hereto, and the remainder of these Terms and Conditions shall continue in full force and effect.

11.05 In the event of any dispute arising out of or in connection with these Terms and Conditions or the Agreement, which cannot be amicably settled by the Parties, the Parties shall submit any such disputes to the Tokyo District Court in Japan as the court of first instance. Any counter-claim shall be filed with the court with which the original action is filed. The Parties agree that the judgment, decree or order rendered by a court of last resort or a court of lower jurisdiction from which no appeal has been taken in Japan shall be final and binding upon both Parties.

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