

Terms and Conditions for FeliCa Reader/Writer RF Performance Certification Test

The following terms and conditions (the “Terms and Conditions”) apply with respect to the FeliCa Reader/Writer RF Performance Certification Test of your Product (hereinafter defined) conducted by Sony Corporation (“Sony”). The Terms and Conditions apply to individual applications for the FeliCa Reader/Writer RF Performance Certification Test submitted on the Application for FeliCa Reader/Writer RF Performance Certification. These Terms and Conditions become an agreement with respect to the FeliCa Reader/Writer RF Performance Certification Test (the “Agreement”) between you and Sony upon Sony’s acceptance of your application for the FeliCa Reader/Writer RF 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) “Product” shall mean a Reader/Writer product which meets technical standard and/or requirements called “FeliCa”.
- (2) “FeliCa Reader/ Writer RF Performance Certification Test” or “Test” shall mean the certification test conducted by Sony to determine whether a Product manufactured by you meets the standards and/or requirements (the “Certification Standards”) for Reader/Writer set forth in the “Reader/Writer RF Certification Test Specification” (“Certification Specification”).
- (3) “Test Institute” shall mean the third-party agency that Sony designates as an institute who conducts the FeliCa Reader/ Writer RF Performance Certification Test.

ARTICLE II. CERTIFICATION TEST

2.01 An application for the FeliCa Reader/Writer RF 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 three (3) samples of your Product (one sample of the Product that has minimally the highest resonance frequency value, one sample of the Product that has the lowest resonance frequency value, one sample of the product that has a resonance frequency value between the highest resonance frequency value and the lowest resonance frequency value, together with all of necessary accessories) and Communication Performance Measurement Software (which meets the requirements set forth in the Certification Specification). After the completion of the FeliCa Reader/Writer RF Performance Certification Test, Sony will return such samples and software to you. Sony shall not be responsible for any damages to the samples in connection with the FeliCa Reader/Writer RF Performance Certification Test of the Products performed by Sony.

2.03 Sony will, after the Agreement becomes effective and Sony receives the samples and Communication Performance Measurement Software set forth in Section 2.02 above, promptly conduct the FeliCa Reader/Writer RF Performance Certification Test in accordance with the Certification Specification and notify you the results thereof. Upon passing of the FeliCa Reader/Writer RF 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 (i) 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 the form separately designated by Sony, and (ii) Sony approves such request by means 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.

3.05 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 in as set forth the Section 2.04 (without being Tested) shall be the same period as 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 FeliCa Reader/Writer RF 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 FeliCa Reader/Writer RF Performance Certification Test.

3.04 Your announcement or indication permitted under Section 3.01 shall be made with respect to the exactly the same model of the Product that has passed FeliCa Reader/Writer RF 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 FeliCa Reader/Writer RF Performance Certification Test, you shall pay to Sony the fees in the amount of (a) eight hundred thousand (800,000) Japanese Yen in case you choose the M class in Certification Specification and (b) five hundred thousand (500,000) Japanese Yen in case you choose S class in Certification Specification (not including any applicable taxes respectively). 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 as agreed between you and the Test Institute. Sony may withhold performance as set forth in Section 2.03 until receipt of such payment.

4.02 In the event that Sony deems the Communication Performance Measurement Software you submitted to Sony pursuant to Section 2.02 fails to meet the requirements set forth in the Certification Specification, you shall pay to Sony the additional fees to the fees as set forth in the preceding Section in the amount of four hundred thousand (400,000) Japanese Yen (not including any applicable taxes respectively). The payment of the additional 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, by the day before the completion date of the FeliCa Reader/Writer RF Performance Certification Test. Sony may withhold performance as set forth in Section 2.03 until receipt of such payment.

4.03 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 FeliCa Reader/Writer RF Performance Certification Test. To obtain the Pass Certificate for any other Product model, you must separately apply for and pass the FeliCa Reader/Writer RF 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 The Certification Standards may be amended or updated by Japan Electronic-money Promotion Association 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 FeliCa Reader/Writer RF 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 FeliCa Reader/Writer RF 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 (i) without having re-applied or passed the FeliCa Reader/Writer RF Performance Certification Test even though you have made one or more modifications to your Product that require re-application for the FeliCa Reader/Writer RF Performance Certification Test pursuant to Section 5.01, (ii) without notifying Sony of modification to the Product or without receiving Sony's approval pursuant to Section 5.02 or (iii) under any updated version of the Certification Specification when you have not passed the FeliCa Reader/Writer RF 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 FeliCa Reader/Writer RF 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 6.01 and 6.02, Sony may disclose the information regarding the Product that has already passed the FeliCa Reader/Writer RF Performance Certification Test, i.e. your corporate name, product number, certification number, and the date and the class that your Product has passed, to Japan Electronic-money Promotion Association.

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 READER/WRITER RF CERTIFICATE PERFORMANCE 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 READER/WRITER RF CERTIFICATE PERFORMANCE TEST, EVEN IF SONY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ARTICLE XIII. 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 kigyo") 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 8.03 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 FeliCa Reader/Writer RF Performance Certification Test shall have been completed or the payment for the FeliCa Reader/Writer RF 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 FeliCa Reader/Writer RF 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) calendar 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 4.03, 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 FeliCa Reader/Writer RF Performance Certification Test or assign or transfer its rights and obligations hereunder with respect to the FeliCa Reader/Writer RF Performance Certification Test to a third party in part or in whole, and you shall not object to any of such termination, 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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