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General Contractual Conditions on Technical Regulations Conformity Certification and Construction Design Certification

Chapter 1 General Provisions

(Purpose)

Article 1

Telecom Engineering Center (hereinafter “TELEC”), a Registered Certification Body under Article 38-2-2 of the Radio Act(Act No. 131 of 1950, hereinafter “Act”), institutes these General Contractual Conditions (hereafter “Conditions”) to implement services for the Technical Regulations Conformity Certification of “specified radio equipment” stipulated in Paragraph 1 of Article 38-6 of Act (hereinafter “Conformity Certification”) and the Construction Design Certification of “specified radio equipment” stipulated in Paragraph 1 of Article 38-24 of Act (hereinafter “Design Certification”), and provides fair and smooth services to the applicant for Conformity Certification or Design Certification (hereinafter “Applicant”) in accordance with Conditions.

(Scope of radio equipment)

Article 2

The objective equipment of TELEC certification service is “specified radio equipment” stipulated in Paragraph 1 of Article 2 of Ordinance on Technical Regulations Conformity Certification of Specified Radio Equipment” (Ordinance of the Ministry of Posts and Telecommunications No. 37 of 1981, hereinafter “Certification Ordinance”).

Chapter 2 Technical Regulations Conformity Certification (Conformity Certification)

(Application)

Article 3

1) Applicant for Conformity Certification is required to submit necessary documents, including the application form designated separately and the document which specifies the construction design of the equipment (as designated in Attached Table No. 2 of Certification Ordinance, the same hereinafter) (those documents may be submitted in the form of electronic data.), and all units of the “specified radio equipment”.

2) As to the application in the preceding paragraph, instead of submitting the equipment, Applicant may submit the photographs or the drawings which show the component layout and the external view with dimensions of the equipment (hereinafter “Photographs etc.”) and the reports of the radio characteristics test (hereinafter “Characteristics Test Report”) on the equipment.

3) TELEC may request to submit an instruction manual for the equipment or some accessories such as jigs for testing in case of necessity.

4) The number of units of radio equipment covered by one application is limited to 500 at maximum.

(Examination)

Article 4

1) TELEC shall appoint a certifier to conduct examination on schedule, after TELEC receives an application described in the preceding article.

2) As to the examination described in the preceding paragraph, the certifier shall conduct the examination of the construction design, the comparison check between the construction design and the actual equipment, and the characteristics test based on the provisions in Attached Table No.1 of Article 6 of Certification Ordinance (The characteristics test shall be conducted only when the equipment is submitted.).

When the equipment is not submitted, the certifier shall examine whether the test results described in the Characteristics Test Report are in compliance with the applicable technical regulation. In this case, the examination shall be carried out under the assumption that Applicant has all responsibility on the results of the characteristics test.

3) When the equipment is submitted, TELEC may request submission of some documents containing the results of the characteristics test conducted by Applicant in advance, if TELEC considers necessary for the examination.

4) When the equipment is not submitted, TELEC may request submission of additional documents and/or the equipment itself, if TELEC does not considers that the examination of the submitted documents is sufficient to judge whether the equipment is in compliance with the technical regulation.

(Omission of examination)

Article 5

1) TELEC may omit some parts of examination for Conformity Certification when the equipment applied is falling under any of followings, under the Paragraph 3 of Article 6 of Certification Ordinance;

(i) In case that the equipment falls under “specified radio equipment” based on the same construction design as the “specified radio equipment” that has been certified by TELEC.

(ii) In case that the equipment is a “specified radio equipment” to which Article 14-2 of Ordinance Regulating Radio Equipment (Ordinance of the Radio Regulatory Commission No. 18 of 1950, hereinafter “Equipment Ordinance”) is applied and of which radio equipment with a conformity label is stored in the housing

2) For the application described in the preceding paragraph, Applicant may take a simplified application procedure notwithstanding the provision of Article 3.

(Notification of examination results)

Article 6

1) TELEC, when it conducted Conformity Certification according to the examination results, shall notify Applicant of the examination result with a certificate (including in the form of electronic data .).

2) In case that TELEC refuses Conformity Certification as a result of the examination, TELEC shall notify Applicant of the results in writing in accordance with the provision in Article 7 of Certification Ordinance.

3) As to the notification in the preceding paragraphs, TELEC shall do within seven (7) working days (excluding the days Applicant spends for amendment of documents and TELEC holidays) from the date of receipt of the application.

(Report of examination results)

Article 7

TELEC, when it conducted Conformity Certification, shall report the contents of the certification stipulated in Paragraph 4 of Article 6 of Certification Ordinance, to the Minister of Internal Affairs and Communications (hereinafter “Minister of MIC”) in accordance with Paragraph 2 of Article 38-6 of Act.

(Labeling)

Article 8

1) TELEC shall affix a label specified in Form No. 7 of Article 8 of Certification Ordinance to an easily recognizable place on the certified radio equipment. (In case that it is difficult or unreasonable to affix the label on the certified radio equipment, the label can be affixed in either of the easy-to-see location of the instruction manual and packaging, or the manual and the container.)

2) When a person who conducted some modification to the “specified radio equipment” with

an affixed label of Conformity Certification, the person shall remove the label in accordance with Article 8-2 of Certification Ordinance.

Chapter 3 Construction Design Certification (Design Certification)

(Application)

Article 9

1) Applicant for Design Certification is required to submit necessary documents, including the application form designated separately, Design Specifications, the statement of confirmation method (those documents may be submitted in the form of electronic data.), and one set of the “specified radio equipment” which has been manufactured under the construction design and the confirmation method stipulated in the application.

Furthermore, in case that it is difficult to open the unit of the equipment, Applicant is required to submit some photographs or other material to show the inner structure.

2) As to the application in the preceding paragraph, Applicant may submit Photographs etc. and Characteristic Test Report on the equipment instead of submitting a set of the equipment.

3) In case that the quality of all the equipment will be controlled by a manufacturing factory or other office of Applicant which has been certified by the international quality control system ISO9001, instead of submitting the statement of confirmation method, Applicant may submit a copy of the ISO9001 certificate of registration and other documents enabling the certifier to confirm the conditions specified in Attached Table 4 of Certification Ordinance.

(Examination)

Article 10

1) TELEC shall appoint a certifier to conduct examination on schedule, after TELEC receives an application described in the preceding article.

2) As to the examination described in the preceding paragraph, the certifier shall conduct the examination of the construction design, the comparison check between the construction design and the actual equipment, the characteristics test (This test is conducted only when the equipment is submitted.) and the examination of statement of confirmation method based on the provisions in Attached Table No.3 of Article 17 of Certification Ordinance. When the equipment is not submitted, the certifier shall examine whether the results described in the Characteristics Test Report are in compliance with applicable technical regulation. In this case, the examination shall be carried out under the assumption that

Applicant has all responsibility on the results of the characteristics test.

3) When the equipment is not submitted, TELEC may request submission of some documents containing the results of the characteristics test conducted by Applicant in advance, if TELEC considers necessary for the examination.

4) In the examination process, TELEC may request to submit additional documents if TELEC considers to be unable to judge whether all of the equipment manufactured will be in compliance with the construction design of the application only by the submitted document in the application.

(Omission of examination)

Article 11

1) TELEC may omit some parts of examination for Design Certification when the equipment applied is falling under any of followings, under the Paragraph 3 of Article 17 of Certification Ordinance.

(i) In case that some modification to the construction design including its confirmation method of the “specified radio equipment” which has been certified by TELEC is intended and the contents of the modification is within the range designated separately.

(ii) In case that the equipment is a “specified radio equipment” to which Article 14-2 of Equipment Ordinance is applied and of which radio equipment with a conformity label is stored in the housing.

2) For the application described in the preceding paragraph, Applicant may take a simplified application procedure notwithstanding the provision of Article 9.

3) As to the application in the preceding paragraph, in case the modification is such a minor one as designated separately, Applicant may take a declaration procedure as a further simplified way.

(Notification of examination results)

Article 12

1) TELEC, when it conducted Design Certification according to the examination results, shall notify Applicant of the result with a certificate (including in the form of electronic data ~~only in the case specified separately~~).

2) In case TELEC refuses Design Certification as a result of the examination, TELEC shall notify Applicant of the results in writing in accordance with the provision in Article 18 of Certification Ordinance.

3) As to the notification in the preceding paragraphs, TELEC shall do within fifteen (15) working days (excluding the days Applicant spends for amendment of documents and

TELEC holidays) from the date of receipt of the application.

(Report of examination results)

Article 13

TELEC, when it conducted Design Certification, shall report the contents of the certification, which are stipulated in Paragraph 4 of Article 17 of Certification Ordinance, to Minister of MIC in accordance with Paragraph 2 of Article 38-6 of Act, as applied mutatis mutandis pursuant to Paragraph 3 of Article 38-24.

(Labeling)

Article 14

1) In accordance with Article 20 of Certification Ordinance, any person who has received Design Certification from TELEC shall make labels (Form No. 7 of Article 8 of Certification Ordinance) and affix one of them to an easily recognizable place on each unit of the certified equipment. (In case that it is difficult or unreasonable to affix the label on the certified radio equipment, the label can be affixed in either of the easy-to-see location of the instruction manual and packaging, or the manual and the container.)

2) For the labeling in the preceding paragraph, Applicant may ask TELEC to make the labels.

3) When a person who conducts some modification to the “specified radio equipment” on which the label of Design Certification affixed, the person must remove the label on the equipment in accordance with Article 8-2 of Certification Ordinance.

(Obligations to conform to construction design, etc.)

Article 15

Any person who has received Design Certification conducted by TELEC shall be responsible for keeping the “specified radio equipment” in conformance with the construction design of the certification in accordance with Article 38-25 of Act.

The person shall: (i) inspect the “specified radio equipment” according to the confirmation method pertaining to the certification; (ii) create an inspection record in accordance with the provision of Article 19 of Certification Ordinance; and (iii) archive the records for 10 years from the inspection date.

Chapter 4 Charges

(Charges)

Article 16

Applicant shall pay the charges for certification described separately.

(Claim of charges)

Article 17

As to the charges in the preceding article, TELEC shall make a claim for it to Applicant with a bill (including in the form of electronic data.).

Chapter 5 Certifier

(Duties of certifier)

Article 18

Every certifier of TELEC shall take notice of the public importance of certification and execute the duty conscientiously.

(Protection of confidentiality)

Article 19

Every certifier of TELEC shall retain any confidential information acquired through the certification services and shall not disclose it to third parties. This matter shall apply, mutatis mutandis, to all of officers and staffs of TELEC other than the certifier.

Chapter 6 Denial or Withdrawal of Conformity Certification or Design Certification

(Denial or Withdrawal of Conformity Certification or Design Certification)

Article 20

1) TELEC shall refuse Conformity Certification or Design Certification when the “specified radio equipment”, which is applied for Conformity Certification or for Design Certification, corresponds to any of the following cases.

(i) In case that the equipment does not comply with the technical requirements stipulated in Act and Equipment Ordinance.

(ii) In case that Applicant does not submit the necessary documents that have been requested by TELEC to correct or to supplement the original application document.

2) In case of the denial in the preceding paragraph, TELEC may claim the expenses for the examination and other relevant procedures to Applicant.

3) Applicant may withdraw the application voluntarily.

On the other hand, TELEC may request Applicant to withdraw the application in case Applicant does not take any action within twenty (20) days after TELEC makes a request described in (ii) of Paragraph 1 of this article.

4) In case of the withdrawal of the application, TELEC may claim a withdrawal charge to Applicant.

(Notification of denial of Conformity Certification or Design Certification)

Article 21

In case that TELEC refuses Conformity Certification or Design Certification, TELEC shall notify Applicant of the denial with the reasons in writing.

Chapter 7 Information Disclosure

(Information Disclosure)

Article 22

TELEC shall retain any confidential information acquired through the certification services and shall not disclose it to third parties without the prior consent of the Applicant, except in the following cases.

- (i) When reporting, etc. is necessary pursuant to the provisions of Act
- (ii) When disclosure is requested by the Ministry of Internal Affairs and Communications
- (iii) When such information has become known to the public

Chapter 8 Disclaimer

(Disclaimer)

Article 23

- 1) If TELEC damages the “specified radio equipment” intentionally or by gross negligence, TELEC shall compensate the full cost of repair.
- 2) TELEC shall not be liable for any failure of business activities to perform its Conformity Certification or Design Certification due to any force majeure event beyond the control of TELEC (including natural disasters, wars, internal conflicts, acts of terrorism, government regulations, infectious diseases, strikes, inability to procure labor or materials, machine failures, shutdown of public institutions, etc.), and TELEC shall be exempted from any liability arising from such event.
- 3) In no event shall the liability of TELEC for any disputes, damages, losses and expenses arising out of the use of Conformity Certification or Design Certification performed by

TELEC exceed the total value of charges arising out of the contract.

TELEC shall not be liable for any indirect or consequential damages (including lost profits and disadvantages of lost opportunities.).

Chapter 9 Measures against Fraudulent Means

(Measures against fraudulent means)

Article 24

1) When it becomes clear that Applicant has acquired certification by or through fraudulent means, TELEC shall immediately report the fact to Minister of MIC in accordance with the provisions of Paragraph 8 of Article 6 or Paragraph 8 of Article 17 of Certification Ordinance.

2) When TELEC identifies that the certified equipment does not comply with the technical regulations, TELEC shall report the fact to Minister of MIC in accordance with the provisions of Paragraph 9 of Article 17 of Certification Ordinance.

Chapter 10 Statement of Objection

(Statement of objection to the government)

Article 25

When TELEC does not conduct examinations for Conformity Certification or Design Certification, or when Applicant has objections to the results of the examination for Conformity Certification or Design Certification conducted by TELEC, Applicant may submit a statement of objection to the government under Article 38-14 of Act (including mutatis mutandis of Paragraph 3 of Article 38-24).

(Statement of objection to TELEC)

Article 26

1) When Applicant has objections to the results of the examination for Conformity Certification or Design Certification conducted by TELEC, Applicant may submit a document in which the purport of the objection is written (hereinafter "Statement of Objection") to TELEC.

As to the objection mentioned above, Applicant shall do within thirty (30) days from the date of receipt of notification of the result.

2) The following shall be included in Statement of Objection.

(i) Name of Applicant, in case of corporate body, name of the representative also

- (ii) Classification, type and name of the “specified radio equipment”
 - (iii) Purport and reason for Statement of Objection
 - (iv) Notification number issued by TELEC
- 3) When TELEC receives Statement of Objection, TELEC shall hold a meeting on quality management and take actions in deference to the decision of the meeting.
- 4) TELEC shall notify Applicant of its decision in writing within sixty (60) days from the date of receipt of Statement of Objection.

Chapter 11 Others

(Declaration of grievance)

Article 27

- 1) As to the “specified radio equipment” certified by TELEC, when TELEC receives a declaration of grievance or a complaint from a user etc. on the matters related to the relevant certification, TELEC shall investigate the facts regarding the contents of the declaration and shall reply to the user etc. with the result of the investigation in written.
- 2) For the investigation set forth in the preceding paragraph, TELEC may request the person who has had the relevant certification conducted by TELEC to submit the relevant “specific radio equipment”.

(Market surveillance)

Article 28

As to the “specified radio equipment” certified by Design Certification conducted by TELEC, TELEC may conduct market surveillance by purchasing the radio equipment in the market, in case TELEC recognizes the necessity to confirm whether those equipment have been maintained to be compliance with the technical regulations and uniformity of the construction design.

(Agreement Jurisdiction)

Article 29

Tokyo District Court shall be the exclusive “agreement jurisdictional court” for any and all disputes arising out of or in relation to this General Contractual Conditions or rights and duties under this General Contractual Conditions.