

**CERTIFICATION AGREEMENT
FOR
U.S. FEDERAL COMMUNICATION COMMISSION (“FCC”)
TELECOMMUNICATIONS CERTIFICATION BODY (“TCB”) PROGRAM**

THIS AGREEMENT made the _____ day of _____, 20____ by and between **INTERTEK TESTING SERVICES NA, INC.** (“INTERTEK”) having offices at 70 Codman Hill Rd, Boxborough, MA 01719

and _____ having offices at _____
(Client Company Name)

(Client’s Company Address)

RECITALS

Whereas INTERTEK provides a service for evaluating whether products provided by the Client comply with designated standards or specified requirements. Subject to the terms of this Certification Agreement, products found to be in compliance by INTERTEK may be eligible for inclusion on a list maintained by INTERTEK.

Whereas the Client desires to submit or has submitted certain devices, equipment, materials or systems manufactured by or for the Client to INTERTEK for evaluation in order that the product may be considered for Certification by INTERTEK.

Whereas if the submitted product is found to be eligible for Certification this Certification Agreement shall be executed by INTERTEK and the Client setting forth the terms and conditions to which the parties hereto must adhere.

Whereas for the purpose of this Agreement, the Client may be either, or any combination of, the Applicant, the Grantee, or the Responsible Party.

NOW THEREFORE, for and in consideration of the mutual covenants herein expressed and other lawful and valuable consideration, the parties hereto agree as follows:

1. DEFINITIONS

1.1 Agent. The term Agent shall mean the party authorized by the Applicant to sign the certification application.

1.2 Applicant. The term Applicant shall mean the party making certification application.

1.3 Certification Report. The term Certification Report shall mean the document prepared by INTERTEK designated as such, which identifies the Applicant, the Agent, the Grantee, the Responsible Party and the Product, and specifies INTERTEK Requirements for the Product, including the type and form of any marking which must be used on or in connection with the Product and related information.

1.4 Post-Market Surveillance. Post-market surveillance activities conducted by Telecommunication Certification Body (TCB) in accordance with ISO/IEC Guide 65 and 47 CFR Section 2.962(g)(2).

1.5 Grantee. The term Grantee shall mean the party to whom the grant of authorization is issued.

1.6 INTERTEK Requirements. The term INTERTEK Requirements shall mean (a) the requirements contained in the Certification Report, (b) the standard(s), if any, applicable to the Product, (c) the terms of this Certification Agreement, and, (d) any requirements separately applied as a condition of the Certification. Certifications performed by the Intertek TCB under the terms of this agreement shall comply fully with existing FCC rules and regulations, including but not limited to 47 CFR 2.962 and 47 CFR 68.162.

1.7 Certification. The term Certification shall mean the process which is authorized INTERTEK TCB to review and grant an application for certification to the FCC rules.

1.8 Product. The term Product shall mean a Client's device, equipment, material or system that has been submitted for testing or evaluation, found to be in compliance with FCC's rules, certification procedures and approved to issue FCC grant of equipment authorization.

1.9 Responsible Party. The term Responsible Party is the Grantee or, if the Product is modified by other than Grantee or a party under Grantee's authority, the modifier becomes the Responsible Party.

2. CERTIFICATION

2.1 Testing and Evaluation. INTERTEK is an independent laboratory providing testing and evaluation services to determine whether representative samples of a Product comply with designated national and international standards, specifications and/or codes. The Client understands and agrees that INTERTEK has only tested or evaluated the submitted Product samples and does not guarantee or warrant the quality or compliance of all units of the Product manufactured or produced by the Client. The Client further acknowledges that as an independent laboratory, INTERTEK assumes no responsibility for the design of the Product.

2.2 Client Obligations. Client shall inform INTERTEK in writing of any modifications made to the Product. The Product will not be eligible for Certification if it has been modified or changed by the Client after testing or evaluation. The Client warrants that a quality control program is established and maintained to ensure Product compliance with the INTERTEK Requirements.

2.4 Revision or Withdrawal of the INTERTEK Requirements. INTERTEK reserves the right, upon reasonable notice to the Client, to revise or withdraw the INTERTEK Requirements, as required to maintain conformance with FCC rules and regulations governing the product. If the INTERTEK Requirements are revised, the Client shall be entitled to continue Certification of the Product upon a demonstration to the satisfaction of INTERTEK that the Product complies with the revised INTERTEK Requirements. If the INTERTEK Requirements are withdrawn, the Client's right to the Certification of the Product shall terminate pursuant to the terms of Article 6 of this Certification Agreement. In the case of a revision or withdrawal of INTERTEK Requirements, INTERTEK shall provide a notice specifying a date by which the Product must meet the revised INTERTEK Requirements or for such termination.

2.5 Third Parties. The Client agrees that INTERTEK has entered into a contractual relationship with the Client to perform testing or evaluation services on the Product. INTERTEK agrees to perform such services with due care. INTERTEK does not guarantee or warrant that third parties will accept or recognize the results obtained by INTERTEK or the INTERTEK certification of the Product.

3. CERTIFICATION

3.1 Advertising. INTERTEK shall allow the Client to refer to INTERTEK and the certification in advertising and promotional material for the Product, contingent upon the Client obtaining the prior, express, written approval of INTERTEK.

3.2 Post-Market Surveillance. As a part of the certification of the Product, the Client's Product may be selected for market surveillance purpose according to FCC post-market surveillance guidelines. If selected, Client shall cooperate with the INTERTEK TCB representatives which requires the TCB to perform post-market surveillance activities based on type testing of products that the TCB has certified. If selected, Client agrees to reimburse INTERTEK for its services in accordance with the current fee schedule and any shipping expenses.

3.3 INTERTEK TCB may not grant a waiver of the FCC rules, or certify equipment for which the Commission rules or requirements do not exist, or for which the application of the rules or requirements is unclear.

4. INDEMNIFICATION AND LIABILITY

4.1 Indemnification. The Client agrees to hold INTERTEK harmless and to defend and indemnify INTERTEK against any liability, loss, or damage from claims, demands, costs (including legal fees), or judgments arising out of any grossly negligent or intentional acts of the Client or Client authorized third parties relating to the Product.

4.2 Liability. INTERTEK will not, under any circumstances, be liable to the Client for any indirect, special, punitive, or consequential damages, or any third party claims which may arise as a result of the services provided in this Certification Agreement. The maximum aggregate liability of INTERTEK for damages in connection with this Certification Agreement shall not exceed \$100,000.

5. FAILURE TO COMPLY WITH INTERTEK REQUIREMENTS

5.1 Remedial Action. In the event that INTERTEK detects any deviation or variance in the Product from INTERTEK Requirements, or improper or unauthorized use of INTERTEK name, upon written notice to the Client INTERTEK reserves the right, in its sole discretion, to take such action as it deems necessary, including but not limited to:

- (a) Requiring the Client, at its own expense, undertake corrective action to ensure that the Product complies with INTERTEK requirements;
- (b) Notification of FCC
- (c) Termination of this Certification Agreement pursuant to Article 6;
- (d) Compliance with any applicable statutes, rules or regulations.

5.2 Suspension. Upon a Client's failure to comply with any of the requirements of this Certification Agreement or Certification Report, INTERTEK may issue a letter to notify the Client of the nature of the failure. In the event that the Client fails to take corrective action to resolve the cause of suspension, this Certification Agreement shall be terminated pursuant to Article 6.

6. TERMINATION OF THE AGREEMENT

6.1 Termination By The Client. The Client may, for any reason, terminate this Certification Agreement, as to any Product, upon not less than sixty (60) days written notice to the other party. Such notice shall designate a termination date and the notice period shall be deemed to commence upon the date of mailing of the notice to the other party by registered or certified mail, return receipt requested.

6.2 INTERTEK Right To Terminate. If INTERTEK determines that the Product fails to comply with the INTERTEK requirements, the Client will be given a thirty (30) day cure period to remedy the breach. Such cure period may be extended as mutually agreed upon by the Parties. In the event the breach is not remedied within thirty (30) days or other mutually agreed upon cure period, INTERTEK may terminate this Certification Agreement, as to any product. INTERTEK may terminate this Certification Agreement, as to any Product, without prejudice to any other rights or remedies that INTERTEK may have, upon either of the following:

- (a) The Client is in breach pursuant to Article 7.3;
- (b) Sixty (60) days after the Client receives written notice in the event of: (i) the filing of a voluntary or involuntary petition in bankruptcy; (ii) the making of any arrangement or composition with creditors by the Client; (iii) the appointment of a receiver for the Client; or (iv) the voluntary or involuntary liquidation of the business of the Client.
- (c) Upon 60 days' notice prior to the anniversary date of this agreement, for any reason.

6.3 Client Obligations Upon Termination. Upon termination of this Certification Agreement, the Client shall:

- (a) Continue to honor the terms of Article 4 of this Certification Agreement concerning indemnification and liability, which terms shall survive the termination of this Certification Agreement.
- (b) Pay any remaining outstanding charges owing to INTERTEK.

7. ADMINISTRATIVE PROVISIONS

7.1 Confidentiality. Without written authorization from the Client, INTERTEK will not voluntarily disclose to third parties, other than the FCC, confidential and proprietary information which the Client provides to INTERTEK. This obligation shall not apply to information which is already available to the public or acquired from other sources without confidentiality restrictions. INTERTEK agrees that this obligation to maintain confidentiality shall survive the termination of this Certification Agreement.

7.2 Subpoena. If INTERTEK is served with a Subpoena, Court Order, or similar document requesting the disclosure of confidential or proprietary information supplied to INTERTEK by the Client, INTERTEK shall promptly notify the Client. In the event that the Client chooses to contest the request, INTERTEK shall cooperate with the Client. The responsibility for contesting the request shall rest solely with the Client. If the Client declines to contest the request or is not successful in contesting the request, INTERTEK will provide the requested information. Any costs incurred by INTERTEK in responding to the request, including reasonable attorney's fees, shall be reimbursed by the Client immediately upon invoicing by INTERTEK.

7.3 Fees. Charges will be billed to the Client or a designated payor. Payment shall be due within forty-five (45) days from receipt of invoices and the Client shall be considered in breach if the charges are not paid within sixty (60) days.

7.4 No Assignment. The rights running to the Client under this Certification Agreement may not be assigned to or acquired by any other person or corporation without INTERTEK's written authorization, except for assignments or delegations arising from internal administrative reorganization (including, but not limited to, mergers and acquisitions of Client, its parent company, or their affiliates. Client shall not delegate or assign this Certification Agreement without the prior consent of INTERTEK. INTERTEK shall consider the Client to be the sole point of contact for all matters related to this Agreement.

7.5 Term. This Certification Agreement shall continue in effect for a period of one year from the date first above written and shall automatically be renewed thereafter for periods of one year, unless the termination rights provided for in this Certification Agreement are exercised.

7.6 Jurisdiction. This Certification Agreement shall be interpreted in accordance with and governed by the laws of the jurisdiction within which the INTERTEK office stated in the opening paragraph is located.

Intertek Testing Services NA, Inc.

Accepted By: _____
(Client Company Name)

By _____
(Authorized INTERTEK Individual)

By: _____
(Proprietor, Partner, or Authorized Officer-Signature)

By: _____ Nicholas Abbondante

By: _____
(Name of Authorized Individual-Printed)

Title: _____ TCB Manager

Title: _____

Date Signed: _____

Date Signed: _____