



# LICENCE AGREEMENT

between

**DIN CERTCO**

and

**Technický skúšobný ústav Piešťany, š.p.**  
**(ID 029)**

for the right to grant the

**KEYMARK**

## LICENCE AGREEMENT FOR THE RIGHT TO GRANT KEYMARK LICENCES

### BETWEEN

**DIN CERTCO Gesellschaft für Konformitätsbewertung mbH** (referred to as "DIN CERTCO"), with registered office in Alboinstrasse 56, 12103 Berlin, Germany, for the purposes of this Agreement represented by Mr Robert ZORN, Managing Director

and

**Technický skúšobný ústav Piešťany, š.p.** (referred to as "the Certification Body"), with registered office in Krajinská cesta 2929/9, 921 01 Piešťany, Slovak Republic, for the purposes of this Agreement represented by Mr. Jaroslav CRKOŇ, General Director

jointly referred to as the Parties, or individually as the Party

### WHEREAS

- (A) The European Committee for Standardization (CEN) wishes to contribute to the implementation of a voluntary European certification system for conformity assessment to European standards.
- (B) CEN offers to market operators a certification system to demonstrate compliance of products and services to the requirements of the relevant European standard(s), called "the KEYMARK", with the following design:



- (C) The KEYMARK is joint property of CEN (European Committee for Standardization) and the CENELEC (European Committee for Electrotechnical Standardization) and is legally protected as a trademark through national, regional and international registrations where such registration is necessary to assure its legal protection.
- (D) The rules for the KEYMARK are laid down in the CEN-CENELEC Internal Regulations Part 4 "Certification".
- (E) In accordance with these Internal Regulations, CEN has subcontracted to DIN CERTCO the daily and administrative management and operations related to the KEYMARK in the domain of CEN as an external organization.
- (F) DIN CERTCO, in its capacity of subcontractor of CEN, is empowered to sign and manage on behalf of CEN the Licence Agreements with empowered certification bodies.
- (G) The CEN National Member has notified the termination of the previous "Transfer Agreement" relating to the KEYMARK to the Certification Body on date.
- (H) The Certification Body wishes to continue the operations for the KEYMARK under the conditions laid down in the present Agreement.

## THE PARTIES HAVE AGREED AS FOLLOWS

### 1. SCOPE OF THE AGREEMENT

This Agreement is setting the conditions for the authorization (empowerment) to the Certification Body to grant the KEYMARK to manufacturers and suppliers.

### 2. LICENCE CONDITIONS

- 2.1. DIN CERTCO, on behalf of CEN, hereby empowers the Certification Body to grant KEYMARK licences to manufacturers and suppliers on the basis of the European Standard(s) as listed in the Certificate of Empowerment, as amended from time to time.
- 2.2. The empowerment to grant KEYMARK licences provided to the Certification Body under Art. 2.1 is not transferable to any third party, directly or indirectly, in whole or in part.
- 2.3. KEYMARK licences granted for products which are in conformity with the European Standard(s) listed in the Certificate of Empowerment shall be certified in accordance with the provisions of the specific CEN KEYMARK Scheme Rules and the CEN-CENELEC Internal Regulations Part 4 "Certification".
- 2.4. The empowerment to grant KEYMARK licences does not affect, in anyway whatsoever, the property rights of CEN and CENELEC for the KEYMARK.
- 2.5. The Certification Body shall maintain all required approvals and empowerments for entering into this Agreement, in particular Art. 9 of the CEN-CENELEC Internal Regulations Part 4 "Certification" (including copy of the EN ISO/IEC 17065 accreditation certificate and of the ISO/IEC 17025 accreditation certificate(s) of the subcontracted testing laboratories and the respective scopes)
- 2.6. The evidence of accreditation and of the empowerment of the Certification Body is attached as Annexes to this Agreement.
- 2.7. The Certification Body shall strictly observe and, to the extent applicable, procure that any manufacturer or supplier to whom it has granted a KEYMARK licence observes the provisions laid down in the CEN-CENELEC Internal Regulations Part 4 "Certification", in particular, without limitation, Art. 10 thereof.
- 2.8. The applicable provisions shall be laid down or referred to in the contract which the Certification Body shall execute with each manufacturer or supplier to whom it grants a KEYMARK Licence.

### 3. COMMENCEMENT, AMENDMENT AND TERMINATION

- 3.1. This Agreement shall come into force on the date of the last signature and is entered into for an indefinite term.
- 3.2. This Agreement may be terminated by either Party upon 6 (six) months written notice to the other Party.

- 3.3. This Agreement can be terminated by DIN CERTCO with immediate effect in the following cases:
- a. Withdrawal of all European Standards on which the specific CEN KEYMARK Scheme Rules are based;
  - b. Termination of the certification activities of the Certification Body in the framework of the KEYMARK system;
  - c. The Certification Body fails to make the payment to DIN CERTCO;
  - d. The Certification Body does not comply with the specific CEN KEYMARK Scheme Rules and/or the CEN-CENELEC Internal Regulations Part 4 "Certification";
  - e. The Certification Body fails to comply with this Agreement, notably and does not take any action to remedy within 30 (thirty) days of receiving a notice specifying the nature of the breach and calling upon the Certification Body to undertake a remedy;
  - f. There is a material change in the ownership or control of the Certification Body which may not enable the Certification Body to provide anymore the services for the purpose contemplated by this Agreement;
  - g. The Certification Body at any time challenges the validity of any Intellectual Property Right of CEN.
- 3.4. Termination on the basis of Art. 3.3. b - g above shall be without prejudice to any rights of DIN CERTCO to claim damages from the Certification Body on behalf of CEN.
- 3.5. Should this Agreement be terminated, the licence for the right to use the KEYMARK shall terminate immediately and the Certification Body shall cease immediately to use the KEYMARK.
- 3.6. The Certification Body recognizes that DIN CERTCO and CEN shall not be liable to pay any compensation to the Certification Body for financial and/or moral loss or for any other loss or damage arising as a result of the termination of this Agreement for any cause whatsoever.
- 3.7. The Certification Body agrees that, upon termination of this Agreement, all rights, titles and interest in and to the KEYMARK shall revert to DIN CERTCO, on behalf of CEN, without indemnification to the Certification Body.

#### **4. LICENCE FEES**

- 4.1. The fee for the right to use the KEYMARK (the KEYMARK Licence Fee) is fixed by CEN in consultation with DIN CERTCO and listed in Annex 1 hereto, as amended from time to time.
- 4.2. The KEYMARK Licence Fee is charged by the Certification Body to manufacturers and suppliers for the right to use the KEYMARK and transferred to DIN CERTCO at the following conditions:
- 4.2.1. The CEN-CENELEC Internal Regulations Part 4 "Certification" and the definitions for types and sub-type in the specific CEN KEYMARK Schemes have to be followed by the Certification Body.

- 4.2.2. The invoice for the KEYMARK Licence Fee for a calendar year is based on the number of valid KEYMARK licences as of the 1<sup>st</sup> January of that calendar year.
- 4.2.3. The KEYMARK Licence Fee has to be transferred to DIN CERTCO within the first quarter of that calendar year.
- 4.3. Fees for testing, certification and inspection of the products concerned are independent from the KEYMARK Licence fee. Such fees are fixed and invoiced at the following conditions:
  - 4.3.1. Such fees are fixed and invoiced in accordance with clause 7.2 of the CEN-CENELEC Internal Regulations Part 4 "Certification".

## **5. LEGAL PROTECTION OF THE KEYMARK**

- 5.1. In the event of any infringement of the KEYMARK (or other related rights of CEN and/or DIN CERTCO) of which the Certification Body becomes aware it shall promptly notify DIN CERTCO about it in writing.
- 5.2. DIN CERTCO shall inform the Certification Body of the relevant decisions on possible legal actions to be taken for the protection of the KEYMARK.
- 5.3. Any such legal action shall be conducted through attorneys approved by DIN CERTCO in coordination with CEN. Costs for legal actions shall be paid for by CEN and/or DIN CERTCO, except when attributable to acts or omissions of the Certification Body, in which case such costs shall be paid for by the Certification Body.

## **6. REPRESENTATIONS AND WARRANTIES**

- 6.1. DIN CERTCO warrants that the execution of this Agreement by DIN CERTCO and the performance by it of any obligation hereunder does not and shall not violate or be in conflict with any agreement, commitment, obligation or understanding by which DIN CERTCO is bound, including the Service Contract between DIN CERTCO and CEN.
- 6.2. The Certification Body warrants that:
  - a. It shall use its best endeavours to contribute to the promotion of the KEYMARK within the licence conditions as set in Art. 2 of this Agreement.
  - b. It shall use its best endeavours to contribute to the legal protection of the KEYMARK, in accordance with the rules set out by CEN.

## **7. NOTICES**

- 7.1. Any notice or other information required or authorised by this Agreement to be given by either Party to the other may be sent by electronic means, by registered mail or other postal means as appropriate at the addresses as given in the application form for empowerment.
- 7.2. Any other information sent by electronic means is deemed to have been duly sent on the date of transmission, unless otherwise demonstrated.

## 8. SEVERABILITY

In case any provision of this Agreement shall be declared invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

## 9. GOVERNING LAW AND JURISDICTION

- 9.1. This Agreement is to be interpreted and construed in accordance with the laws of Germany.
- 9.2. The Parties undertake to make their best effort to solve amicably any dispute or difference arising out of or in connection with this Agreement. Should they fail to do so, the Parties agree to bring the dispute before the competent court of Germany, Berlin district.

Date: *30. Sept. 2015*

**DIN CERTCO Gesellschaft für  
Konformitätsbewertung mbH**

*DIN CERTCO*  
Gesellschaft für Konformitätsbewertung mbH  
Alte Fehrbelliner Straße 50  
10557 Berlin

Mr Robert ZORN  
- Managing Director -

Date: 21 September 2015

**Technický skúšobný ústav Pleš'any, š.p.**



Mr Jaroslav CRKOŇ  
- General Director -