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# HKCAS Supplementary Criteria No. 5

## Use of the Combined IAF MLA Mark

### 1. Introduction

1.1 The International Accreditation Forum Multilateral Recognition Arrangement Mark (IAF MLA Mark) is a registered trademark which belongs to the International Accreditation Forum, Inc. (IAF). The HKSAR Government, acting through the HKAS Executive Administrator, has been granted a license to use, and to grant sub license for the use of the IAF MLA Mark in conjunction with the accreditation symbol of HKAS.

1.2 A certification body (CB) or validation and verification body (V/VB) which has received accreditation by HKAS under the Hong Kong Certification Body Accreditation Scheme (HKCAS) may apply on a voluntary basis to the HKAS to use IAF MLA Mark in conjunction with the HKAS accreditation symbol(s) for certification bodies or validation and verification bodies. The IAF MLA Mark together with such accreditation symbol(s) are hereinafter referred to as the 'Combined IAF MLA Mark'.

*Note: In this document, validation and verification body (V/VB) refers to 'validation body', 'verification body' or 'validation and verification body'.*

1.3 The CB or V/VB may only apply for the use of the Combined IAF MLA Mark in relation to the certification or validation and verification service(s) which the CB or V/VB has been accredited by HKAS under the HKCAS to perform and such accreditation is recognized under the IAF MLA. If its application is successful, it shall enter into a sub license agreement with HKAS (sub license agreement). A CB or V/VB which has entered into a sub license agreement with HKAS is referred to as 'Sub licensee'. CBs or V/VBs which have not entered into a valid and subsisting license agreement with HKAS are not allowed to use the IAF MLA Mark or the Combined IAF MLA Mark. The use of the Combined IAF MLA Mark is voluntary. A Sub licensee may opt to continue to use the HKAS accreditation symbol alone without adding the IAF MLA Mark.

1.4 This document serves to supplement the requirements set out in the sub license agreement in relation to the use of the Combined IAF MLA Mark.

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## 2. Application Requirements

- 2.1 A CB or V/VB wishing to apply for the use of the Combined IAF MLA Mark shall sign and submit a prescribed application form, i.e. HKCAS 016 to HKAS. The application form and a sample of the sub license agreement titled 'IAF MLA Mark License Agreement-Agreement for Use of the IAF MLA Mark between a Licensed IAF MLA Member and an Accredited Conformity Assessment Body' are available from HKAS Executive Administrator on request.
- 2.2 Apart from the sub license agreement, and this document, there are also other terms and conditions governing the use of the Combined IAF MLA Mark. These terms and conditions are listed in the application form submitted and signed by the CB. The sub license agreement, this document together with the other terms and conditions are collectively referred to as 'Terms and Conditions'. This document shall be read in conjunction with the other Terms and Conditions.
- 2.3 The accredited CB or V/VB shall confirm to the HKAS Executive Administrator before signing of the sub license agreement with HKAS, that it has taken appropriate steps to satisfy the indemnity requirement under the sub license agreement as further expanded by clause 3.21 of this document, e.g. by means of indemnity insurance or other means.

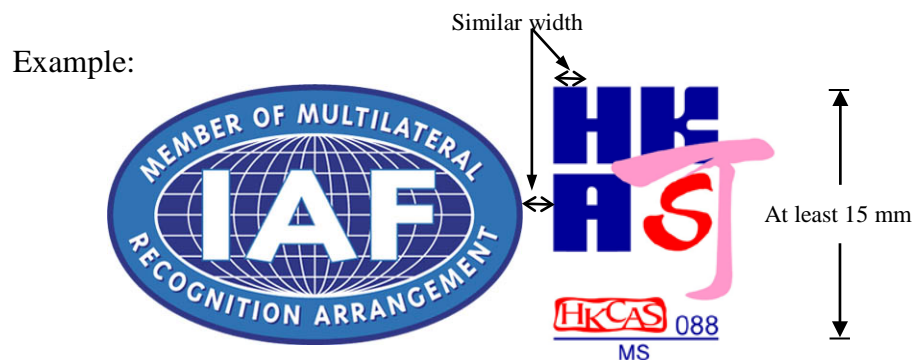
## 3. Conditions for use

- 3.1 The IAF MLA Mark will be used in conjunction with the HKAS accreditation symbol in the Combined IAF MLA Mark. Existing terms and conditions governing the use of the HKAS accreditation symbols shall form part of the Terms and Conditions, and continue to apply including the following:
- (i) Chapter 5 and Chapter 8 of HKAS 002 'Regulations for HKAS Accreditation' and
  - (ii) Clause 2 'HKAS Accreditation Symbols', Clause 3 'General conditions on the use of HKAS accreditation symbols and claim of accreditation status', and Clause 6 'Requirements specific to the use of the HKAS accreditation symbol for certification body and ~~GHG~~ validation/ and verification body and claim of accreditation status under HKCAS' of HKCAS' of HKCAS SC-01.
- 3.2 The Sub licensee using the Combined IAF MLA Mark shall comply with the

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latest version of the ‘General Principles on Use of the IAF MLA Mark ‘(IAF document No. IAF ML 2), which may be obtained from IAF or downloaded from the IAF website (<http://www.iaf.nu/>). IAF may amend this document from time to time at its discretion.

- 3.3 The Sub licensee shall only use the Combined IAF MLA Mark in relation to the certification or validation and verification service(s) as listed on the signature page of the sub license agreement to which it is a party. Under no circumstances whatsoever may a CB use the IAF MLA Mark on its own. There shall also be an indication as for which certification or validation and verification service, e.g. QMS, GHG, the HKAS accreditation as noted in the Combined IAF MLA Mark is granted.
- 3.4 The Combined IAF MLA Mark may be used on accredited certificates for management system certification or accredited opinions for greenhouse gas validation and verification, letterheads, quotations for work, advertisements, websites and other documents. For product certification, the Combined IAF MLA Mark is only allowed to be used on accredited certificates for IAF endorsed product certification schemes. For details of IAF endorsed product certification schemes, please refer to the IAF website (<http://www.iaf.nu/>).
- 3.5 If the Sub licensee’s proposed design of the Combined IAF MLA Mark does not adhere to the design as shown below, the Sub licensee shall present to the HKAS Executive Administrator the design of the Combined IAF MLA Mark for approval, and shall not use the Combined IAF MLA Mark until a written approval by the HKAS Executive Administrator has been given.



- 3.6 The Sub licensee shall not use the IAF MLA Mark unless the HKAS accreditation symbol and the accredited CB’s or V/VB’s name or logo are included on the same displayed page and all are of approximately the same size.

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The HKAS accreditation symbol excluding the identification code shall be of the same height as that of the IAF MLA Mark and not less than 15mm.

- 3.7 The Sub licensee shall not use the Combined IAF MLA Mark in such a way that may be considered misleading by the HKAS Executive Administrator or bring HKAS or its accreditation and/or IAF into disrepute.
- 3.8 The Sub licensee shall not use the IAF MLA Mark or the Combined IAF MLA Mark on or in conjunction with a product, or in a way that may be interpreted as denoting product conformity.
- 3.9 The Sub licensee shall not use the IAF MLA Mark or the Combined IAF MLA Mark in any way which implies that IAF or HKAS has approved a certified product, service or system or accepts responsibilities for activities carried out under the scope of accreditation.
- 3.10 For every application of the Combined IAF MLA Mark, the Sub licensee shall keep detailed records of how the Combined IAF MLA Mark has been used, including dates and the materials on which the Combined IAF MLA Mark is displayed, e.g. in letterhead, fax cover sheet, envelopes, promotional publication, accredited certificates for management system certification, accredited opinions for greenhouse gas validation and verification, quotations, or websites. Such records shall be kept for a minimal of three years. Relevant records and samples of each use shall be available to the HKAS assessment team for monitoring the appropriate use of the Combined IAF MLA Mark.
- 3.11 In cases where it is found that the Sub licensee fails to use the Combined IAF MLA Mark in compliance with the Terms and Conditions, without prejudice to other rights and powers of HKAS, the Sub licensee shall immediately upon the demand of the HKAS Executive Administrator cease and desist from using the Combined IAF MLA Mark in the non-compliant manner.
- 3.12 The Sub licensee is not permitted to use the Combined IAF MLA Mark on business cards of individuals even if they are employees or officers of the Sub licensee.
- 3.13 The Sub licensee shall not allow its customers to use the Combined IAF MLA Mark and shall implement a monitoring and sanction system to ensure that the Combined IAF MLA Mark is not used by its customers.
- 3.14 The Sub licensee shall implement a system to review any intended use of the Combined IAF MLA Mark by appointing internal reviewers to monitor the proper and compliant use of the Combined IAF MLA Mark. The Combined

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IAF MLA Mark shall only be used after the reviewer appointed by the Sub licensee has confirmed conformity of the usage with the Terms and Conditions. Records of review shall be kept.

- 3.15 The person(s) assigned to review the intended use of the Combined IAF MLA Mark shall be at managerial level. He/she must be familiar with the Terms and Conditions governing the use of the Combined IAF MLA Mark. Records assessing the competence of the reviewers shall be kept. The Sub licensee shall also inform the HKAS Executive Administrator of the name(s) and position(s) of the person(s) authorised to carry out the review and notify HKAS Executive Administrator immediately of any changes of such person(s).
- 3.16 HKAS has the right to request from time to time samples of the Combined IAF MLA Mark and its usages whereupon the Sub licensee shall provide the same within three working days after the demand of HKAS to verify compliance with these Terms and Conditions. In addition or as an alternative, HKAS may make announced or unannounced on-site surveillance visits to collect samples.
- 3.17 Use of the Combined IAF MLA Mark by accredited organisations is voluntary. HKAS, the HKAS Executive Administrator and IAF make no representation or warranties concerning the Combined IAF MLA Mark including without limitation the suitability or effectiveness of the Combined IAF MLA Mark for any particular application or usage. The Sub licensee using the Combined IAF MLA Mark shall be solely responsible and liable for all consequences arising from its use of the Combined IAF MLA Mark.
- 3.18 Under clause 5(f) of the sub license agreement, HKAS has the right to terminate the sub license agreement by duly advising the Sub licensee. Without prejudice to the generality of such power or HKAS's other powers to terminate under the other sub-clauses of clause 5 of the license, HKAS may terminate the sub license agreement pursuant to clause 5(f) if the Sub licensee fails to observe or perform any of its obligations under the Terms and Conditions, and (in the case of a breach capable of being remedied) has failed to remedy the breach to the satisfaction of the HKAS Executive Administrator within 14 days (or such longer period as the HKAS Executive Administrator may, in its sole discretion, allow) after the issuance by the HKAS Executive Administrator to the Sub licensee of a notice in writing requiring it to do so.
- 3.19 Upon termination of the sub license agreement, the Sub licensee shall immediately stop using the Combined IAF MLA Mark. The Sub licensee shall also destroy all remaining undistributed or unused materials containing the Combined IAF MLA Mark in its possession and remove any reference to the Combined IAF MLA Mark on its website.

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- 3.20 Neither the IAF nor the HKAS will be responsible for any claim, legal proceeding, liability, loss (including any direct or indirect loss, any loss of revenue, profit, business, contract or anticipated saving), damage (including any direct, special, indirect or consequential damage of whatsoever nature) or any cost or expense, suffered or incurred by the Sub licensee or any other person due to the termination of the sub license agreement for whatsoever reason.
- 3.21 The indemnity in clause 6 of the sub license agreement shall be expanded so that the Sub licensee shall be liable to indemnify HKAS on the terms set out in clause 6 arising from the breach or default of the Sub licensee of any of the Terms and Conditions, but not just those as set out in the sub license agreement.
- 3.22 In the event of inconsistency amongst the Terms and Conditions, the following order of precedence shall be applied in order to resolve any such conflict, contradiction or ambiguity:

This document  
The application form  
The sub license agreement  
General Principles on the Use of IAF MLA Mark (IAF ML 2)  
HKAS 002 'Regulations for HKAS Accreditation'  
HKAS SC-01 'Use of HKAS Accreditation Symbols and Claims of Accreditation Status'

#### 4. General Provisions

- 4.1 (a) The personal data of any individual from time to time supplied by the Sub licensee to the HKAS will be used for the purposes specified in these Terms and Conditions, and to facilitate HKAS to monitor that the Sub licensee has complied with these Terms and Conditions.
- (b) The personal data may be handed to other Government departments, public officers, professional advisers, contractors, consultants of the HKSAR Government for the purposes of exercising the rights and powers of HKAS under these Terms and Conditions.
- (c) The Sub licensee shall ensure that the relevant individual to whom the personal data belongs has acknowledged and consented that his/her personal data may be disclosed in the aforementioned manner.
- (d) The individual to whom the personal data belongs has the right of access

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and correction with respect to personal data provided in Sections 18 and 22, and Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance (Cap 486). The right of access includes the right to obtain a copy of the personal data provided.

- (e) Enquiries concerning the personal data collected including, the making of access and correction, shall be addressed to the Personal Data Privacy Officer of the ITC.
- 4.2 The Sub licensee shall, forthwith upon the first written request of the HKAS Executive Administrator, do all such things and execute all such deeds and documents as the HKAS Executive Administrator may deem necessary or desirable to implement or to give legal effect to the Terms and Conditions.
- 4.3 No failure or delay by the HKAS to exercise any right, power or remedy available to it under the Terms and Conditions shall operate as a waiver thereof; nor shall any single or partial exercise of the same preclude any other or further exercise thereof or the exercise of any other right or remedy. A right or a remedy of each party under the Terms and Conditions shall be cumulative and not exclusive of any other rights or remedies provided by the Terms and Conditions or at law.
- 4.4 Without prejudice to the generality of the foregoing, any right of termination of the Terms and Conditions or any other right or power of whatsoever nature conferred upon the HKAS by the Terms and Conditions shall be exercisable by it in addition to and without prejudice to any other rights and remedies available to it under the Terms and Conditions or at law (and, without prejudice to the generality of the foregoing, shall not extinguish any right to damages to which the HKAS may be entitled in respect of the breach of the Terms and Conditions) and no exercise or failure to exercise such a right of termination shall constitute a waiver by the HKAS of any such other right or remedy.
- 4.5 If any provision or part of the Terms and Conditions shall be, or be found by any authority or court of competent jurisdiction to be, illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect the other provisions or parts of such provisions of the Terms and Conditions, all of which shall remain in full force and effect.
- 4.6 The HKAS may, on its own, make such supplement or amendment to the Terms and Conditions.
- 4.7 The Terms and Conditions constitute the whole agreement between the HKSAR Government as represented by HKAS and the Sub licensee concerning the use of the Combined IAF MLA Mark.

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- 4.8 The Terms and Conditions shall be construed and interpreted in accordance with the laws of Hong Kong. The Sub licensee submits to the exclusive jurisdiction of the courts of Hong Kong in relation to any dispute arising from or in connection with the Terms and Conditions.
- 4.9 References to “HKAS” shall mean the HKSAR Government as represented by the HKAS Executive Administrator. All rights and powers of the HKAS may be exercised by the HKAS Executive Administrator.

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