

## **COMPETITION ACT 2010**

Undertaking pursuant to section 43 of the Competition Act 2010 (“the Act”) by Metrology Corporation Malaysia Sdn. Bhd. to the Malaysia Competition Commission.

### **PERSONS GIVING THIS UNDERTAKING**

1. This Undertaking is given to the Malaysia Competition Commission (“the Commission”) by Metrology Corporation Malaysia Sdn. Bhd. (“MCM”) (499924-K), a company incorporated in Malaysia and having its registered office at 372, 1<sup>st</sup> Floor, Jalan Tuanku Abdul Rahman, 50100, Wilayah Persekutuan Kuala Lumpur.

### **BACKGROUND**

2. MCM is incorporated on 26 November 1999 as a private limited company. Its nature of business is providing services relating to inspection, testing, verification, re-verification, and stamping of weights, measures and instruments for weighing or measuring (“said service”).
3. On 5 April 2020, the Ministry of Domestic Trade and Consumer Affairs (“MDTCA”) had appointed both MCM and De Metrology Sdn. Bhd. (“DMSB”), respectively, to provide the said services from 5 April 2020 until 4 April 2025.

4. The Commission has commenced an investigation against MCM under section 14(1) of the Act on 15 December 2020, where the Commission has reason to suspect MCM has infringed or is infringing section 10(1) of the Act in relation to the alleged abuse of a dominant position in the service of verification and re-verification of weighing and measuring instruments used in the trade market in Malaysia.
5. The Commission received information that MCM had engaged in anti-competitive conduct by absorbing the Sales and Service Tax (“SST”) on behalf of its customers (“the Absorption”) starting as early as October 2020.
6. On 23 December 2020, the Commission received documents from DMSB that illustrates it had experienced a loss of revenue from October 2020 to November 2020. Additionally, DMSB had also experienced a reduction in its total quantity of verified instruments for the same period.
7. On 24 December 2020, a meeting was held between the Commission and MCM. In the meeting, MCM had admitted to engaging in the alleged conduct of absorbing the SST on behalf of its customers. In the same meeting, it was understood that the SST absorption was projected to amount to RM200,000.00 per month. The Commission expressed its concern over the said conduct as it may adversely affect the competitive process in the said market.
8. Subsequent to the meeting on 24 December 2020, the Commission discovered that MCM had issued a memorandum to its employees,

stating that MCM has ceased and dismantled the alleged SST absorption. Thereafter, the MCM's counsel, Messrs. Aisah Ghani & Co. indicated that its client is exploring an undertaking pursuant to section 43 of the Act.

9. On 18 March 2021, the Commission received a proposal from Messrs. Aisah Ghani & Co., offering MCM's undertaking pursuant to section 43 of the Act.

## COMMENCEMENT OF UNDERTAKING

10. This Undertaking comes into effect when:

- (i) The Chairman of MCM duly executes the Undertaking; and
- (ii) The Commission accepts the Undertaking so executed.

11. Upon the commencement of this Undertaking, MCM undertakes to assume the obligations set out in **paragraph 12** below; and as stipulated by section 43(2) of the Act, the Commission shall close the investigation without making any finding of infringement and shall not impose any penalty on MCM.

## UNDERTAKING

12. MCM undertakes that it shall:

- (i) Conduct an Extraordinary General Meeting within 21 days from the date of signing of this Undertaking, with an agenda to withdraw the decision made in Directors' Resolution on 15 September 2020 that the MCM agreed to absorb SST on behalf of its customers;
- (ii) Refrain from taking any measure having the same object or effect as to the previous SST absorption policy;
- (iii) Notify all of its customers of the decision stipulated in **paragraph 12(i)** above by way of letters, emails, and/or other forms of communication; and
- (iv) Issue and publish this Undertaking by way of a Notice on MCM's official website and social media sites. The contents of the Notice shall be in accordance with **APPENDIX 1**.

13. MCM acknowledges that in accordance with section 14 and section 15 read with section 43 of the Act, should MCM repeat any similar or other anti-competitive act/s, conduct/s and/or practice/s in relation to its businesses, the Commission has the power to take into account the findings and conduct described in **paragraphs 2 to 9** above in the Commission's assessment and/or investigation.

## **ACKNOWLEDGEMENTS**

14. MCM acknowledges that:

- (i) the Commission has the power under section 43(3) of the Act to make this Undertaking available for public inspection by publishing it on the Commission's website at [www.mycc.gov.my](http://www.mycc.gov.my) as well as any other means of broadcasting as the Commission deems fit in accordance with the relevant laws;
- (ii) the Commission may from time to time, make reference to this Undertaking in news media, press statements, and in any of the Commission's publications for the purpose of performing the functions and powers of the Commission; and

(iii) the Undertaking in no way derogates the rights and remedies available to any other person arising from the alleged conduct.

Agreed and executed by the Chairman of Metrology Corporation Malaysia Sdn. Bhd. (499924-K) ("MCM"):

  
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**MCM CHAIRMAN**

Name: **IDRATHIN BIN HANZAH**

NRIC No.: **490501-08-6119**

This **11** day of **November** 2021

METROLOGY CORPORATION MALAYSIA SDN BHD  
No 3, Jalan, 33/10 A,  
Kawasan Perindustrian IKS, Mukim Batu,  
68100 Kuala Lumpur.  
Tel: 03-61885321 / 5911  
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**ACCEPTED BY THE COMPETITION COMMISSION**

  
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**DATO' SERI MOHD HISHAMUDIN YUNUS**  
**CHAIRMAN**

This **11** day of **NOVEMBER** 2021



**NOTICE ON METROLOGY CORPORATION MALAYSIA SDN. BHD.  
("MCM") OFFICIAL WEBSITE AND SOCIAL MEDIA SITES**

**NOTICE**

We, Metrology Corporation Malaysia Sdn. Bhd. ("MCM"), would like to inform that our conduct in absorbing the Sales and Service Tax ("SST") on behalf of our customers has raised serious competition concerns under the Competition Act 2010 [Act 712] ("the Act").

MCM had signed the Directors' Resolution dated 15 September 2020 to implement the absorption of the SST on behalf of its customers, on a temporary basis.

An investigation was carried out by the Malaysia Competition Commission ("the Commission") pursuant to section 14(1) of the Act. Based on the outcome of the Commission's investigation, we are agreeable to execute an official undertaking pursuant to section 43 of the Act to the Commission ("the said Undertaking").

In brief, we undertake that we shall:

- (i) Conduct an Extraordinary General Meeting (EGM) within 21 days from the date of signing of this Undertaking, with an agenda to withdraw the

decision made in Directors' Resolution on 15 September 2020 that MCM agreed to absorb SST on behalf of its customers;

- (ii) Refrain from taking any measure having the same object or effect as to the previous SST absorption policy;
- (iii) Notify all of MCM's customers of the decision stipulated in **paragraph 12(i)** above by way of letters, emails and/or other forms of communication; and
- (iv) Issue the following written Notice to all MCM's customers and branch offices and publish on MCM's official website and social media sites, the following directive:

“We would like to bring to your attention that the Malaysia Competition Commission (“the Commission”) is the regulatory authority empowered by the Competition Commission Act 2010 [Act 713] to enforce the provisions of the Competition Act 2010 [Act 712] (“the Act”). With reference to MCM Undertaking to the Commission, we strongly advise all MCM branch offices to comply with the provisions of the Act. In the event of any complaint regarding a possible infringement of the Act is made against MCM or any of its branch offices, MCM will not hesitate to provide full cooperation to the Commission in its assessment and/or investigation.”

Enclosed herewith a copy of the said Undertaking for further information.



We also undertake not to be involved in any similar or other anti-competitive act/s, conduct/s and/or practice/s in relation to our businesses and to comply with the Act in order to protect the interest of consumers and promote the economic growth of Malaysia.