

NEBS MARK CERTIFICATION PROGRAM SERVICE SERVICE TERMS

These Service Terms shall govern the NEBS Mark Certification Program Service performed by the UL Contracting Party (as identified in the Quotation or Project Confirmation) and set out the responsibilities and obligations of the Client. These Service Terms and the terms of the Global Services Agreement (“GSA”) are incorporated by reference into and are an integral part of Service Agreement entered into by the Parties for NEBS Mark Certification Program Service. The capitalized terms in these Service Terms which are not defined herein shall have the same meaning as in the GSA.

A. UL Contracting Party Certification Services

1. **Scope of Service.** UL Contracting Party will assess Client’s products to determine compliance with applicable NEBS requirements defined in Telcordia SR-3580, “Network Equipment - Building System (NEBS) Criteria Levels.” UL Contracting Party will make a certification decision based on the information gathered during the evaluation process and, if found to be in compliance with the applicable technical and program requirements, authorize the use of the NEBS Mark designated by UL Contracting Party. The NEBS Mark designated by UL Contracting Party is intended to inform third parties that a NEBS Report issued by UL Contracting Party is available from the Client for the type or model of product(s) associated with the Mark. The NEBS Report provides the NEBS level, configuration tested, the operational criteria used, the test program and results of the testing.
2. **Information, Data and Materials.** Client agrees to provide UL Contracting Party with all information, test data, products or other materials necessary to complete the assessment upon request from UL Contracting Party. Client agrees that a UL Contracting Party’s evaluation report (i.e. NEBS Report, TCG Report or the like) is a requirement under the NEBS Mark program.
3. **Deliverables.** UL Contracting Party will provide Client with a Certification Document, which may be in the form of a letter, email or similar correspondence to the Subscriber, regarding certification of the Client’s product(s) under the program.

The minimum information provided shall include:

- (a) the name and address of the individual or body taking responsibility for maintaining the certification;
- (b) the scope of the certification;
- (c) the product(s) certified which may be a type or range of products,
- (d) the requirements against which the product(s) are certified,
- (e) the scope of the authorization, i.e. whether the authorization is to use the UL NEBS Mark in advertising, on products or both.;

The date of the correspondence or certificate is considered the effective date of the certification.

B. UL Contracting Party Surveillance

1. UL NEBS Mark on the Product.

- (a) **Product inspection.** Client acknowledges and agrees that UL Contracting Party representatives will make periodic examinations or tests of any Product(s) for which NEBS Mark Certification Service has been established and that bears the UL NEBS Mark (Covered Product(s) are manufactured. UL Contracting Party may, from time to time, select samples at such facilities, at any place of sale, or elsewhere, for examination and/or testing to determine whether the specific samples so examined and/or tested conform to applicable Requirements.

- (b) **Access to Facilities.** Client acknowledges and agrees that UL Contracting Party's representatives shall have free, unannounced, immediate, safe, and secure access to factories and/or storage facilities where the covered Product(s), or any components thereof, are fabricated, processed, finished, stored, and/or located, during normal business hours and/or when the factory or storage facilities are actually in operation. Client agrees to provide UL Contracting Party's representatives with all safety and other protections required by law for Client's own employees, including, without limitation, all U.S. Occupational Safety and Health Administration ("OSHA") rules and regulations. Client shall not attempt to condition the right of UL Contracting Party's representatives to obtain free access to a factory and/or storage facility upon the signing of any agreement, waiver, or release which in any way purports to affect the legal rights or obligations of UL Contracting Party or its representative. If any UL Contracting Party representative signs such an agreement, waiver, or release, it shall be considered void and shall be of no force and effect. UL Contracting Party shall, however, direct its representatives to exercise reasonable care to comply with any plant safety regulations generally applicable to personnel at any such factory or storage facility.

- (c) **Access to UL Contracting Party Marks.** Consistent with Section 12 of the FOLLOW-UP SERVICE TERMS applicable to the required UL Contracting Party Listing, Certification, Recognition or Verification service, Manufacturer(s) shall make all Marks, and the means of applying such Marks, available for inspection by UL Contracting Party's representatives at all reasonable times. If UL Contracting Party's examination(s) and/or test(s) disclose features that, in the sole opinion of UL Contracting Party, do not conform to UL Contracting Party Requirements, the Manufacturer(s) must correct such items within a time period designated by UL Contracting Party, remove the Marks from all Products that the UL Contracting Party identifies as non-conforming, or cease selling any such non-conforming Product(s) pending the outcome of any appeal to UL Contracting Party, as provided in these Terms. If any Manufacturer disagrees with UL Contracting Party regarding whether a Product is eligible to bear the Marks, the Manufacturer(s) may hold the Product at the factory or storage facility pending an appeal to, and a decision by, UL Contracting Party.

2. **NEBS Mark in Promotional Material.** At least once a year, Client will make any promotional material using the NEBS Mark available to UL Contracting Party upon request.
3. **Reassessment.** Client agrees that a detailed review of products bearing or associated with the NEBS Mark with respect to continued compliance with the NEBS requirements it was evaluated to will be conducted at least every five (5) years in order to continue the use of the Mark.

4. **Complaints to Suppliers**

Client agrees to:

- (a) make available records and information regarding noncompliance of certified products including records and information related to complaints;
 - (b) Take appropriate actions regarding noncompliance of certified products, including noncompliance identified from complaints, as a condition of continued certification;
 - (c) make available records and information regarding the resolution of any noncompliance.
5. **Discontinued Production.** Client agrees to notify UL Contracting Party if it discontinues a Product bearing the NEBS Mark under the Service Agreement.
 6. **Limitations.** Client agrees that UL Contracting Party's surveillance is designed to serve only as a check on the means by which the Client determines compliance of its product and/or quality system with the applicable laws, regulations, and standards. Client also agrees that such surveillance service and assessments in no way relieve the Client of its responsibility for its product and/or quality system that are subject to the Certificate issued by UL Contracting Party.

C. **Fees.**

1. **Product Certification Fees.** The Quotation or Project Confirmation will establish the price for UL Contracting Party's Certification Services. The price will depend upon the type of product and the level of the requirements. All Quotations and Project Confirmations are subject to change at UL's discretion, upon reasonable notice to Client, depending upon the requirements of the specific project.
2. **Reassessment Fees.** Unless UL Contracting Party expressly agrees in writing otherwise, the UL Contracting Party will bill the Client for product reassessment at UL Contracting Party's then-current rates, which UL Contracting Party may, in its sole discretion, and upon notice to the Applicant, change from time to time. Reassessment charges may vary, depending upon the nature and extent of the necessary inspection, examination, and testing that UL may undertake, including any costs resulting from the failure of a Product to conform to the requirements or from insufficient manufacturer quality control procedures.

3. **Annual Fee.** Upon prior written notice, UL Contracting Party may assign an annual certification fee and bill Subscriber for the use of the NEBS Marks at UL Contracting Party's current rates, which may change from time to time as determined by UL Contracting Party, in its sole discretion,

D. UL Contracting Party Marks

1. **Ownership.** Client acknowledges and agrees that UL Contracting Party or another UL Company owns the Marks. Client expressly agrees that it shall not use any name, or any abbreviation, symbol, or Mark owned or controlled by UL Contracting Party, on, or in connection with, Client's Products, containers, or packaging, unless and until expressly authorized by the Certification Document, and then only in the form or manner specified in the Certification Document (e.g., Client may not refer to a Product submitted for UL Contracting Party Service as "UL Contracting Party pending"). Client further agrees that UL Contracting Party may, but is not obligated to, notify any third party of any improper or unauthorized use of the Marks, or reference to UL Contracting Party, by Client.
2. **Use of the NEBS Mark.** The NEBS Mark may be used only as expressly authorized by UL Contracting Party and only in conjunction with a product that has been evaluated by UL and found to comply with one of the levels defined in Telcordia SR-3580, "Network Equipment - Building System (NEBS) Criteria Levels" and for which there is a report issued by UL Contracting Party (a "NEBS Report") that provides details of the evaluation.
3. **NEBS Mark on Product.** The NEBS Mark may only be used on Products or Product packaging if the Product is covered under UL Contracting Party's Surveillance Program (follow-up service) described in section B.1 above. When marked on a product, the NEBS Mark must include the NEBS Level (as described in SR-3580) to which the product was certified.
4. **NEBS Mark in Promotional Material.** The NEBS Mark may be used in advertising, promotional and marketing materials, web sites, and trade show events whether or not the Product bears the UL NEBS Mark. Prior to publication or use, Client agrees to provide UL Contracting Party with copies of any promotional material containing the NEBS Mark (advertising, marketing materials, web site copy, trade show signs, etc.) for review. The following conditions shall be met: (a) the promotional or advertising material is in no way inconsistent with the findings and/or coverages of UL Contracting Party; (b) any reference to the UL Contracting Party or any other UL Company is not intended to and does not create a misleading impression as to the nature of UL Contracting Party's findings, its coverages, and/or its Service; and (c) the promotional or advertising material does not in any manner state or imply that UL Contracting Party is in any way (i) "endorsing" or "certifying" the Product; or (ii) "warranting" or "guaranteeing" any aspect of the Product, its performance, and/or its "safety." Except for the Mark that is prescribed for use in the Certification Document, no other Marks may be used in any advertising or promotional material related to a Covered Product. In those instances where a Mark is used, any text which is required by the Certification Document shall be set forth in full in any such advertising or promotional materials. To use the NEBS Mark in promotional material it is NOT a requirement that a product be covered under UL Contracting Party's Listing, Certification, Recognition or Verification programs.

5. **Form of UL Marks.** Unless UL Contracting Party expressly agrees in writing otherwise, any Marks shall be in the form of separable, legible labels not readily transferable from one Product to another. Orders for separable labels shall be processed through UL Contracting Party and obtained only from a UL Contracting Party-authorized printer or manufacturer of Marks.
6. **Ownership of Labels.** Notwithstanding the fact that UL Contracting Party will not bear the manufacturing cost of labels or other means of applying the Marks, Client agrees that title to, and control of, labels, markers, or other means of marking, shall be vested solely in UL Contracting Party in perpetuity. UL Contracting Party's representatives shall have the right, on demand, to acquire possession of any and all unused labels, markers, or other means of applying the Marks when, in the sole opinion of UL Contracting Party, such action is warranted under the circumstances.
7. **Client's Use of Marks.** Client expressly agrees and warrants that Client is solely responsible for its use of the NEBS Marks and that Client will, through proper inspection, examination, testing, and/or otherwise, periodically confirm that any of its Products that bear a Mark have been, and are being, manufactured in conformity with applicable requirements. Client further agrees that its use of the Mark constitutes Client's declaration and representation that Products bearing the Mark are covered by a UL Contracting Party Service and were manufactured in conformity with all applicable requirements. Client further agrees that its use of such a Mark constitutes Client's declaration and representation that field-installed Products bearing the Mark are covered by a UL Contracting Party Service and have been installed, and will be maintained, in conformity with all applicable requirements.
8. **Misuse of a Name or Mark.** Client acknowledges and agrees that the manufacture, sale, delivery, shipment, distribution, or promotion of any Product utilizing a Mark, or a description referring to UL Contracting Party, could mislead third parties if such Product is not, in fact, covered by a UL Contracting Party Service and/or does not comply with UL Contracting Party Requirements (including, without limitation, the applicable Standards or Procedure), and/or if the Marks are used in any way other than as provided in the Service Agreement and in the applicable Procedure. Client acknowledges and agrees that any such use of any UL Contracting Party owned or controlled name or Mark would constitute a "misuse" under the terms of the GSA. Client expressly agrees that any misuse of UL Contracting Party's, or any other UL Company's, name or Mark will subject Client both to liability for breach of contract and to the remedies for such breach set forth in the GSA and in Paragraphs E.1 - E.4, below.

E. Termination

1. **Immediate Termination Events.** In the event that Client defaults on any of its obligations under any agreement with the UL Contracting Party, including, but not limited to, any misuse of any UL Contracting Party owned or controlled Mark, as defined in Paragraph D.4. above, UL Contracting Party may, in its sole discretion, immediately terminate or suspend, any of Client's Products related to such default, and any and all rights or authorities conferred upon Client by virtue of the Parties' agreements, including any right to use any Marks on any Product(s), without prejudice to any other rights or remedies that UL Contracting Party might have.

2. **Additional Termination Events.** Upon the occurrence of any of the following events or conditions, and upon thirty (30) days' written notice to Client ("the termination notice"), UL Contracting Party may terminate, in whole or in part, as to any or all Covered Product(s), any rights or authority conferred upon Client by the Service Agreement: (a) Client's failure to use the Mark on covered Product(s) for a period of two (2) consecutive calendar years; (b) Client's filing of any voluntary or involuntary petition in bankruptcy; (c) the appointment of a receiver for Client's business; and/or (d) the voluntary or involuntary liquidation of Client's business. In such termination notice, UL Contracting Party will provide Client with a date by which Client must cease using any and all Marks covered by the notice (the "termination date").
3. **Termination Upon Non-Eligibility.** If, at any time and for any reason, any of Client's Product(s) become ineligible for Service, the UL Contracting Party shall immediately discontinue Service on such ineligible Product(s) and shall terminate Client's rights and authorities under the Service Agreement with respect to such Product(s), pursuant to a termination notice.
4. **UL Contracting Party's Actions Upon Termination.** Upon any termination of the Service Agreement, UL Contracting Party may, among other things, (a) discontinue any Service on any of Client's Product(s), and/or (b) take physical possession of any unused Marks which, in UL Contracting Party's judgment, were issued for use in connection with any Product(s) related to the termination. Client expressly agrees that, on or before the termination date, as defined in Paragraph E.2., above, it will cease using any Marks on, or in connection with, any covered Product(s) addressed in the termination notice, including any use of any Marks, or any reference to UL Contracting Party, in the marketing, promotion, and/or advertising of such Product(s).