

eco INSTITUT Label Certification Program Service Terms

These eco INSTITUT Label Certification Program Service Terms control the terms by which Client, sometimes referred to as Subscriber, can receive eco INSTITUT Label certification of its products performed by UL Contracting Party for the Client. The Parties' Global Services Agreement is incorporated by reference into these eco INSTITUT Label Certification Service Terms. Underwriters Laboratories Inc. ("UL") has established environmental standards and testing criteria for indoor products and building materials ("Certification Standards"), and a certification program for certifying those products and materials (the "Certification Program") that comply with the eco INSTITUT Label Certification Standards. Client seeks to have certain products that it manufactures and/or distributes evaluated for compliance with the Certification Standards. Upon satisfactory completion of Product Investigation Services and appropriate documentation, Client may obtain authorization from UL Contracting Party to use UL's eco INSTITUT Label names, trademarks, certification marks, certificate(s) and service marks (each, an "eco INSTITUT Label Mark") on Client's products and materials that satisfy the Certification Standards ("Certified Products"). This authorization is contingent on Client's continued compliance with Ongoing Certification Testing and reporting obligations, among others.

- 1. Certification Notification.** Promptly upon notification to Client that a Sample and its related Product(s) has been approved as a Certified Product(s), Client shall pay UL Contracting Party the Initial Certification Program Fees for that Certified Product.
- 2. Assignment of Certification Date.** UL Contracting Party will notify Client in writing the date of written notice from UL Contracting Party to Client that the applicable Product(s) complies(y) with the Certification Standards (the "Certification Date"), and the schedule with UL Contracting Party dates for Ongoing Certification Testing (as defined in Section 7), for each Certified Product, by providing to Client a completed Notification of Certification Date form. UL Contracting Party will assign the dates for Ongoing Certification Testing pursuant to UL Contracting Party's then-current Ongoing Certification Testing Procedures and Client may be required to complete a Declaration of Conformity.
- 3. Authorization to Use eco INSTITUT Label Mark.** Subject to the terms and conditions of the Service Agreement, effective upon Client's receipt of notice of the Certification Date for a Certified Product within a Sample, Client is granted the limited non-exclusive, non-transferable authorization to use the eco INSTITUT Label Mark solely on the Certified Products. This authorization may be given as a certification document. The certification document will consist of a DIN A4 page containing the information regarding the manufacturer, name of the product, test report number, certification number as well as the results of the Product Investigation Services testing. Such Certified Products must (i) be manufactured by Client or a supplier under contract to Client after the Certification Date and (ii) comply with the Certification Standards when manufactured and delivered.
- 4. Validity of the Certification Document and the authorization to use the eco INSTITUT Label Marks.** The certification document as well as the authorization to use the eco INSTITUT Label is valid for 24 months from the Certification Date. At the expiration of the 24 months the validity of the certification expires, without requiring any special explanation from eco INSTITUT. The certification may not be using in the case any more for the Certified Products unless Client proceeds through the extension of certification as described in section 5.

5. **Extension of the certification and subsequent testing.** An extension of the certificate and authorization to use the eco INSTITUT Label is possible only if a repeated inspection and testing of the Certified Product is accomplished and the Certified Product passes the then current Certification Standards.
6. **Ownership and Use of the eco INSTITUT Label Marks**
 - 6.1 **Ownership of eco INSTITUT Label Marks.** Client (i) acknowledges that, as between Client and UL Contracting Party, UL Contracting Party owns all rights, title and interests in the eco INSTITUT Label Marks, (ii) agrees that it will do nothing inconsistent with that ownership and that nothing in this Service Agreement gives Client any right, title or interest in the eco INSTITUT Label Marks other than the authorization to use the eco INSTITUT Label Marks in accordance with this Service Agreement, (iii) acknowledges that all use of the eco INSTITUT Label Marks by Client shall inure to the benefit of UL Contracting Party, and (iv) agrees (a) to assist UL Contracting Party in recording this Service Agreement with appropriate government authorities at UL Contracting Party's request, (b) not to challenge UL Contracting Party's title to the eco INSTITUT Label Marks, or attack the validity of the eco INSTITUT Label Marks, the Certification Program, the Certification Standards, or this Service Agreement while this Service Agreement is in effect and thereafter, and (c) not to seek registration anywhere in the world of the eco INSTITUT Label Marks or domain names incorporating any of the eco INSTITUT Label Marks or oppose any application of UL Contracting Party to register the eco INSTITUT Label Marks anywhere in the world.
 - 6.2 **Modifications to the ECO INSTITUT LABEL Marks.** Client acknowledges and agrees that UL Contracting Party has the right to modify or replace the eco INSTITUT Label Marks in the Territory from time to time during the Term. UL Contracting Party will provide Client an example of the new eco INSTITUT Label Marks, and Client must, within thirty (30) days of receipt, begin using such eco INSTITUT Label Marks on the Certified Products and related materials and phase out its use of the replaced eco INSTITUT Label Marks (in preexisting materials) over a reasonable period of time, but no longer than twenty four (24) months.
 - 6.3 **Standards for Use of ECO INSTITUT LABEL Marks.** Client agrees: (i) to use the eco INSTITUT Label Marks only in the form and manner and with appropriate legends as prescribed by UL Contracting Party, including in accordance with UL Contracting Party's eco INSTITUT Label Certification Mark Guidelines; (ii) to cooperate with UL Contracting Party in facilitating its control of all uses of the eco INSTITUT Label Marks; (iii) to permit, UL Contracting Party to inspect at Client's facilities uses of the eco INSTITUT Label Marks; and, (iv) supply UL Contracting Party with physical and/or photographic specimens showing Client's use of the eco INSTITUT Label Marks, prior to first use. Within ten (10) days of any reasonable UL Contracting Party request, Client must submit sample Certified Product(s), advertising and/or packaging materials for UL Contracting Party's review. If UL Contracting Party determines at its sole discretion, that Client is not using the eco INSTITUT Label Marks or in accordance with the eco INSTITUT Label Certification Mark Guidelines, or making potentially misleading statements as determined by the then current US Federal Trade Commission Green Guides, other regulations or UL Contracting Party instructions, UL Contracting Party will

so notify Client and Client must correct its usage of the eco INSTITUT Label Marks or other marketing materials as requested, and provide to UL Contracting Party revised samples that are acceptable to UL Contracting Party, within thirty (30) days of receipt of notice. If Client fails to do so, UL Contracting Party may terminate the authorization to use the ECO INSTITUT Label Marks immediately in accordance with Section 8 of the GSA, at our sole discretion.

6.4 **Infringement by Others.** Client agrees to notify UL Contracting Party of any unauthorized use of the eco INSTITUT Label Marks by others promptly as it comes to Client's attention. UL Contracting Party shall have the sole right and discretion to bring infringement or unfair competition proceedings involving the eco INSTITUT Label Marks. Nothing in this Service Agreement, however, shall require UL Contracting Party to take any action concerning any unauthorized use of the eco INSTITUT Label Marks.

7. **Disclaimer; Compliance with Laws and Regulations; and Indemnity.** THE UL COMPANIES EXPRESSLY DISCLAIM ALL REPRESENTATIONS AND WARRANTIES THAT ANY TRADEMARKS, SERVICE MARKS, CERTIFICATION MARKS, LABELS, TEXT, GUIDANCE OR OTHER MATERIALS OR SERVICES PROVIDED TO CLIENT OR THE USE THEREOF WILL COMPLY WITH THE GREEN GUIDES, 15 USC SEC 45, OR OTHER APPLICABLE LAWS AND REGULATIONS, AND IN NO EVENT SHALL THE UL COMPANIES HAVE ANY LIABILITY IN CONNECTION THEREWITH. UL CONTRACTING PARTY DOES NOT PROVIDE LEGAL ADVICE, AND NO UL CONTRACTING PARTY-PROVIDED SERVICE OR DELIVERABLE SHALL BE CONSTRUED OR INTERPRETED AS LEGAL ADVICE. IT IS CLIENT'S SOLE RESPONSIBILITY TO COMPLY WITH THE US FTC ACT, THE GREEN GUIDES AND ALL OTHER APPLICABLE LAWS AND REGULATIONS REGARDING ENVIRONMENTAL MARKETING CLAIMS AND PRACTICES, AND CLIENT SHOULD CONSULT LEGAL COUNSEL FOR ADVICE ON THIS TOPIC. IN ADDITION TO THE OBLIGATIONS IN SECTION 11 (THIRD PARTY CLAIMS) OF THE GSA, CLIENT AGREES TO INDEMNIFY AND HOLD HARMLESS THE UL COMPANIES AND THEIR TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES, MEMBERS, AFFILIATES, AGENTS AND SUBCONTRACTORS FROM ALL LOSSES AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF, OR RELATED TO, CLAIMS ASSERTED BY THIRD PARTIES THAT RELATE TO UNFAIR OR DECEPTIVE MARKETING CLAIMS INVOLVING CLIENT'S PRODUCTS, SERVICES OR CLIENT'S USE OF THE MARKS, INCLUDING IN VIOLATION OF 15 USC SEC 45, THE GREEN GUIDES OR OTHER APPLICABLE LAWS OR REGULATIONS.

8. **Certified Product Quality Standards and Maintenance**

8.1 **Certification Development Plan.** As between the parties, UL Contracting Party shall own all rights, title and interest in and to, and nothing herein shall grant Client any rights to use any of, the Certification Development Plan including the selection of materials for testing and establishment of test groups, processes, analyses, know-how, formulae, techniques and algorithms used by UL Contracting Party in the performance of the services under this Service Agreement.

- 8.2 **Quality Obligations of Client.** Client acknowledges and agrees that its use of the eco INSTITUT Label Mark constitutes Client's declaration and representation that a Certified Product bearing the eco INSTITUT Label Mark is covered by the Certification Program and was manufactured in conformity with all applicable requirements of the UL Contracting Party, including the Certification Standards. Client further covenants that: (i) all products sold as Certified Products will comply with the Certification Standards upon which the Certified Product(s) were approved in the most recent Initial or Annual Confirmation Testing; (ii) Client and/or the manufacturer of the Certified Products will maintain a quality control system that covers all Certified Products at all times while Client (or manufacturer) manufactures and distributes products as Certified Products, and will follow such quality control system with respect to all such Certified Products. Client acknowledges and agrees that (i) Client is responsible for the design and operation of its quality control system and (ii) UL Contracting Party will rely on such system to ensure consistent quality of any products that become Certified Products. Client agrees to notify UL Contracting Party of any complaints that Client receives that relate to a Certified Product's compliance with the Certification Standards and, together with the notification of the complaint, indicate what responsive action has been or will be taken with respect to the complaint.
- 8.3 **Improper Use.** If at any time UL Contracting Party determines that Client has used the eco INSTITUT Label Marks on, or in connection with, products or materials that are not Certified Product(s) or otherwise not in compliance with these Service Terms or Global Services Agreement, UL Contracting Party may notify Client in writing of the mislabeling or misuse of the eco INSTITUT Label Marks. Client must correct the labeling or usage of the eco INSTITUT Label Marks as requested by UL Contracting Party, and notify UL Contracting Party of the corrective actions it has taken within thirty (30) days of Client's receipt of notice. Client further agrees that any unauthorized use or other misuse of the eco INSTITUT Label Marks or other UL names, trademarks, certification marks or service marks will subject Client both to liability for breach of contract and to the remedies for such breach set forth in the Global Services Agreement and in these Service Terms.
- 8.4 **Right to Communicate Certification Status.** UL Contracting Party shall have the right, but not the obligation, at all times, whether this Service Agreement is in effect, to communicate to the public accurately Client's current and past certification status and any impending action that UL Contracting Party might take with respect to such certification status, including but not limited to publication in the UL's Product Sustainable Database. UL Contracting Party shall have no liability to Client whatsoever for any harm caused Client by UL Contracting Party's communication thereof.
- 8.5 **Corrective Action.** Client agrees to take corrective actions, as instructed by UL Contracting Party and in UL Contracting Party's sole discretion, including but not limited to re-labeling and public notification of mislabeled product(s) to remedy any misuse of the eco INSTITUT Label Marks or failure of Certified Product(s) to comply with the Certification Standards. All corrective actions shall be at Client's sole expense.

9. Client's On-Going Certification Testing and Reporting Obligations

- 9.1 **On-Going Compliance with Procedures.** Client agrees to comply with UL Contracting Party's then-current Ongoing Certification Testing Procedures, including Product Investigation Services or Declaration of Conformity. Client understands that they will be issued an additional Quotation for such Services. Client acknowledges that successful completion of Ongoing Certification Testing is solely Client's responsibility, and that UL Contracting Party shall not be responsible for any failure of Client to complete testing prior to the applicable deadline for any reason, including but not limited to Client's unwillingness or inability to deliver Products to the UL Contracting Party in sufficient time to permit completion of such testing. All samples and other information submitted by Client in connection with Ongoing Certification Testing shall be provided by Client at Client's expense.
- 9.2 **Product Changes/Additional Testing.** Client will provide written notice to UL Contracting Party prior to any changes in the manufacturing processes or changes in the materials and/or chemicals used by Client in the manufacturing or construction of such Product provided by Client. On an annual basis, Client will provide written confirmation by submission of the Declaration of Conformity.
- 9.3 **Declaration of Conformity.** In the Declaration of Conformity the Client is committed to certifying that the composition as well as the production of the commodity distinguished with the eco INSTITUT Label corresponds to the test specimen and the data provided. In the case of incorrect or incomplete data from the client the certification document and the eco INSTITUT Label loses its validity.
- 9.4 **Re-certification of Compliant Products.** Client shall pay to UL Contracting Party the applicable Annual Certification Fees by the designated annual recertification date. The Certified Product shall be deemed re-certified upon (i) receipt of all fees due the UL Contracting Party, and (ii) Client's meeting the requirements set forth in this Service Agreement, both as determined by UL Contracting Party in its sole discretion.
- 9.5 **Non-Compliance.** If, by any Ongoing Certification Testing deadline, (i) any or all Certified Products have not successfully completed Ongoing Certification Testing, (ii) UL Contracting Party has not received full payment of all fees owed by Client, or (iii) any Certified Product has failed such Ongoing Certification Testing, all affected Certified Products within the affected Sample shall become provisionally non-compliant.

10. Termination

- 10.1 **Termination by Client without Cause.** Client may at any time, upon sixty (60) days notice to UL Contracting Party, terminate this Service Agreement and/or the authorization granted under this Service Agreement with respect to certain Certified Products. UL Contracting Party shall be under no obligation to refund any fees paid by Client. If Client discontinues any Certified Products, Client shall notify UL Contracting Party and the authorization shall terminate with respect to those De-Certified Products (as defined in Section 11.1).

10.2 **Termination for Breach.** In addition to the other termination provisions provided for in this Service Agreement, either party may terminate this Service Agreement if the other party (i) breaches any material term or condition of this Service Agreement (except as otherwise provided in Sections 6, 8, and 9) and fails to cure such breach within thirty (30) days after being provided written notice of the breach; (ii) becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or the like, under the law of the United States, for the benefit of creditors; or (iii) becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation or the like, under the law of the United States, for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) days of filing.

10.3 **Termination by UL Contracting Party for Breach**

10.3.1 Termination of authorization with respect to certain Certified Products. UL Contracting Party may terminate the authorization to use the eco INSTITUT Label Marks with respect to certain Certified Products without further right to cure if Client:

- i. Fails to pay any fees due in connection with the Certified Products within thirty (30) days of the due date of such fees;
- ii. Becomes de-certified in some, but not all, Certified Products pursuant to UL Contracting Party's then-current procedures.

10.3.2 Termination of the Service Agreement. UL Contracting Party may terminate this Service Agreement if Client:

- i. Fails to pay any Fees due in connection with all Certified Products then-certified within thirty (30) days of the due date of such Fees;
- ii. Becomes de-certified in all Certified Products pursuant to UL Contracting Party's then-current procedures;
- iii. Fails to correct improper usage of the eco INSTITUT Label Marks within the thirty (30) day cure period as set forth in Section 6.2;
- iv. Fails to correct use of the eco INSTITUT Label Marks on non-Certified Products within the thirty (30) day cure period as set forth in Section 8.3;
- v. Fails to take corrective action as required by UL Contracting Party pursuant to Section 8.5.

11. **EFFECT OF TERMINATION OR EXPIRATION**

11.1 **Termination or Expiration of authorization with respect to certain Certified Products.** Upon termination or expiration of the authorization with respect to certain Certified Products, formerly Certified Products that are de-certified pursuant to Section 10.3.1 shall be deemed "**De-Certified Products**" and all De-Certified Products that were manufactured after the De-certification Date shall be deemed "**Non-Compliant Product(s)**". Client agrees:

- i. To cease marking Non-Compliant Products with the eco INSTITUT Label Marks immediately and to remove the ECO INSTITUT Label Marks from any Non-Compliant Products previously marked, and to cause its agents and distributors to do the same;
- ii. To amend all marketing and promotional materials so as to reflect accurately the certification status of the De-certified Products and Non-

Compliant Products, and to cause its agents and distributors to do the same; and

- iii That UL Contracting Party may take any and all actions necessary so as to communicate to the public the certification status of Client's products.

11.2 **Termination or Expiration of this Service Agreement.** Upon termination or expiration of this Service Agreement, Client agrees, in addition to that set forth in Section 11.1 above:

- i To destroy all printed materials, including marketing and promotional materials, advertising and packaging, bearing the eco INSTITUT Label Marks, and use commercially reasonably its best efforts to cause its agents and distributors to do the same, as soon as no Certified or De-Certified Products remain in inventory, but no later than six (6) months of such expiration or termination, and provide written notice of such destruction to UL Contracting Party; and
- ii To cooperate with UL Contracting Party or its appointed agent to apply to the appropriate authorities to cancel any recording of this Service Agreement from all government records; and
- iii That, as between Client and UL Contracting Party, all rights in the eco INSTITUT Label Marks and the goodwill associated therewith shall remain the property of UL Contracting Party.