ENEC Mark Program Responsibilities

By acceptance of a formal quotation for ENEC certification or by use of the ENEC Mark, the Customer (“Customer” or “you” or “your”) agrees with the responsibilities set forth below, which also identified responsibilities of UL (collectively, “UL” or “we”, “us”, or “our”) under this Program.

A. Testing and Certification Services

1. Scope of the Services. The term “Customer” is used to denote the following: (a) an Applicant, who submits devices, equipment, materials, or systems (“Product(s)”) to UL for a “Product Investigation” designed to assess: (1) the Product’s conformity to applicable ENEC Mark Program Requirements, including, without limitation, any applicable European Norm (“EN”) standard(s) under the ENEC program, and any applicable ENEC Mark Factory Inspection Service requirements (collectively, “ENEC Mark Program Requirements”), and (2) the eligibility of such Product(s) for the ENEC Licence and Factory Inspection Service (“ENEC Mark Service”); and/or (b) a Manufacturer,” who carries out control in such stages of the manufacturer, assessment, verification, handling and storage of a Product and has responsibility for continued compliance of the Product with the ENEC Mark Program Requirements; and/or (c) a “Production Site”, that serves as a location at which the Product, covered by the ENEC Mark Service, is produced or assembled and covered by the ENEC Mark Factory Inspection Service requirements.

Before UL establishes ENEC Mark Service for any Product, the Applicant must provide UL with the name and address of the Product Manufacturer and the Production Site(s) where the Product is to be manufactured or assembled.

2. Certification Decision. We will investigate submitted products and, if eligible, in our sole opinion, authorize the use of the ENEC Mark with the following considerations.

Our employees responsible for formulating policy, developing and implementing processes, and performing their duties in compliance with those processes, are solely responsible for the certification decision.

You acknowledge that the Manufacturer(s) of the product must demonstrate that the Manufacturer(s) will produce the product in accordance with all requirements including, without limitation, the applicable EN standard or other such specified requirements. The Manufacturer(s) shall establish and maintain a program of production, inspection and tests to assure that products bearing the Marks comply with ENEC Mark Program Requirements.

You agree to inform UL of any changes to the product that affect the product’s compliance with this document or the Standard or other such specified requirements prior to implementation of the changes into production.

3. Product Investigation. A “Product Investigation” consists of UL: (a) performance of tests on samples of a Product, in accordance with ENEC Mark Program Requirements; and (b) evaluation of Product construction criteria by examination of samples of the Product, in accordance with ENEC Mark Program Requirements. The purpose of such testing and examination is to determine whether representative Product samples conform to ENEC Mark Program Requirements and whether the Product might be eligible for ENEC Mark Service.

If we determine that submitted Products are eligible for ENEC Mark Service, we will issue an ENEC Licence to the Applicant (at which time the Applicant will be referred to on the ENEC Licence as “Licence Holder”) that permits you to use the ENEC Mark and ENEC Licence according to the requirements of the ENEC Mark Program.

4. Your information. You represent and warrant that all the information and data provided to us by you or on your behalf is complete and accurate and that we may rely upon such information when testing, investigating and establishing the ENEC Mark Service for your product.
5. Confidentiality of your information. You agree and consents to us sharing your information and data with UL’s subsidiaries, affiliates, subcontractors or third parties, in order for us to: (i) perform the ENEC Mark Program services; or (ii) act in the interest of public safety. You further represents and warrants that all information and data provided to us by you are properly owned or licensed by you, do not infringe upon the intellectual property rights of any third party, and that you are allowed to provide such information to us without restriction.

We agree not to voluntarily disclose secret information obtained in confidence from you to third parties without your prior written authorization unless the information is already known to us, publicly available, or subsequently acquired from other sources. Disclosure of such information is also allowed when required by law; in such cases, you will be informed of the disclosure as permitted by law.

6. Samples. If the ENEC Mark Program requires sample examination, you will ship representative samples to us at your expense. Upon completion of the examination, such samples may be destroyed, unless other arrangements are agreed in writing for the return of samples at your expense. The shipping, testing and sample preparation may damage and/or destroy any sample and you agree that you will not hold us liable for any such damage or destruction.

7. Subcontracting. You agree that we may subcontract portions of the ENEC Mark Program to third parties. We will provide as a term of any such subcontract that the subcontractor will meet our current qualification requirements, including complying with our confidentiality requirements.

8. Estimated Schedule. You acknowledge and agree that each Product Investigation is unique and that the timing of each such investigation will vary, depending upon the nature of the particular investigation and upon the findings resulting therefrom. If appropriate, we will provide you with an estimated time schedule in the Quotation. This schedule is only an estimate.

You hereby expressly waives, releases, and exempts us and our trustees, directors, officers, employees, members, affiliates, agents, and subcontractors from any and all liability, claims, demands, or actions whatsoever for any alleged loss, damage, or injury arising from any alleged failure on our part to perform any ENEC Mark Service within the time period set forth in any estimated time schedule that we might provide to you.

9. Compliance with the ENEC Mark Program Requirements. In the event that any ENEC Mark Service is established, you agree that you will comply with the applicable ENEC Mark Program Requirements at all times including (a) the description and specifications contained in the test report; (b) the published EN Standard(s) referenced on the ENEC Licence, applicable to the covered product and (c) the Factory Inspection applied as a condition of ENEC Mark Service.

10. The validity of the ENEC Licence. The ENEC Licence is valid for as long as the standards used for testing are valid and the Applicant fulfills the ENEC Mark Program Requirements but may be withdrawn by us earlier if: (i) The Licence is terminated for any reason; (ii) Production of the certified Product ceases or the Product is modified without notification to us; (iii) The ENEC Licence or ENEC Mark is used contrary to the ENEC Mark Program requirements; (iv) All fees and expenses, including the Annual Fee are not paid when due; (v) The Production Site does not fulfill the requirements of the ENEC Mark Factory Inspection Service; (vi) The Production Site(s) is not having a quality system in compliance with the requirements of the ENEC Mark Program (vii) We are not permitted access to the Production Site(s) for which the ENEC Licence is authorized; or (viii) Based on the request from the Applicant.

11. Information Received by Customer Concerning Certified Products. You will promptly notify us in writing: (i) when you notify a relevant governmental agency of potential field hazards; (ii) when your product fails to meet any of the following: (a) ENEC Mark program requirements; (b) the description, specifications contained in the test report and (c) the applicable standard(s) referenced on the ENEC Licence, and/or (iii) when you have found or has received a report that your product could create a substantial hazard to users.

You agree to keep a record of all complaints made known to you relating to any product’s compliance with ENEC Mark Program Requirements, and to make these records available to us when requested. You agree to take appropriate action to respond to such complaints, and any noncompliance with ENEC Mark Program Requirements and to keep a record of such actions.
12. Revisions to ENEC Mark Program Requirements. You acknowledge and agree that if a revision to an applicable ENEC Mark Program Requirement is adopted, or if an applicable ENEC Mark Program Requirement, including without limitation the applicable EN Standard, is withdrawn, we shall determine the date by which you must cease using the ENEC Licence related to your Product(s) (“the date of withdrawal”) and shall notify you in writing, and as soon as is practicable, of such date (“the cancellation notice”).

You unconditionally agree to comply with such cancellation notice. Products that are subject to cancellation due to changes in requirements are eligible for resubmission, upon request by the Applicant, under the revised requirements.

B. Factory Inspection Service

1. ENEC Mark Factory Inspection Service Requirements. The ENEC Mark Factory Inspection Service requirements include CIG inspection requirements as described in PD CIG 021 Factory Inspection Procedure and will be provided to the Applicant as part of the certification process. Additionally for some product categories the Manufacturer must have established quality system in compliance ISO 9001.

2. Inspection visits. Before we issue the ENEC Licence to any Product, we reserve the right to conduct an Initial Inspection to determine whether the Manufacturer’s Production Site conforms to ENEC Mark Factory Inspection Service requirements, including the CIG inspection requirements. You further agree that the Manufacturer(s) shall establish and maintain a quality control program of inspection and testing of manufactured Product(s) at each Production Site in order to ensure that Products bearing any ENEC Mark conform at all times to ENEC Mark Program Requirements.

You agree that our representatives will make at least one yearly Routine Factory Inspection visit at the Production Site(s) where the Products, that are eligible for ENEC Mark Service, are manufactured and that you will allow the representative to select samples for retesting, where necessary.

3. Access to Facilities. You acknowledge and agree that our representatives shall have free, unannounced, immediate, safe, and secure access to the Production Site(s) 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 Production Site and/or storage facilities are actually in operation except under extraordinary circumstances.

You agree to ensure access by representative from accreditation bodies in order for them to monitor inspectors conducting inspections in the Production Site(s).

4. Access to ENEC Marks. Consistent with Paragraph 3, above, Manufacturer(s) shall make all ENEC Marks, and the means of applying such Marks, available for inspection by our representatives at each Production Site at all reasonable times. If our Inspection discover features that do not conform to ENEC Mark Program Requirements, the Manufacturer(s) must correct such items within a time period designated by us, remove the ENEC Marks from all Products that our representative identifies as non-conforming, or cease selling any such non-conforming Product(s) pending the outcome of any appeal to us, as provided hereinafter. If any Manufacturer disagrees with our representative regarding whether a Product is eligible to bear the ENEC Mark, the Manufacturer(s) may hold the Product at the Production Site or storage facility pending an appeal to, and a decision by, us.

5. Limitation of our Liability for ENEC Mark Factory Inspection Services. You expressly acknowledge and agree that ENEC Mark Factory Inspection Services does not in any way relieve you of any responsibility for the design, manufacture, testing, marketing, and sale of its Product(s). Rather, you acknowledges and agrees that ENEC Mark Factory Inspection Service is designed solely to serve as a check on the means that the Production Site(s) is/are using to determine the continued conformity of the ENEC Mark Program Requirements. You further acknowledge and agree that ENEC Mark Factory Inspection Service is designed to supplement, and not to supplant, your own efforts to examine and to test your manufactured Product(s). You agree to maintain appropriate testing and measuring equipment at your facilities. You will ensure that the testing and measuring equipment is properly calibrated and maintain appropriate records of calibration for the equipment. You will make your calibration records and your testing and measuring equipment available to us during a Factory Inspection as appropriate for the applicable Products.
6. UL documentation. We retain all ownership, rights, title, and interest, in and to any reports, procedures, data, calculations, notes, or other materials in any form conceived, prepared, generated or originated by us.

7. Assignment. You cannot assign any of your rights or obligations under the ENEC Mark Program to any other person without our written consent. We may, upon prior written notice to you, assign any of our rights or obligations to any other UL Company.

C. Fees and Expenses

1. Product Investigation Fees. We will establish a fee for each Product Investigation (including engineering, technical, and support personnel charges) and provide this fee in a Quotation to you. Unless we expressly agree in writing otherwise, we will bill Applicant for all Product Investigation fees. The fee shall cover one examination and one set of such tests as UL determines are appropriate for the Product (not including testing of additional samples, retesting the Product or a modified sample of the Product, separate investigations of components of a Product, or reimbursable expenses), as well as the preparation of a report. We shall not exceed the agreed fee without written authorization from Applicant.

2. ENEC Mark Factory Inspection Service Fees. Unless we expressly agree in writing otherwise, we will bill the Applicant for the ENEC Mark Factory Inspection Service at our then-current rates, which we may, upon notice to the Applicant, change from time to time.

ENEC Mark Factory Inspection Service charges may vary, depending upon the nature and extent of the necessary inspection that we may undertake, including any costs resulting from the failure of a Production Site(s) to conform to ENEC Mark Program Requirements or from insufficient Production quality control procedures.

3. Field Report Investigation Fees. Unless we expressly agree in writing otherwise, we will bill Applicant at our then-current rates for any and all investigations and/or corrective actions necessitated by any unauthorized use of the ENEC Mark and/or by any failure of a covered Product to conform to the description and specifications contained in the Test Report; the ENEC Mark Program Requirements and/or the ENEC Licence.

4. Annual Fee. We will bill the Applicant an Annual Fee for each ENEC Licence issued at our then current rates.

5. Expenses. Unless we expressly agree in writing otherwise, we will bill Applicant for all reimbursable expenses associated with a Product Investigation and/or Factory Inspection, which may include, without limitation: travel expenses; carrier, communications, and special equipment charges; materials, energy, and fuel; services of outside contractors or facilities; charges for photographs, drawings, reproductions, and printing; and charges for preparation of extra copies of Test Reports and other documents.

D. Mark and Licences

1. UL Ownership. Client acknowledges and agrees that we own several Marks including, without limitation, “ENEC Mark with the identification number 15,” “You expressly agree that you will not use UL’s name, or any abbreviation, symbol, or Mark thereof, on, or in connection with, your Products, containers, or packaging, unless and until expressly authorized by us, and then only in the form or manner specified by us in writing (e.g., you may not refer to a Product submitted for ENEC Mark Service as “ENEC Mark pending”). You further agree that we may, but is not obligated to, notify any third party of any improper or unauthorized use of the Marks, or reference to UL, by you.

2. Form of ENEC Licence. The ENEC Licence entitles the Product to bear the ENEC Mark with the identification number 15. For certified household appliances products, the D-Mark shall be affixed on the right of the ENEC Mark, in a size equivalent to that of the ENEC Mark. Unless we expressly agree in writing otherwise, any ENEC Marks shall be in the form of separable, legible labels not readily transferable from one Product to another. The size of the mark may be reduced or enlarged on the conditions that it remains readable and that the proportions of width and height are kept. The use of dark text for the ENEC Mark on light backgrounds and light text on dark backgrounds is permitted.

3. Ownership of Labels. Notwithstanding the fact that we will not bear the manufacturing cost of labels or other means of applying the ENEC Marks, you agree that title to, and control of, labels, markers, or other means of marking, shall be vested solely in UL in perpetuity. Our representatives shall have the right, on demand, to acquire possession of
any and all unused labels, markers, or other means of applying the ENEC Marks when, in the sole opinion of our representative, such action is warranted under the circumstances.

4. Your Use of ENEC Mark. You expressly agree and warrant that you are solely responsible for your use of any Mark and that you will, through proper inspection, examination, testing, and/or otherwise, periodically confirm that any of your Products that bear an ENEC Mark have been, and are being, manufactured in conformity with ENEC Mark Program Requirements. You further agree that your use of the ENEC Mark constitutes your declaration and representation that Products bearing the ENEC Mark are covered by an ENEC Mark Service and were manufactured in conformity with all applicable ENEC Mark Program Requirements, including without limitation the description and details contained in the ENEC Mark Test Report and ENEC Licence. You further agree that your use of such a ENEC Mark constitutes your declaration and representation that field installed Products bearing the Mark are covered by a ENEC Mark Service and have been installed, and will be maintained, in conformity with all applicable ENEC Mark Program Requirements.

5. Misuse of UL Name or ENEC Mark. You acknowledge and agree that the manufacture, sale, delivery, shipment, distribution, or promotion of any Product utilizing a Mark, or a description referring to UL, could mislead third parties if such Product is not, in fact, covered by ENEC Mark Service and/or does not comply with ENEC Mark Program Requirements (including, without limitation, the applicable EN Standards or Test Report), and/or if the ENEC Marks are used in any way other than as provided in the ENEC Mark Program Requirements and in the applicable Test Report and ENEC Licence. You acknowledge and agree that any such use of the UL name or ENEC Mark would constitute a “misuse” under the ENEC Mark Program Requirements. You expressly agree that any misuse of the UL name or ENEC Mark will subject you to liability and to the remedies set forth in the ENEC Mark Program Requirements and in Paragraphs E.1 - E.4 below.

6. Use of UL Name and ENEC Marks in Advertising and Promotional Materials. Subject to the ENEC Mark Program Requirements, we will permit you to make appropriate references to UL as authorized by us in writing in promotional or advertising material, in any medium, including, without limitation, print or electronic media, solely in connection with covered Products that bear the ENEC Mark; PROVIDED THAT, in our opinion, the following conditions are met: (a) the promotional or advertising material is in no way inconsistent with the findings and/or coverage of UL; (b) the reference to UL is not intended to and does not create a misleading impression as to the nature of our findings, its coverage, and/or its ENEC Mark Service; and (c) the promotional or advertising material does not in any manner state or imply that we 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 ENEC Mark that is prescribed for use on the ENEC Licence, no other Marks may be used in any advertising or promotional material related to a Covered Product, unless otherwise expressly authorized by us in writing.

E. Termination.

1. Immediate Termination Events. In the event that you default on any of your obligations, including, but not limited to, any misuse of any ENEC Mark, as defined in Paragraph D.4 above, we may immediately terminate or suspend, any of your Products related to such default, and any and all rights or authorities conferred upon you including any right to use any Marks on any Product(s), without prejudice to any other rights or remedies that we 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 you (“the cancellation notice”), we may terminate, in whole or in part, as to any or all Covered Product(s), any rights or authority conferred upon you: (a) your failure to use the Mark on covered Product(s) for a period of two (2) consecutive calendar years; (b) your filing of any voluntary or involuntary petition in bankruptcy; (c) the appointment of a receiver for your business; and/or (d) the voluntary or involuntary liquidation of your business. In such termination notice, we will provide you with a date by which you must cease using any and all Marks covered by the notice (the “date of withdrawal”).

3. Termination Upon Non-Eligibility. If, at any time and for any reason, any of your Product(s) become ineligible for ENEC Mark Service, we shall immediately discontinue service on such ineligible Product(s) and shall terminate your rights and authorities under the ENEC Mark requirements with respect to such Product(s), pursuant to a termination notice.

4. UL’s Actions Upon Termination. Upon any termination, including customer request to end service, we may, among other things, (a) discontinue any ENEC Mark Service on any of your Product(s), and/or (b) take physical possession of any unused ENEC Marks, which, in our judgment, were issued for use in connection with any Product(s)
related to the termination. You expressly agree that, on or before the cancellation date, as defined in Paragraph E.2. above, you will cease using any ENEC Marks on, or in connection with, any covered Product(s) addressed in the cancellation notice, including any use of any ENEC Marks, or any reference to UL, in the marketing, promotion, and/or advertising of such Product(s).