



## EVALUATION SERVICE PROCEDURES

- Step 1 Read the application form (Sheet 2) completely. Fill in all spaces and sign and return the original.
- Step 2 Fill out the initial questionnaire for factory assessment form.
- Step 3 Read the attached Licensing Agreement. Sign and return both originals.
- Step 4 Determine the proper fee (Sheet 3) and submit the application forms, Licensing Agreement and fee to IAPMO ES, along with the information and materials set forth in steps 5-12 as follows. Please note that the fees for testing are directly charged to you by your selected laboratory.
- Step 5 Furnish a copy of detailed, dimensioned engineering drawings (such as blueprints) of the product which include the location, text and type of the required Mark of Conformity and all markings required by the product standard, i.e., etched, glass-over label, raised letters, etc.
- Step 6 Furnish a copy of a test report from an IAPMO R&T listed laboratory or ACLASS, A2LA, NVLAP, SCC or IAS accredited laboratory indicating compliance with the appropriate product standard. A list of IAPMO R&T listed laboratories is available at <http://www.iapmo.org>. Test reports must not be over one year old and must be in the required format. (See note in Step 4 regarding laboratory testing fees.)
- Step 7 Deliver, prepaid and without charge to the attention of the Evaluation Service Committee at the Association's office a sample or samples of the product. The exact number of samples will be determined by the IAPMO ES technical staff. Samples must bear prototype marking of the IAPMO ES Mark as determined in step 5. The Association will not be responsible for loss or damage to any materials submitted. Unless samples are claimed within two weeks of notice of listing, the Association may dispose of such materials. The Association may, at its discretion, permanently retain any sample.
- Step 8 Furnish a color photograph of each product or design submitted for listing. Each photograph should contain as much marking and identification detail as possible.
- Step 9 Furnish originals of the following: literature/brochures showing and describing the product, care & maintenance instructions, and installation instructions (color brochures may be used to satisfy this requirement).
- Step 10 Furnish the street address, telephone number, name of the contact person at each plant and other information required in the Licensing Agreement for each location where the evaluated product is manufactured or warehoused or is to be manufactured or warehoused. This information is not required for component part manufacturing locations but only for final assembly locations.
- Step 11 If product is imported or to be imported, furnish the name, street address, telephone number and contact person of importer and consignee.
- Step 12 Acceptance by the IAPMO ES will be contingent upon the applicant furnishing to the IAPMO ES staff appropriate production samples bearing the final appropriate markings prior to listing. If samples cannot be kept in files product labels must be provided along with photographs of production samples bearing the markings.



# IAPMO UNIFORM EVALUATION SERVICE, LLC

• 4755 E. PHILADELPHIA STREET • ONTARIO, CALIFORNIA 91761 • USA •  
(909) 472-4100 • FAX (909) 472-4171

# 2

## APPLICATION FOR EVALUATION SERVICES

**FOR APPLICATION TYPE PLEASE CHECK ONE OF THE FOLLOWING:**

- |                                    |   |
|------------------------------------|---|
| <input type="checkbox"/> PRODUCT   | <input type="checkbox"/> METHOD OF CONSTRUCTION |
| <input type="checkbox"/> CRITERIA  | <input type="checkbox"/> DESIGN                 |
| <input type="checkbox"/> MATERIAL  | <input type="checkbox"/> PREFABRICATED          |
| <input type="checkbox"/> COMPONENT |   |

**CHECK ONE OR MORE OF THE FOLLOWING THAT APPLIES TO THIS APPLICATION:**

- |  |  |
|--|--|
| <input type="checkbox"/> New Evaluation Report   | <input type="checkbox"/> Additional Company Listing**                                |
| <input type="checkbox"/> New Evaluation Criteria   | <input type="checkbox"/> Change in manufacturing plant or importer information**     |
| <input type="checkbox"/> Renewal   | <input type="checkbox"/> Name/Address/Other non-technical change*                    |
| <input type="checkbox"/> Technical or other modification to original evaluation*<br>(see note 2) | <input type="checkbox"/> Additional Items<br>** Attach explanation on separate sheet |

Product name / Attributes for which recognition is sought / Material/Component / Design Description etc. \_\_\_\_\_

Standard and/or Codes to Review against: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Company: \_\_\_\_\_ Legal Status: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

Is there a situation under which the product can lead to potential hazard?  Yes  No

Person responsible for quality management system:

Name \_\_\_\_\_ Title \_\_\_\_\_

Manufacturer's name (if Different) \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Manufacturer's street address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Hours of operation \_\_\_\_\_

Anticipated Plant closing & shutdown \_\_\_\_\_

Local or State Holidays \_\_\_\_\_

Is this an ISO 9000 or other ISO standard certified company  No  Yes

**USE ATTACHED SHEET FOR EACH ADDITIONAL MANUFACTURING LOCATION, WAREHOUSE, IMPORTER CONSIGNEE OR OTHER PLANT INFORMATION**

**For imported products, please provide name, address and telephone number of importer or consignee.**

PLEASE REVIEW AND SIGN THE SECOND PAGE OF THIS APPLICATION

**- This Box is For Association Use Only -**

Application Number \_\_\_\_\_ Date Filed \_\_\_\_\_ Fee \_\_\_\_\_ Received by \_\_\_\_\_  
Report Number \_\_\_\_\_

*- APPLICATION FOR EVALUATION SERVICES -*

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1. This is an application for issuance of an Evaluation Report (ER) and or a Evaluation Criteria as applicable.
2. Application costs include the first item only and additional items are invoiced at \$1995 each. An item is determined by UES staff and may include additional assembly, performance characteristic, model series, property method, performance characteristic or assembly which would require separate evaluation to determine code compliance. Explanation of Items charged will be provided with the invoice.
3. Applicant agrees to furnish all necessary drawings, test data, laboratory reports and product samples required by UES Staff. IAPMO UES is not responsible for loss or damage to any materials submitted. Unless samples are claimed within two weeks of notice of listing, IAPMO ES may dispose of such materials. IAPMO UES may, at its discretion, permanently retain any sample.
4. No freight collect / postage collect data or product samples will be accepted by the IAPMO UES. The applicant must pay freight for all samples.
5. The application must be complete (including signatures) and all steps of Sheet 1 completed. If, after an application is first received, a period of three months elapses without the steps of Sheet 1 being completed, the application/file will be closed.
6. The application fee and product evaluation fee are non-refundable. If a product is not accepted for listing, only the Filing Category Fee shall be refunded upon written request of the applicant.
7. Applicants for new IAPMO UES reports should note that an initial on-site audit will be required, in accordance with applicable IAPMO UES Rules of Procedure. The applicant must reimburse IAPMO UES for expenses incurred in performing such audits. Reimburse expenses include, but not limited to, travel expenses and staff time.
8. IAPMO membership is not necessary for product acceptance, nor will membership in any way facilitate or confer product acceptance.
9. This application will be accepted for processing only if accompanied by an executed copy of the IAPMO UES Licensing Agreement.

The undersigned certifies that he/she has read, understands, and, on behalf of applicant, approves and agrees to all the foregoing provisions of this application.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print or type name and title: \_\_\_\_\_



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# 2a

## IAPMO ES APPLICATION ATTACHMENT Manufacturing Plant Locations

The following information is required for each plant where your listed products are manufactured and all warehouses the evaluated products are stored. Complete one sheet for each plant or warehouse. Make photocopies of this sheet as needed.

Please fill out the information below and return it with your application form:

COMPANY NAME: \_\_\_\_\_ REPORT NO. (If Known): \_\_\_\_\_

PLANT NAME: \_\_\_\_\_

PLANT STREET ADDRESS: \_\_\_\_\_

CITY, STATE/PROV., POSTAL CODE, COUNTRY: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ E-MAIL ADDRESS: \_\_\_\_\_

2<sup>ND</sup> CONTACT PERSON: \_\_\_\_\_ E-MAIL ADDRESS: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ FAX # \_\_\_\_\_

HOURS OF OPERATION: \_\_\_\_\_

ANTICIPATED PLANT CLOSINGS, SHUTDOWNS OR HOLIDAYS: \_\_\_\_\_

Is this plant ISO 9000 Certified?  No  Yes

**WAREHOUSE LOCATION** \_\_\_\_\_

(Street Address) \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX # \_\_\_\_\_

HOURS OF OPERATION: \_\_\_\_\_

Is this warehouse ISO 9000 Certified?  No  Yes

Can English be used as the language for all audits? Yes  No  If no, please specify preferred language: \_\_\_\_\_

SIGNATURE OF APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_

PRINT OR TYPE NAME AND TITLE \_\_\_\_\_



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# 2aa

## IAPMO UNIFORM ES APPLICATION ATTACHMENT – ADDITIONAL COMPANY NAMES

The following information is required for EACH Additional Company Name that currently appears on (or will be appearing on) your Evaluation Report.

Complete one sheet for each Additional Company Name (you may make photocopies of this sheet as needed).

Please provide all information as noted below for EACH ADDITIONAL COMPANY NAME that you are applying for or that currently appears on your Evaluation Report:

SUPPLIER COMPANY NAME: \_\_\_\_\_

FILE NO. \_\_\_\_\_

**PLEASE ATTACH LIST OF MODELS ON SEPARATE SHEET WITH CROSS-REFERENCE LIST OF CURRENTLY LISTED MODELS ON THE FILE.**

ADDITIONAL COMPANY NAME: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY: \_\_\_\_\_ STATE \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ FAX # \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

HOURS OF OPERATION: \_\_\_\_\_

ANTICIPATED CLOSINGS OR SHUTDOWNS & LOCAL OR STATE HOLIDAYS:  
\_\_\_\_\_  
\_\_\_\_\_

PLEASE CHECK THE BOX BELOW THAT APPLIES TO THIS ADDITIONAL COMPANY NAME LOCATION:

IS THIS THE HEADQUARTERS LOCATION ONLY?  
(If so, then please provide all information as noted above)

IS THIS A WAREHOUSE LOCATION ONLY?  
(If so, then please provide all information as noted above)



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# 3

## EVALUATION REPORT FEES

Basic Report	Each Additional Item <sup>3</sup>	Each Additional Listed Company Name		Each State Supplement if the same as IBC/IRC	Each State Supplement if different than IBC/IRC	Each Additional Code	Each Additional Page beyond the first 3	UES Fees Per Inspection <sup>4</sup>			
		Common Mfg	Separate Mfg					Within the continental USA <sup>4</sup>	Hawaii, Alaska, Canada, Mexico	All other locations	
New Report	\$6,990 <sup>1,2</sup> +	\$995	\$2,230	\$650	\$1,650	\$650	N/A				
One Year Renewal or Transfer Report	\$4,990 <sup>1,2</sup> +	\$950	\$2,230	\$315	\$750	\$290	\$345				
Two Year Renewal	\$8,725 <sup>1,2</sup> +	\$1,670	\$3,910	\$560	\$1,320	\$510	\$610	\$1,850	\$2,950 <sup>5</sup>	\$3,750 <sup>5</sup>	
Three Year Renewal	\$12,975 <sup>1,2</sup> +	\$2,470	\$5,800	\$820	\$1,950	\$760	\$900				
Modifications or Changes not made at Renewal	\$3,990 +	\$995	\$2,230	\$650	\$1,650	\$650	\$345				
Masked Evaluation Report Fee	\$3,750 <sup>6</sup>										

<sup>1</sup> Basic Report is defined as an Evaluation Report with: One item, One Code, One Manufacturing Facility, One Report Holder Name, Up to 3-pages in length, with inspection by others.

<sup>2</sup> Engineering Hours in excess of 6 are \$275 each.

<sup>3</sup> An item is determined by UES staff and may include additional model series, property method, performance characteristic or assembly which would require separate evaluation to determine code compliance. Often thought of as, an aspect of the product which would otherwise require the issuance of a separate report. Engineering Hours in excess of 4 are charged \$275 each.

<sup>4</sup> Only charged if you used UES as your inspection agency. If you already have a relationship with an ISO/IEC 17020 certified agency you may continue to use them.

<sup>5</sup> Travel and other expenses may be charged later.

<sup>6</sup> Fee for new and annual renewal.



# IAPMO UNIFORM EVALUATION SERVICE, LLC


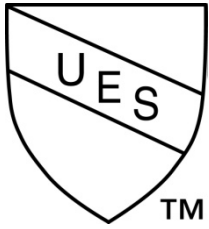

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## EXHIBIT G:

**“Certification Marks,”** as described in paragraph 2 of the Licensing Agreement, shall mean the following:  
**The use of one of IAPMO UES certification marks or UER-Report Number is mandatory upon product listing.**

Notes:

1. IAPMO UES neither approves nor recommends any product or material or designs, and therefore only the phrase “Evaluated By” or “Listed By” followed by the appropriate UER-Report Number or Mark of Conformity is permissible [paragraph 9 of Licensing Agreement ES-019].
2. Size & Appearance: IAPMO UES shield marks should be 100% visible (not cropped), maintain aspect ratio (not skewed), and maintain vertical orientation (not rotated). It is recommended that the shield should not be less than 0.25” in height. However, the size may vary as long as it maintains its legibility. Letters within the shield should be legible. The ® or “TM” symbols must be visible and positioned on the bottom right-hand corner outside the shield, they are not required to be in proportion with the certification mark, but must be large enough to be legible.
3. Color: IAPMO UES marks are generally printed in either 100% black or 100% Pantone 7469 or reversed in white when against a dark background; however, usage consistent with a company’s accepted color scheme is also allowed.
4. When applying marks directly on products may not be possible due to space and design limitations, please contact your IAPMO UES engineer for further guidance.

	<p>IAPMO Evaluation Service Mark of Conformity</p>
	<p>IAPMO Uniform Evaluation Service Mark of Conformity</p>
	<p>IAPMO ES GREEN Mark of Conformity</p>



# IAPMO UNIFORM EVALUATION SERVICE, L.L.C.



4755 PHILADELPHIA STREET, ONTARIO, CA 91761 USA  
(909) 472-4100, FAX (909) 472-4171

## LICENSING AGREEMENT

THIS AGREEMENT, effective on the date of the last signature set forth below, is between IAPMO Uniform Evaluation Service LLC. (IAPMO UES), a California corporation that evaluates products against requirements contained in various model codes and standards, and the undersigned "Client", a person or organization desiring to have a product or products or materials or designs accepted by the IAPMO UES. This agreement is applicable to both the Uniform Evaluation Report and Uniform Listing Report Programs.

The parties agree as follows:

1. This is a Licensing Agreement between IAPMO UES and Client for evaluation and or listing of the product(s) enumerated on the attached Application for Evaluation and Surveillance by IAPMO UES. The evaluation report is solely a representation of IAPMO UES that the products, reports of testing, specification, and sample(s) submitted for evaluation and or listing have been found to satisfy the requirements found in applicable model codes and or standards as detailed in the evaluation report and or listing report. The Evaluation report does not carry any guarantee of product acceptance by local jurisdictions or authorities using a Code or otherwise affiliated with IAPMO UES. IAPMO UES will make reasonable efforts to assist a Client in obtaining such acceptance. IAPMO UES MAKES NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND WHATSOEVER, EXPRESSED OR IMPLIED AND ALL IMPLIED WARRANTIES INCLUDING ANY WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED. In addition, IAPMO UES has the right under this Agreement to conduct periodic inspections of Client's manufacturing facilities and to review Client's quality assurance procedures and records related thereto in accordance with the provisions of Paragraphs 16 and 18 hereof. This right of inspection and review permits IAPMO UES to verify that Client has appropriate manufacturing controls and has the ability to manufacture products which will continue to comply with the requirements of the applicable Code.

## INTEREST GRANTED

2. IAPMO UES is the licensee of various marks of conformity and the goodwill associated therewith (the "Certification Marks"), both unregistered and registered with the United States Patent and Trademark Office, which are of great value to IAPMO UES. Client agrees that the Marks of Conformity, together with the goodwill connected therewith, are the sole and exclusive property of the IAPMO UES, and Client claims no rights and shall claim no right therein, other than provided herein.

3. Acceptance of the product, material or designs by IAPMO UES, as indicated by the issuance of an Evaluation Report and or Listing Report for said items, constitutes a non-assignable, non-exclusive and revocable license to use the Marks of Conformity on such products as are accepted by the IAPMO UES for the term of the Evaluation Report and or Listing Report in a manner which is consistent with this Agreement.

4. Client shall have no right or license to use any IAPMO UES Marks of Conformity on any Products not evaluated or to license or sublicense any other person or entity to use any Marks of Conformity. Nothing in this Agreement shall be construed to give Client or any other person or entity any right, title or interest in any of the Marks of Conformity, except as expressly granted in this Agreement. Client agrees that it will not register or attempt to register any IAPMO UES Mark of Conformity in its own name or in the name of any other person or entity, and that it will not use any Mark of Conformity as any part of the name or identity of any person or entity.

## TERM

5. Subject to the provisions of this Agreement, the Evaluation Report and or Listing Report, and Client's right to employ the Marks of Conformity on the Evaluated product, shall extend for one (1) year from the date of the Evaluation Report and or Listing Report, and shall continue automatically for successive one-year periods unless this agreement is modified or changed. Report or listing renewals may be made for multiple years based on the fee schedule. In the event that this agreement is proposed to be modified or changed, IAPMO UES shall notify Client of its proposed changes in writing at least 90 days prior to the expiration of any initial or one year renewing period and it shall be a condition precedent to the continued effectiveness of the Evaluation Report that Client execute and deliver to IAPMO UES by the end of such initial or one year renewal period (along with any renewal or other required fees) the modified or changed version of the agreement. Nothing in this paragraph 5 shall be deemed to alter Client's other obligations set forth herein.

## CLIENT'S GENERAL OBLIGATIONS

6. Applicant warrants and represents that all documentation provided by Applicant to IAPMO UES is owned by Applicant and Applicant shall indemnify IAPMO UES and hold harmless IAPMO UES from third party infringement claims with respect thereto.

7. Subject to Paragraph 20 below, Client shall affix at least one of the Marks of Conformity on the product or on other items, such as packaging or maintenance and/or installation sheets, or as otherwise approved by the IAPMO UES. Together with the Mark of Conformity, Client shall permanently identify each evaluated product



or product packaging (if permitted by the IAPMO UES Technical Committee) with markings (or symbols, codes or abbreviations on products or packaging) indicating the location where the product was manufactured, or markings that lead to where the product was manufactured.. Client shall provide IAPMO UES with the key to all such markings, symbols, codes or abbreviations. In the event Client has only one manufacturing plant where all of Client's Evaluated products, designs or materials are manufactured, the absence of any such marking, symbol, code or abbreviation may be accepted by IAPMO UES as sufficient identification of the location where the product was manufactured.

8. Subject to Paragraph 6 above, all products, materials or designs (or models or products) which have been evaluated by IAPMO UES shall bear the appropriate Marks of Conformity at the time of their manufacture. Any product, material or design which would otherwise be an evaluated product, material or design shall not be considered to be evaluated by IAPMO UES if it does not bear the appropriate Certification Mark unless indicated in the report or listing issued by IAPMO UES. Client agrees that it shall not use any model number for an Evaluated product, material or design on any other products, materials or designs which are not evaluated or which do not meet IAPMO UES' requirements for such product, material or design. Client also agrees that the ® designation is to be interpreted as part of any Mark of Conformity where shown. The display of other IAPMO UES Marks of Conformity with the product or any modification of the approved display shall only be made with the prior written approval of IAPMO UES. Client recognizes that from time to time IAPMO UES may add to, change or otherwise modify its Marks of Conformity. Client agrees that it will conform with such subsequent changes, within one year of the Evaluation Report renewal, following written notice thereof by IAPMO UES, and that it will follow and use any such changes as if they were part of this Agreement at the time of the execution hereof. Nothing in this Paragraph 8 shall be construed to require Client to remove any existing Marks of Conformity from evaluated products, material or designs which have been manufactured prior to the date of any changes or modifications to the Marks of Conformity made by IAPMO UES.

9. In no case shall the Client amend, alter, abridge or otherwise edit evaluation reports, listings or other documents produced by IAPMO UES. If Client provided copies of the certification documents to others, the documents shall only be reproduced in its entirety or as specified in the applicable certification scheme by IAPMO UES. In no case shall Client use its Evaluation Report, listing or other documents issued by IAPMO UES in such a manner as to bring IAPMO UES, LLC into disrepute or issue any written or oral statement, or issue or publish any advertisement or catalog containing any statement, which states or implies a commercial endorsement, or express or implied warranty for any purpose, of any product by IAPMO UES, their respective management, committees or boards of directors. IAPMO UES neither approves nor recommends any product or material or designs, and therefore only the phrase "Evaluated by" or "listed by" followed by the appropriate ER-report number or Mark of Conformity is permissible. The use of any language which in any manner tends to be misleading or to enlarge the scope or intent of the Evaluation Report and or Listing Report of the product, material or design is strictly prohibited.

Any and all claims made by Client with regard to the evaluated product or listed product shall be consistent with, and limited by, the scope of the Evaluation Report or product listing provided as set forth in writing on the Evaluation Report or Certificate of Listing provided to Client by IAPMO UES. Client may submit other advertising copy and promotional material to IAPMO UES for prior approval, and IAPMO UES will respond to Client's request for such approval within a reasonable time. Under no circumstances, however, shall Client use any such submitted advertising copy or promotional material until it receives approval therefore from IAPMO UES.

10. Client shall not use any of the Uniform Evaluation Report (ER), ER-report number or Marks of conformity in a manner which implies that a product not evaluated is evaluated or is the equivalent of an evaluated or listed product. Without limiting the foregoing, Client shall not use an evaluated product, material or design bearing a ER-report number or Mark of Conformity as a component or sub-component of a product, or an assembly of products not evaluated by IAPMO UES in a manner which implies that the entire product or assembly is evaluated. Further, Client shall not use or display any ER-report number or Marks of Conformity in any literature or advertising relating to products not evaluated. If both product, material and designs that are evaluated and not evaluated by IAPMO UES are contained on the same advertisement or literature, any ER-report number or Mark of Conformity therein must be displayed in reasonably close proximity with the evaluated product, material and design only and must not be displayed in a manner which would tend to imply that any products, materials or designs not evaluated by IAPMO UES have an evaluation report. By way of illustration only, a ER-report number or Mark of conformity shall not be used on the cover of a catalog which advertises any product, material or design not evaluated. Client may submit proposed advertisements or literature to IAPMO UES for prior approval, as provided in Paragraph 9 and subject to the limitations set forth therein.

11. Client agrees to promptly notify IAPMO UES of any actual or suspected uses or infringements of any ER-report number or Mark of Conformity. IAPMO UES alone, at its sole discretion, has the right to challenge any unauthorized uses or infringements of the ER-report number or Certification Marks, and alone has the right to prosecute any person or entity who unlawfully uses or attempts to use any of the ER-report number or Certification Marks. Under no circumstances shall Client have any right to challenge any unauthorized uses or infringements of the ER-report number or Certification Marks or to prosecute any person or entity who unlawfully uses or attempts to use any of the ER-report number, or Mark of Conformity, without the express prior written permission of IAPMO UES.

12. In order to assist IAPMO UES with its applications for registration, renewal and the pursuit of opposition to registration by others of the ER-report number or Mark of Conformity, and in order to assist IAPMO UES with its protection and enforcement of the ER-report number or Marks of Conformity, upon request by and at the cost of IAPMO UES, Client shall furnish to IAPMO UES, copies of, any and all documents, not deemed confidential by Client, necessary or desirable to evidence IAPMO UES ownership of the ER-report number or Mark of Conformity and to verify the quantity of evaluated products manufactured and sold by Client. IAPMO UES will use such documents solely for purposes of establishing its ownership of the ER-report number or

Mark of Conformity and the widespread use of the ER-report number or Mark of Conformity in the marketplace.

13A. Client is not, and shall not hold itself out as, an agent, legal representative, joint venturer, partner employee or servant of IAPMO UES for any purpose whatsoever.

13B. Client shall comply with all applicable procedures and requirements contained within the IAPMO UES Quality Assurance Manual, a copy of which will be provided to Client upon request.

13C. Client shall promptly inform IAPMO UES in the event of any change that may affect Client's ability to comply with the terms of this Agreement and the terms of the Evaluation Report or Evaluation Listing granted. By way of example, and not limitation, Client shall promptly notify IAPMO UES of any change in corporate ownership, change in product or production sites, or major change in Client's quality management system.

## **QUALITY STANDARDS**

14. Client shall maintain the product design, quality and workmanship in accordance with the current applicable standards or Evaluation Criteria recognized by IAPMO UES, or as such standards may be changed, and as incorporated in the samples and documents submitted for evaluation and inspection by the IAPMO UES. Client may obtain a list of the then current applicable standards or Criteria recognized by IAPMO UES at the rate of the current schedule of fees. In addition, Client shall make no substantial change in material, manufacturing process, marking or design of the product without prior written approval of the IAPMO UES. As used in this paragraph 14, the term "substantial change" means any change which would make any of the information set forth on the Evaluation Report or Listing for the product false or misleading (or which would reasonably be deemed to cause the product to fail to conform to the applicable standard (s) for the product and/or the applicable Code set forth in the Evaluation Report or Listing. Client acknowledges and agrees that (a) new drawings, tests and product samples may be required as a result of any such substantial changes; (b) any substantial change in the original product after acceptance by IAPMO UES which is not authorized by IAPMO UES will automatically result in revocation of the evaluation report or listing of the product until such written approval is received; and (c) a new application, additional fees and test reports may be required in the event of any such revocation.

15. In the event of any changes in the current applicable standards recognized by IAPMO UES or in the current applicable model codes. IAPMO UES will notify Client of the change or changes in writing. With this notification, IAPMO UES will advise Client of any need for supplementary testing of the Evaluated products and will confer with Client to mutually agree upon the period of time needed by the Client to (a) prepare for and perform such testing; and (b) submit to IAPMO UES the test reports documenting successful completion of the supplementary testing. IAPMO UES shall use good faith efforts to accommodate Client's needs and requirements in this regard. Notwithstanding the foregoing, however, Client acknowledges and agrees that it is the Client's responsibility to fully comply with all standards and model codes applicable to Client's evaluated products.

## **QUALITY CONTROL**

16. Client shall establish, maintain and use a quality management system. Client shall notify IAPMO UES in advance of any intended material changes to the quality management system, as used in the Paragraph 16, the term "material change" means any change to Client's quality management system which could reasonably be expected to (a) reduce the level of quality management that previously existed in Client's operations, and/or (b) compromise the health and safety of consumers or the general public as a result of the use or operation of the evaluated products. In addition, Client shall maintain true and accurate records showing the quantity and quality of products, and materials used in products, bearing the Marks of Conformity which are manufactured or sold by or for Client. Client shall also keep records of complaints Client receives since the last on-site inspection performed by IAPMO UES, which complaints are as a result of problems with or failures of, evaluated products manufactured by or for Client which could be reasonably deemed to (i) result from failures or problems with Client's quality management system; (ii) pose a health and safety risk to consumers or the general public due to circumstances under Client's control; or (iii) expose IAPMO UES to liability as a result of the use or operation of such products. Client shall make the records available to IAPMO UES upon request. At a minimum, Client's records shall (A) state the nature of the complaint; (B) identify the evaluated product pertinent to the complaint; and (C) confirm the remedial action(s) taken and the status (open or closed) of the complaint, as known to Client. In the event that the complaint record required by the Paragraph is not retained by Client at a plant location which is being inspected by IAPMO UES pursuant to Paragraph 18, Client shall advise IAPMO UES in writing of the location of such complaint record. Client shall provide the complaint record to IAPMO UES by whatever means selected by IAPMO UES. The Client shall make all arrangements necessary and required of Client, as indicated by IAPMO UES to Client, in order to facilitate IAPMO UES's evaluation and or listing program, the investigation of complaints and the participation of observers whose presence is required in the sole determination of IAPMO UES.

## **MANUFACTURING LOCATIONS**

17. Client shall promptly furnish to IAPMO UES, in writing, the street address, hours of operation, anticipated dates when plants will be temporarily closed or shut down, anticipated dates when plants will temporarily cease production and all local or state holidays of each plant where the Evaluated product, material or design is being manufactured or to be manufactured by or on behalf of Client, and each location where the Evaluated product is warehoused or stored by or on behalf of Client. Client shall also provide the name and telephone number of a contact person for each such plant or storage location, both at the time of application for evaluation and in the event of any changes in this information. Client shall provide such information for all plants and storage locations, whether foreign or domestic. If the product is imported or to be imported, Client shall also provide the name, street address, telephone number and contact person of the importer and the consignee. The requirements of this Paragraph 17 with respect to warehousemen, consignees and importers shall apply only to the extent that legal title to the products remains in Client or Client's affiliates, agents or legal

representatives. At such time as legal title to the evaluated products passes from Client (or its affiliates, agents or legal representatives) to a warehouseman, consignee or importer, Client shall be relieved of its obligations under this Paragraph 17, subject to the provisions of Paragraph 20.

### **CONTINUOUS COMPLIANCE-INSPECTIONS**

18. Client consents to the review of Client's products, materials or designs by IAPMO UES or its subcontractor, and Client shall permit IAPMO UES or its subcontractor to make up to four (4) announced or unannounced continuous compliance inspections of; (a) each of Client's domestic and foreign manufacturing facilities that manufacture the evaluated product(s), (b) Client's records relating to quality control, production, quantity of inventory and shipping of evaluated products (collectively, "Records"), and (c) Client's products themselves during each evaluation year; provided, however, that in the event IAPMO UES reasonably believes in good faith that Client is not in compliance with the terms and conditions of this Licensing Agreement, IAPMO UES may make a reasonable number of additional announced or unannounced inspections of such facilities, records and products as it shall deem necessary or appropriate to protect its rights hereunder and to the Marks of Conformity. IAPMO UES maintains the right to make inspections to any domestic or foreign manufacturing facilities, which are owned or operated by Client, except where IAPMO UES is precluded from doing so by restrictions contained in governmental regulations (where IAPMO UES has been notified and is reasonably satisfied as to the validity of such governmental regulation). Further, Client shall use its best efforts in good faith to obtain all consents or approvals necessary to permit IAPMO UES to inspect any domestic or foreign manufacturing facilities which are owned and operated by persons or entities other than Client, except where IAPMO UES is precluded from doing so by restrictions contained in governmental regulations. In the event that Client, after such efforts, fails to obtain such consents or approvals, then Client shall promptly notify IAPMO UES in writing. IAPMO UES shall meet with representatives of Client to attempt to mutually agree upon the course of action to be taken in respect of such third party facilities, including, without limitation, attempting further negotiations with the third party in an attempt to obtain its consent to or approval of the inspection of its facilities by IAPMO UES, and discussing Client's alternatives to Client's use of such third party's facilities. Neither Client nor any third party who has consented to or approved of the inspection of its facilities by IAPMO UES shall hamper IAPMO UES' inspector in carrying out such inspector's duties. At the time of each inspection, and subject to all safety requirements, the inspector shall have the right of immediate entry to all manufacturing and other areas, the right to require appropriate personnel to accompany the inspector, full access to all records (as defined in this Paragraph), production and products, the right to take random samples, and the right to any other service the inspector reasonably deems to be necessary or appropriate to the proper completion of the inspection. Such inspections may be made at any time during normal business hours. IAPMO UES shall make every attempt to accommodate plant vacations, inventory shut-downs and other non-productive periods or plant closings. The inspector shall keep all records strictly confidential and shall use reasonable efforts not to unnecessarily interrupt the work flow at a plant or manufacturing facility. Notwithstanding the preceding

sentence, however, Client acknowledges that some interruption of the work flow at a plant or manufacturing facility may be an unavoidable consequence of any particular inspection. Refusal by Client or any third party manufacturer who has consented to or approved of the inspection of its facilities by IAPMO UES to grant immediate access to the inspector, or to comply with the other requirements of this Paragraph 18, may constitute grounds for revocation.

### **CONTINUOUS COMPLIANCE-FEES**

19. Client shall pay to IAPMO UES an inspection fee for any inspection conducted by UES or its subcontractors under the provisions of Paragraph 18 hereof. All costs of inspection, including laboratory fees if outside laboratory testing is required by IAPMO UES, shall be borne by Client. In the event an inspector is unable to gain admittance to a plant or facility which is owned by Client, under Client's control or under the control of a third party who has consented to or approved of the inspection of its facilities by IAPMO UES during the operation hours which are on file at IAPMO UES, Client shall pay to IAPMO UES the basic inspection fee. All such fees will be in accordance with the then-current Schedule of Fees published by IAPMO UES from time to time, and will be paid by Client within forty-five (45) days of the invoice from IAPMO UES. Testing laboratories will be selected by Client from a list of testing laboratories recognized by IAPMO UES.

### **REVOCAION OR MODIFICATION WITH RIGHT TO A HEARING**

20. Any evaluation report, and the authorization to use the report number and the IAPMO UES mark, may be revoked or modified for cause. "Cause" shall include: repeated failure of the material, method of construction or equipment to conform with the specifications upon which the evaluation report was based; repeated failure of the material, method of construction or equipment to perform properly although meeting the specifications upon which the evaluation report was originally based; failure to comply with any condition to the issuance of the evaluation report; any misstatement, whether intentionally or unintentionally made, in the application or in any data submitted in support thereof; failure to comply with any provision of the application form; failure to pass any test required by IAPMO UES; failure to comply with new, existing, or revised evaluation criteria; or any other grounds considered as adequate cause in the judgment of IAPMO UES.

21. Before IAPMO UES revokes or modifies any evaluation report, the Client shall be given reasonable notice and an opportunity to file an appeal pursuant to the IAPMO UES Rules of Procedure for Appeals Concerning Evaluation Reports.

### **DENIAL OF ISSUING EVALUATION REPORT or Evaluation Listing**

22. In the event that Client breaches any of its representations, warranties, covenants or agreements contained in this Agreement, any application for a product evaluation or any other agreement or document relating hereto or thereto, then IAPMO UES may (in its sole and absolute discretion and in addition to any other remedies available to IAPMO UES) (a) deny the application for a product evaluation (under circumstances where the product is not yet evaluated); or (b) revoke the evaluation report or listing for the product or deny renewal of an

evaluation report or listing (under circumstances where the product is already evaluated) and terminate the license granted under this Agreement. Further, IAPMO UES may (in its sole and absolute discretion and in addition to any other remedies available to IAPMO UES) immediately revoke the evaluation report or listing of any and all product and terminate the license granted hereunder upon any continuous failure of any evaluated product to meet IAPMO UES' evaluation criteria or upon any breach of Client's obligations or other duties under the Agreement including by way of example and not limitation the failure of any evaluated product to meet the applicable evaluation criteria as a result of a subsequent code change or code interpretation. In the event of any such failure or breach, Client shall be notified by IAPMO UES in writing of the denial of issuance of an Evaluation Report or Listing or the revocation of the evaluation report or listing (as applicable), the reasons therefore. Within twenty (20) days following receipt of such notification of denial or revocation based on a product deficiency, Client shall inform IAPMO UES in writing if Client contests the denial or revocation of the evaluation report or listing and the specific reasons for such contest. In the absence of such information from Client, the denial of the evaluated product or the revocation of the evaluation report or listing shall be final without further notice to Client. If any denial or revocation becomes final, either through failure of Client to contest or affirmation by the IAPMO UES or through an appeal, the license granted by this Agreement shall be immediately and automatically terminated without further notice to the Client, and all of the requirements of Paragraphs 20, 21, 28 and 29 hereof shall immediately apply.

23. IAPMO UES shall have the right to notify its membership and the general public of the revocation of evaluation report or listing. If the cause of any failure may reasonably affect other evaluated products of Client, IAPMO UES may also require the inspection and testing of such other products, or proof satisfactory to IAPMO UES that such other products are not affected. In the absence of satisfactory inspection and testing results for any reason, or satisfactory proof that such other products are not affected, IAPMO UES may revoke such evaluation report or listing for other products or materials. In addition to the revocation, IAPMO UES may require, prior to accepting further applications from Client to evaluate products, proof that adequate measures have been taken by the former Client to insure that the causes of prior breaches or product failures have been eliminated, including sufficient inspections and tests to provide IAPMO UES with an indication that the former Client can maintain compliance with evaluations requirements. In the event of any such revocation, Client shall have the right to contest same as set forth in Paragraph 22.

#### **APPEAL**

24. A final decision of the IAPMO UES accepting or rejecting any product, shall be subject to review only according to the provisions set forth in IAPMO UES Rules on Appeal, copies of which are available free of charge from IAPMO UES upon request.

#### **RENEWAL**

25. Prior to the expiration of an evaluation report or listing, Client shall file an Application for Evaluation and Inspection (Renewal) of the evaluated product with IAPMO UES and a re-executed Licensing Agreement, if

revisions have been made to the agreement in force at the time of renewal, each on forms provided by IAPMO UES. IAPMO UES will attempt to notify Client prior to the expiration date of the evaluation report or listing that the Evaluation Report or Listing is due for renewal. However, calendaring renewal is the sole and exclusive responsibility of Client. If a complete application to renew is not received prior to the date of expiration, or a request by Client for additional time to file has not been granted, the evaluation report or listing will automatically expire on the expiration date without notice to Client. IAPMO UES shall have the right to notify its membership and the general public of any expiration of the evaluation report of any product.

26. By re-executing the Licensing Agreement and submission thereof as a renewal, Client certifies that each substantial change or modification of whatever kind, type or manner in or to the product, since the previous application, has been accepted by IAPMO UES in accordance with Paragraph 14 hereof, and that any substantial changes or modification are described in detail in a writing attached to the renewal application. As used in the Paragraph 26, the phrase "substantial change or modification" shall have the same meaning as the term "substantial change" set forth in Paragraph 14 hereof. Client understands that new drawings, tests and product samples may be required by IAPMO UES as a condition of renewal if there are any such substantial changes or modifications since the last acceptance. In the absence of a writing attached to the renewal application describing all such substantial changes or modification, Client certifies by re-executing the Licensing Agreement that no substantial change or modification whatsoever has been made to the product since its last acceptance by IAPMO UES. If any substantial change or modifications found to have been made to the product during the period of acceptance and has not been submitted to IAPMO UES for prior approval, then IAPMO UES shall have the right to immediately revoke the evaluation report.

#### **TERMINATION**

27. In addition to the grounds and procedures for revocation and termination of the license to use the Certification Marks stated in Paragraphs 18, 22, 25, 26 and elsewhere in this Agreement, Client's evaluation report or listing may be revoked and such license terminated immediately in the event that Client shall become bankrupt or insolvent, or if the business or Client shall become placed in the hands of a receiver, assignee for the benefit of creditors, or trustees, by voluntary act of Client or otherwise. All outstanding fees and fees due to IAPMO UES shall be paid by Client before an evaluation report or listing is generated or before renewal of an evaluation report or listing is granted. The non-payment of any fee shall be grounds for revocation of the evaluation report or listing.

#### **REMOVAL OF CERTIFICATION MARKS**

28. Within six (6) months, or other reasonable good faith timeframe as subsequently agreed upon with IAPMO UES, of termination or expiration of this Agreement or revocation of an evaluation report or listing, Client agrees (a) to remove from its products, property and merchandise, including, but not limited to, its advertising labels, cartons, packages and stationery supplies, the UES evaluation report number, Marks of Conformity and all references to IAPMO UES, (b) to destroy all such property and merchandise from which any of the UES evaluation report number, Marks of Conformity or

reference to IAPMO UES have not been removed, and (c) not to thereafter employ any UES evaluation report number, Marks of Conformity or any confusingly similar words or design in any manner whatsoever. Notwithstanding the foregoing, however, Client shall have the right to sell and distribute products already bearing a UES evaluation report number or Mark of Conformity which have been previously found by IAPMO UES to be in compliance with IAPMO UES' criteria at the time the Mark of Conformity was applied properly to such product. Client's rights under the immediately preceding sentence, however, shall be subject to all of the terms and conditions of this Agreement, and this Agreement shall continue in full force and effect until Client has completely sold and distributed all such products.

29. In the event the evaluation report or listing is revoked, IAPMO UES shall have the right to enter all domestic and foreign manufacturing and storage facilities owned or controlled by Client in order to verify that the UES evaluation report number or Mark of Conformity has been removed from products and literature or that all products and literature bearing any UES evaluation report number or Mark of Conformity have been destroyed. Client agrees to permit such entry by IAPMO UES for the purposes stated. In the event that Client products have previously been delivered to third parties and are no longer in the possession, custody or control of Client, then Client agrees to take all actions reasonably requested by IAPMO UES with respect thereto (including, but not limited to, the actions described in Paragraphs 20 and 21 above). Client also agrees to pay all costs associated with the above in accordance with IAPMO UES' Schedule of Fees. If allowed by IAPMO UES, Client may provide an affidavit, as an alternate, stating that the above actions have been accomplished for all product(s) and literature bearing the UES evaluation report number or Mark of Conformity. Client acknowledges that (a) the distribution or sale of any product bearing a UES evaluation report number or Mark of Conformity of IAPMO UES when such product is not currently evaluated by IAPMO UES; or (b) any representation by Client that any such product is evaluated by IAPMO UES, constitutes an infringement of IAPMO UES' rights in its UES evaluation report number and Mark of Conformity and constitutes a violation of applicable state and federal trademark laws.

## **CONFIDENTIALITY**

30. IAPMO UES agrees to use any and all information received from Client, together with all Records, Client Lists and records of complaints referred to in Paragraph 16 (collectively, the "Data"), for internal purposes only in connection with the required evaluations and documentation to be performed under this Agreement.

31. IAPMO UES shall maintain the Data in strictest confidence and shall not disclose the Data (a) to any person, entity or organization outside of IAPMO UES and external auditors, other than Client and Client's directors, officers, employees, and agents, without the express prior written consent of Client; and (b) except as may be required by any applicable laws or regulation, requests made in discovery, subpoena, or other court order or decree (which disclosures are hereby consented to by Client, subject to the following sentence). In order to provide Client with an opportunity to contest the scope of any requests made in discovery or any subpoena, order or decree, and to attempt to

protect the confidentiality of any Data, IAPMO UES shall notify Client in writing prior to such disclosure as to the name and address of the intended recipient, the reason for disclosure and a description of the Data to be disclosed; provided, however, that any failure by IAPMO UES to so notify Client shall not relieve Client of its obligations under this Agreement. It shall be the sole and exclusive responsibility of Client to challenge or contest the scope of any such requests, subpoenas, orders and decrees, and IAPMO UES shall strictly follow any and all court orders or other legal process required or mandated with respect to disclosure of the Data.

32. For purposes of this Agreement, the term "Data" does not include any information which (a) is generally available to the public other than as a result of a disclosure by IAPMO UES (b) was available to IAPMO UES on a non-confidential basis prior to its disclosure to IAPMO UES by Client, or (c) is available to IAPMO UES on a non-confidential basis from a source other than Client, provided that such source is not bound by a confidentiality agreement with Client or otherwise prohibited from transmitting the Data to IAPMO UES by any contractual, legal or fiduciary obligation. All documentation, correspondence, reports and information within the file maintained by IAPMO UES for Client that does not fall within the definition of Data (as defined in Paragraphs 30-32) is the sole property of IAPMO UES.

## **GENERAL PROVISIONS**

33. IAPMO UES warrants only that the services provided by IAPMO UES pursuant to this Agreement will be provided in good faith. No other representations or warranties are provided by IAPMO UES with respect to its services or this Agreement.

34. Applicant or Client hereby waives any claim or cause of action against IAPMO UES based on negligence arising out of any actions or failures to act by IAPMO UES in granting, denying or revoking any evaluation reports, except claims based on (a) gross negligence or lack of good faith by IAPMO UES, and (b) a breach of the provisions of Paragraphs 30, 31 or 32 hereof.

35. In no event shall IAPMO UES be liable to Client or any other person or entity for any consequential, special or indirect damages for any claim or cause of action whatsoever, whether based in contract, tort or otherwise.

36. Client shall not manufacture, prepare, assemble, package or deliver any products bearing an UES evaluation report number or Mark of Conformity which are deficient in quality or packaged in a misleading or deceptive manner, or otherwise manufacture, prepare, assemble, package, sell, deliver or advertise such products in violation of any law or any of the terms of this Agreement, nor do any other act detrimental to any UES evaluation report number or Mark of Conformity or to IAPMO UES rights therein or to IAPMO UES by Client's use of the UES evaluation report number or Mark of Conformity. Client agrees to indemnify, defend and hold IAPMO UES and the officers, directors, members, agents and representatives harmless from and against any and all claims, liabilities, losses, damages, costs and expenses, including, but not limited to, attorney's fees, investigative costs and court costs arising out of, relating to or in connection with (a) Client's participation in IAPMO UES' program, including but not limited to statements by Client to third parties relating to Client's participation in IAPMO UES' program, and (b) all third party claims

relating to the purchase or use of Client's products, material or design, whether based in contract (including, but not limited to, warranty claims), tort (including, but not limited to, negligence or product liability claims) or otherwise. Client further agrees to (l) obtain and maintain policies of products liability insurance, general liability insurance or similar equivalents with coverage's in amounts that are reasonably satisfactory to IAPMO UES or commercially standard in the Industry.

37. In the event of any legal action or dispute brought by either party arising out of (a) the relationship created by this Agreement; (b) the subject matter of this Agreement; or (c) the interpretation or enforcement of any provision hereof, the prevailing party in such dispute or action shall receive from the losing party all of the prevailing party's costs, expenses and such amounts as the court may adjudge to be reasonable attorneys' fees. Such sums shall be included as part of any judgment.

38. All statements, notices and other communications which are required or permitted hereunder shall be addressed to the parties at their addresses designated in the most current Application for Evaluation and Inspection, until such addresses are changed by written notice. All notices required or

**Client of IAPMO Uniform Evaluation Service, L.L.C.**

Company: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

permitted hereunder shall be deemed received on the day personally delivered or five (5) days after they are mailed, postage prepaid by first class mail and correctly addressed

39. This writing and the documents referenced herein contain the entire agreement of the parties with respect to the subject matter of this Agreement, and supersede all prior negotiations, oral and written agreements and understandings with respect thereto. This Agreement may not be altered or amended except by a writing executed by a duly authorized officer of the parties subsequent hereto.

40. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

41. The undersigned representative of Client certifies that (a) the foregoing provisions have been read and understood, (b) Client agrees to the foregoing provisions, and (c) the undersigned is duly authorized and empowered to execute this Agreement on behalf of Client.

**IAPMO Uniform Evaluation Service, L.L.C.**

(For Association use only)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_