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Rights and Duties of Suppliers of Certified Products

Compliance with the Requirements of the Certification System(s)

A supplier of an OMNI-Test Laboratories, Inc. (*OMNI*) certified product shall always comply with the requirements of the certification system(s) under which the product is certified and the terms of its Product Documentation and Listing Agreement with *OMNI*.

A supplier of an *OMNI* certified product shall make claims regarding certification only in respect to the scope for which certification has been granted.

A supplier of an *OMNI* certified product shall use certification only to indicate that products are certified as being in conformity with specific standards.

A supplier of certified products shall not use its product certification in such a manner as to bring *OMNI* into disrepute and not make any statement regarding its product certification that *OMNI* may consider misleading or unauthorized.

A supplier of certified products shall endeavor to ensure that no certificate or report nor any part thereof is used in a misleading manner. If a supplier provides copies of a certificate or report to others, the certificate or report shall be reproduced in their entirety.

A supplier of certified products shall, upon suspension or cancellation of certification, discontinue its use of all advertising matter that contains any reference thereto and returns any certification documents, including unused labels bearing the *OMNI* certification mark, as required by *OMNI*.

In making reference to its product certification in communication media, a supplier of an *OMNI* certified product must comply with *OMNI*'s requirements. A supplier may publish that it has been authorized to apply *OMNI*'s certification mark to products to which the certification applies. In all cases, the supplier shall take sufficient care of in its publications and advertisements that no confusion arises between certified and non-certified products. If a supplier wishes to publish an *OMNI* test or evaluation report, the report shall be reproduced in full, unless specific authorization is granted by *OMNI* to publish part(s) of the report. A supplier shall not specify function, or claim or the like in its use, information that could mislead purchasers to believe that performance of the product or its use is covered by the certification when in fact they are not.

Instructions or other user information accompanying the product and related to the certification scheme shall be approved by *OMNI*. Advertisements containing *OMNI*'s certification mark or reference to certification shall be approved by *OMNI*.

Corrective Action for Defective Products or Misuse of *OMNI*'s Certification Mark

OMNI's procedures for taking corrective action following the identification of defective products or misuse of its certification marks follow ISO/IEC Guide 27, *Guidelines for corrective action to be taken by a certification body in the event of either misapplication of its mark of conformity to a product, or products which bear the mark of the certification body being found to subject persons or property to risk*.

Conditions Under Which Corrective Action is Taken

OMNI will require a misuser (i.e., any person, organization, or corporate body that misuses *OMNI*'s certification marks, regardless of whether or not the product is eligible to bear the mark) to take corrective action whenever an *OMNI* certification mark has been affixed to a product that:

- is hazardous;
- is not authorized to bear the certification mark, e.g., because there is no record of the product in question having been certified; or does not comply with the applicable certification requirements to the extent that the integrity of *OMNI*'s certification mark is jeopardized;
- bears an unauthorized form of the mark; or
- is in violation of the Professional Services Agreement or Product Documentation and Listing Agreement under which the product was tested and certified.

A product is considered "hazardous" if it exposes life, limb, or property to imminently dangerous conditions. A hazardous product is considered to exist if the quantity of products involved is such as to constitute an unacceptable percentage, and there is either:

- an unsafe construction; or
- the product is gaining widespread use in an application not foreseen when the standard(s) to which the product is certified was (were) written, such applications in turn being ones for which the product was not certified; and
  - no specific scope of applications has been provided in the standard(s), and
  - no limiting scope of application has been provided by the manufacturer in written material accompanying the product at point of sale.

Note — Where an inherent hazard is necessary for the product to perform its intended function, e.g. rotating

blades of a food mixer, such a hazard shall not be considered "hazardous" in the context of this definition.

Whenever either a report of misuse of *OMNI*'s certification mark or of a hazard involved with a product bearing *OMNI*'s certification mark is received, the validity of the report will be investigated. Where it is established that misuse has occurred *OMNI* will determine the scope of the misuse, including products, model number, serial numbers, factory production facilities, production runs and quantities involved.

Types of Corrective Action

Corrective action could be one or more of the following:

1. notification of parties authorized and responsible for instituting a recall (i.e., the action by which the misuser of *OMNI*'s mark or the producer of a hazardous product or other party responsible for making the product available withdraws the product from users, the marketplace, or distribution sites and returns them to an acceptable location for corrective action) when, in *OMNI*'s opinion, such recall is necessary to protect the public and to permit implementation of the corrective action (i.e., the action determined by *OMNI* to be appropriate to eliminate the consequences of the misuse and to remove the hazard as far as necessary and practicably possible);

2. removing the certification mark from the product (This is normally done only at the factory or other central location so that the product in question is removed from the stockroom, marketplace, distribution sites, or users possession. Alternatively, the certification mark could be removed from the product on site, provided such removal is in collaboration with the involved regulatory authorities who would then proceed to accept or reject the product.);

3. rebuilding the product so that it complies with the governing certification requirements;

4. scrapping or suitability replacing a returned product because it is not practicable either to remove the certification mark or to rebuild the product so that it complies with the governing certification requirements; and

5. where a hazardous condition exists and it is not practicable to implement 1), 2), 3), or 4), *OMNI* will, in consultation with the appropriate regulatory authorities, pursue the release of a notice to the general public about the hazard.

Choice of Action Against the Misuser

When the facts indicating a need for corrective action are conclusive, *OMNI* will initiate corrective action immediately, provided there is a misuser to be held responsible for such action, or a producer of a subsequently hazardous product (POSHP). A POSHP is any person, organization, or other corporate body that has been complying with all requirements of *OMNI*, has properly applied *OMNI*'s certification mark to the product involved, but has learned that the product has been found to be hazardous.

When the facts are conclusive and corrective action is indicated but there is no misuser or POSHP to be held responsible, or the product in question has not been produced for a number of years and is no longer available in the marketplace, *OMNI* will obtain advice from legal counsel and notify appropriate governmental, regulatory and public bodies, and representatives of "concerned Canadian interests" (if it involves *OMNI*'s certification mark bearing the Canadian Identifier).

When such notification is warranted, *OMNI* will, at a minimum, notify the following organizations when the misuse involves *OMNI*'s certification mark and the misuse is occurring in the United States:

- American National Standards Institute (ANSI);
- International Code Council (formerly International Council of Building Officials);
- North Carolina Building Code Council, New York State Department of Codes, and other appropriate state code authorities;
- U.S. Consumer Product Safety Commission.

When such notification is warranted, *OMNI* will, at a minimum, also notify the following organizations when the misuse involves *OMNI*'s certification mark bearing the Canadian Identifier:

- Standards Council of Canada;
- Interprovincial Gas Advisory Council;
- Canadian Advisory Council on Electrical Safety;
- Council of Canadian Fire Marshals and Fire Commissioners;
- in each province, the office of the lead code official with regulatory responsibility associated with the product(s) in question.

Initiating Corrective Action with Misuser

When there is conclusive proof that a product is hazardous or is involved in misuse of *OMNI*'s certification mark, corrective action will be initiated by *OMNI*. In such instances, the misuser and, where appropriate, the regulatory authorities shall be notified immediately by telephone, fax, or E-Mail of the problem, and authorization to apply the certification mark to the involved product shall be terminated. In the case of a hazardous product bearing the certification mark, *OMNI* will inform the misuser of the need to take appropriate user notification action, advising of the hazard and the action to be taken.

The initial notification to the misuser will require confirmation in writing by registered (or equivalent) letter, with copies to the appropriate regulatory authorities and/or other bodies when appropriate. Such letter will normally contain: the reason(s) for corrective action, any hazardous conditions that may exist, actions to be taken by the misuser to resolve the problem, and a statement covering

the action to be taken to ensure that *OMNI*'s certification mark is not applied to ineligible products.

Completing a Successful Corrective Action with a Misuser Who has an Agreement with *OMNI*

When a corrective action has been resolved to *OMNI*'s satisfaction, *OMNI* will undertake the following:

1. All recipients of the letter which called for corrective action will be sent a second letter which:
   - states the suspension imposed upon the misuser
   - has been lifted and that authorization to use the certification mark has been reinstated;
   - summarizes the corrective action taken by the misuser;
   - when applicable, describes the new marking required to distinguish the product in its corrected state from its previous unacceptable condition.

2. Certification records will be revised to include any modifications necessitated by the corrective action. *OMNI* shall also carry out an audit of:
   - its own approval and surveillance duties to determine whether part of the misuse was due to a weakness in its own organization;
   - its procedures to determine the means whereby *OMNI*'s approval and surveillance responsibilities can be altered to ensure, so far as realistic to do so, that such misuse of the mark cannot be repeated.

Degree of Corrective Action to be Achieved

OMNI desires that the corrective action be taken on one hundred percent of the product involved. However, this may not be possible, especially if the product has been out on the market for a considerable time. Normally, *OMNI* considers that corrective action as appropriate has been carried out satisfactorily if:

1. the misuser has made a proper public announcement when asked to do so;

2. the products in the marketplace and distribution sites have been recalled, rebuilt, replaced or destroyed under supervision, or other corrections thereto made as required to the maximum degree feasible;

3. the misuser has agreed to continue the required corrective action on units which are in the possession of the user until *OMNI* is satisfied that the maximum practicable result has been achieved;

4. such necessary steps have been instituted in the manufacturing process to obviate the production of products which will again require similar corrective action.

Refusal to Take Corrective Action

When a misuser refuses to take corrective action, *OMNI* will take the following steps:

1. cancellation of appropriate certification contracts with the misuser may be processed;

2. regulatory authorities involved and/or other bodies, when relevant, shall be informed that the misuser has refused to take corrective action and that certification contracts in the name of the misuser have been canceled, where the severity of the case warrant such action;

3. legal counsel shall be obtained as to other action that may be taken.

In the event that a POSHP refused to take corrective action, discussions with concerned regulatory authorities, "concerned Canadian interests," and legal counsel will be held to decide on a course of action. In addition to action that regulatory authorities might take, some possible courses of action open to *OMNI* would include:

1. promoting a rapid revision of the standard or the development of an ORD to eliminate the hazard and requiring all certified products of the type involved to meet the new criteria at an early date following the publication of the ORD or revision to the standard;

2. notifying the public of the discovered hazard via the most appropriate news media.