

PDI  
011400

**CERTIFICATION MARK LICENSE AGREEMENT**  
**WATER HAMMER ARRESTERS**

THIS AGREEMENT, dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between THE PLUMBING AND DRAINAGE INSTITUTE, an Illinois not-for-profit corporation with offices at 800 Turnpike Street, Suite 300, North Andover, Massachusetts 01845 ("PDI"), and \_\_\_\_\_ a \_\_\_\_\_ corporation with offices at \_\_\_\_\_ (the "Licensee"), is to evidence:

WHEREAS, PDI is the proprietor of a United States federal certification mark registration (Reg. No. 812,728, dated August 9, 1966), a Canadian certification mark registration (Reg. No. 426,677, dated April 29, 1994), and a Mexican certification mark registration (Reg. No. 646570, dated October 2, 1996) (collectively the "Mark") to be applied to water hammer arresters and other plumbing and drainage products which have been tested and found to meet standards of design and performance established by PDI; and

WHEREAS, the Mark is pictured in Exhibit A, attached hereto and made a part hereof; and

WHEREAS, PDI, at substantial cost, has developed and established procedures with respect to the proper testing, rating, and performance of water hammer arresters and certification of water hammer arresters, and has published such procedures in booklet form under the title "Standard PDI-WH201" (the "Standard"); and

WHEREAS, the Licensee wishes to obtain a license from PDI to use the Mark on water hammer arresters sold by it under its own trade name in the United States, Canada, and Mexico meeting the various requirements therefor set forth in the Standard;

NOW, THEREFORE, the parties agree as follows:

1. **Grant of License; Restrictions on Licensee's Use of Mark.** Subject to the terms and conditions of this Agreement, PDI hereby grants to the Licensee a non-exclusive, non-transferable license to use the Mark in connection with the advertising and sale by the Licensee, in the United States, its territories and possessions, Canada, and Mexico only, of water hammer arresters which (a) have, through the testing program described in paragraphs 6 and 7 of this Agreement, been certified as meeting the Standard; and (b) bear the Licensee's trade name. The Licensee shall not use the Mark in connection with any water hammer arresters which have not been subjected to testing in accordance with the provisions of paragraphs 6 and 7 of this Agreement.

2. **Licensing Fee.** The Licensee shall pay PDI, on execution of this Agreement, a non-refundable licensing fee of U.S. \$1,750.

3. **Changes in Standard.** PDI shall have the right to make such changes, additions, deletions, and corrections in and to the Standard as from time to time it considers necessary or desirable. If at any time while this Agreement remains in effect PDI establishes a new Standard, it shall deliver a copy thereof to the Licensee. The Licensee shall insure, by submitting when required by PDI all certified water hammer arresters manufactured by the Licensee after receipt of any new Standard for testing, that such water hammer arresters are in full compliance with such new Standard. Notwithstanding the foregoing, the Licensee shall have

the right to use the Mark in connection with the disposition of water hammer arresters manufactured prior to receipt of such new Standard in conformity with the Standard in effect at the time of manufacture.

4. **Compliance with Standard.** The Licensee agrees to use the Mark only in connection with the manufacture, sale, distribution, and advertising of water hammer arresters which have been certified through testing in accordance with paragraphs 6 and 7 of this Agreement as fully conforming to the then applicable Standard. The Licensee shall use due care and diligence in the manufacture of each water hammer arrester using the Mark, so that the use of the Mark on any water hammer arrester or in any related advertising material constitutes a guarantee by the Licensee that the water hammer arrester so marked or so advertised complies with the then applicable Standard. Solely for the purpose of enabling PDI to insure that the Licensee is complying with the foregoing requirements, the Licensee shall submit upon request, by PDI to PDI, any item of advertising material (including, but not limited to, catalogs) containing the Mark or a reference to PDI or a reference to the Standard.

5. **Testing Laboratory.** All testing of the Licensee's water hammer arresters under paragraphs 6 and 7 of this Agreement shall be conducted using PDI approved test facilities. The Licensee shall contact the PDI office for a list of approved facilities. The Licensee shall select from a list of PDI approved test facilities the facility (the "Laboratory") and shall make its own arrangements for required tests and shall bear all reasonable costs and expenses related to such tests. The Licensee shall instruct the Laboratory to send to PDI copies of all test results and any other test-related materials resulting from the Laboratory's testing of the Licensee's water hammer arresters. If requested to do so by PDI, the Licensee shall itself provide PDI with copies of all such results and other test-related materials.

6. **Initial Testing.** The Licensee agrees that prior to using the Mark in any manner it will furnish to the Laboratory one or more production units of each size, type, or model of water hammer arrester on which the Licensee intends to use the Mark, so that the Laboratory may conduct on each unit submitted the tests specified in PDI's then applicable Standard. At the time the Licensee provides the Laboratory with the required production units, the Licensee shall furnish a complete set of prints of the detail and assembly drawings for production units of each size, type, or model of water hammer arrester to be subjected to the required tests. PDI shall require the Laboratory to retain the units tested and all prints delivered under this paragraph 6, to facilitate future comparison with units subsequently retested. The Licensee shall obtain from the Laboratory with respect to each size, type, or model of water hammer arrester which the Laboratory determines to be fully in conformity with the Standard WH201, a separate and complete certificate. The blank certificate form shall be provided to the Laboratory by either paper or electronic means by PDI. PDI shall require the Laboratory to provide PDI with copies of all test reports and all such certificates relating to the Licensee's water hammer arresters.

7. **Visual Inspection and Retesting.** For the purpose of insuring that water hammer arresters on which the Licensee uses the Mark are in conformity with the Standard WH201, the Licensee agrees to submit to the Laboratory for visual inspection and retesting two production units of whichever size, type, or model of water hammer arrester PDI designates for submission to the Laboratory; one such unit to be subjected to visual inspection and comparison with the comparable unit of the Licensee last certified, and the other to be subjected to physical tests. Visual inspection and retesting shall be conducted no sooner than three years after its last successful certification test pursuant to paragraph 6 of this Agreement. In addition PDI shall be notified of any design changes in the Water Hammer Arrester and will determine if retesting is required.

Beginning in 2012 the retest cycle shall be as follows:

2012 size B

2013 size C

2014 size A

2015 size D

2016 size E

2017 size F

The Licensee shall submit to the Laboratory for the units delivered for retesting a complete set of prints of the detail and assembly drawings. The Laboratory shall retain the units and all prints delivered under this paragraph 7, to facilitate future comparison with units subsequently retested. With regard to the unit retested, the Laboratory shall either provide PDI and the Licensee a certificate of compliance and a copy of the test report confirming that such unit is in conformity with the applicable Standard, or report to PDI and the Licensee the particulars of the unit's failure to conform to the applicable Standard.

8. **Submission of Samples.** The Licensee agrees to make available to PDI, at PDI's request, sample water hammer arresters on which the Mark is used for inspection and testing by PDI, and to submit any data requested by PDI necessary to demonstrate the Licensee's compliance with this Agreement and the compliance of such water hammer arresters with the applicable Standard.

9. **Use of Mark.** The Licensee agrees that the Mark whenever used will be displayed distinctively, apart from other printed matter, and used in conjunction with the statutory notice of registration—®.

10. **Marketing of Arresters Not Meeting Standard.** The Licensee agrees that it will not promote the sale of water hammer arresters not certified to be in compliance with the applicable Standard through use of any promotional materials which also promote the sale of water hammer arresters certified to be in compliance with the Standard and entitled to bear the Mark. The Licensee shall not promote the sale of such non-Standard water hammer arresters in any fashion which might create a likelihood of confusing prospective purchasers into believing such non-Standard arresters have been certified to be in compliance with the Standard.

11. **Covenant as to Use of Mark.** The Licensee agrees that it will affix the Mark to each individual water hammer arrester unit of every size, type, or model which has been certified as complying with the applicable Standard prior to the shipment of such unit to the Licensee's customers. PDI shall supply the Licensee, for a fee per unit, adhesive decals bearing the Mark and the Licensee's name, and the Licensee shall use said decals to comply with the use requirements of the preceding sentence. Said decals shall be affixed by the Licensee in a location visible to any person viewing the water hammer arrester. Further, the Licensee shall engrave its name, either by molding or die stamping, into the body of each water hammer arrester adjacent to the decal bearing the Mark, so that its name is readily visible to the purchaser or user. The Licensee's failure to affix the Mark and engrave its name, as required by this paragraph 11, shall entitle PDI to terminate this Agreement, with immediate effect, by providing the Licensee with written notice of termination.

12. **Withdrawal of Licensee from PDI; Failure to Comply with Standard.** If at any time the Licensee ceases marketing water hammer arresters which conform to the then applicable Standard, or uses the Mark on water hammer arresters not certified as meeting the Standard, the Licensee shall, upon receipt of written notice from PDI, immediately and permanently cease making any representations in its promotional materials that its water hammer arresters are entitled to bear the Mark and, within 30 days of the occurrence of any such event, remove the Mark from all its water hammer arresters, and from all promotional materials, in whatever media.

13. **Indemnification.** The Licensee agrees to indemnify and hold PDI harmless from any and all claims (and liabilities, judgments, penalties, losses, costs, damages, and expenses resulting therefrom, including reasonable attorneys' fees) made by third parties against PDI arising out of any defects or alleged defects in water hammer arresters bearing the Mark sold by the Licensee.

14. **Breach and Termination.** If either party breaches any of the terms and conditions of this Agreement, other than those under which PDI is granted an immediate right of termination, and the party involved fails to cure the breach within 30 days after receiving written notice from the other party specifying the particulars of the breach, the nondefaulting party shall have the right to terminate this Agreement by giving written notice to the defaulting party.

15. **Effect of Termination.** Termination of this Agreement under any of its provisions shall be without prejudice to any rights or claims which PDI may otherwise have against the Licensee, or which the Licensee may otherwise have against PDI.

16. **Related Companies.** The license granted under this Agreement shall extend only to the entity which is a signatory to this Agreement. No division, subsidiary, or parent of said entity, whether operated as a separate corporation or not, shall manufacture or market any water hammer arresters using the Mark, until such division, subsidiary, or parent has been added as a party to this Agreement, and the name of such division, subsidiary, or parent shall be engraved on all water hammer arresters marketed by such division, subsidiary, or parent following execution of such formal written amendment.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

THE PLUMBING AND DRAINAGE  
INSTITUTE

By \_\_\_\_\_  
Title

\_\_\_\_\_

By \_\_\_\_\_  
Title

Exhibit A

**United States Patent Office**

**812,728**  
**Registered Aug. 9, 1966**

**PRINCIPAL REGISTER**  
**Certification Mark**

**Ser. No. 233,630, filed Nov. 30, 1965**



**Plumbing and Drainage Institute (Illinois not for profit corporation)**  
**1018 N. Austin Blvd.**  
**Oak Park, Ill.**

**For: PLUMBING AND DRAINAGE PRODUCTS—**  
**NAMELY, GREASE INTERCEPTORS AND WATER**  
**HAMMER ARRESTERS—in CLASS A.**

**First use 1960; in commerce 1960.**

**The words "Certified" and "Plumbing and Drainage"**  
**are disclaimed apart from the mark as shown. The**  
**mark certifies that the goods have been tested and that**  
**they meet certain standards of design and performance**  
**established by applicant.**

**R. M. ROSS, Examiner.**