

TABB Quality Assurance Program

BACKGROUND

TABB seeks to ensure the integrity of its certification program by: (a) setting eligibility criteria for TABB Certified Supervisors and Contractors, (b) establishing testing procedures for TABB Certified Supervisors, (c) requiring continuing education and continuous compliance with eligibility criteria for renewal of certification, and (d) periodically reviewing its recognition of technician certification. High quality work on the part of TABB Technicians and TABB Certified Supervisors and Contractors (“TABB Professionals”) is essential to integrity of the TABB Certification Program. TABB offers this TABB Quality Assurance Program to help assure high quality work. By accepting TABB qualification or certification, every TABB Professional accepts the responsibilities of this Program.

QUALITY ASSURANCE

Every customer of a TABB Certified Contractor shall be entitled to expect: (1) that testing, adjusting and balancing work by the contractor and its TABB Professionals will meet TABB standards; (2) that testing, adjusting and balancing reports provided to the customer will have been prepared by a TABB Technician, and reviewed by a TABB Certified Supervisor; and (3) that the report(s) will include measurements taken accurately with the date and mode of operation of the systems.

CUSTOMER COMPLAINT PROCEDURES

Contractor’s Customer Satisfaction Procedure. Each TABB Certified Contractor is first expected to address customer complaints in accordance with the contractor’s written customer satisfaction procedure. To obtain and maintain TABB certification, a contractor must have and follow a customer satisfaction procedure that meets TABB requirements.

Customer Complaints. If after going through the contractor’s customer satisfaction procedure, a testing, adjusting and balancing customer is still dissatisfied with a TABB Certified Contractor’s testing, adjusting and balancing work or report, the customer may make a complaint to TABB. TABB will consider a customer complaint:

- (a) Only if the customer has sought satisfaction pursuant to the contractor's customer satisfaction procedure, without success, and
- (b) Subject to all limitations in Sections below.

Exclusivity. *A customer who makes a complaint shall be advised by TABB, and asked to acknowledge and agree, that action pursuant to this TABB Quality Assurance Program and the procedures set forth in the TABB Certification Manual will be the customer's sole remedy.*

If a customer initiates arbitration or other action against the TABB Certified Contractor who performed the work in question ("Responsible Contractor") or other TABB Professionals before completion of all of the steps contemplated by this Quality Assurance Program, or before the agreed timetable for any mutually agreed corrective work, TABB shall take no further action on or with respect to the customer's Complaint.

TABB ACTION ON CUSTOMER COMPLAINTS. Specific TABB action on a customer complaint will depend upon the circumstances. Generally TABB will proceed as follows:

Preliminary Evaluation and Communication. TABB administration will contact the customer and the Responsible Contractor usually by telephone at this stage, to collect information and to seek a mutually agreed resolution.

Normally, TABB's administrator (or designee) will review the Responsible Contractor's balancing report, and such other information (e.g., design drawings) that is necessary or helpful to a full understanding of the report and the customer complaint.

Normally, TABB's administrator will then speak with the customer and the Responsible Contractor to seek a mutually agreed resolution. However, if TABB's administrator determines that it may be helpful to a fuller understanding and/or resolution, he or she may require the Responsible Contractor to conduct test measurements or other work to check aspects of the balancing report, or otherwise provide more information. If so, that shall be without charge to the customer, and the Responsible Contractor must complete the work and report back to the administrator within a reasonable time set by the administrator.

As a result of reviewing such information as TABB's administrator (or designee) determines to be pertinent, and consultations with the customer and/or Responsible Contractor as necessary, TABB's administrator may either:

- (a) direct specific remedial work by the Responsible Contractor (if the administrator finds the same to be warranted), or
- (b) determine to take no further action on the customer complaint (if the administrator finds that any of the limitations of section 5.5 apply, or if the customer will not agree to the exclusivity of this Program per section 5.3.3).

Normally, the findings and any decision of the TABB administrator at this stage will be summarized in writing and communicated to both the customer and the Responsible Contractor.

TABB's administrator may vary from the above if the administrator believes, in the particular circumstance, that a variance will or may expedite resolution of a customer complaint.

Job Site Visit. If the above steps do not resolve the complaint, and if TABB's administrator finds a further TABB action on the complaint is called for, a TABB Professional will visit the job site with representatives of the customer and the Responsible Contractor. Generally, the Contractor representatives should include the TABB Professionals responsible for the work. System design, components and settings will be reviewed, and/or measurements may be taken, to the extent the TABB representative determines necessary for a fair assessment of the complaint. New measurements and other testing, adjusting and balancing work shall be the Responsible Contractor's responsibility, to be performed under supervision of the TABB representative.

If the TABB representative determines that remedial work is appropriate, the TABB representative shall seek a mutually agreed resolution between the customer and the Responsible Contractor. The resolution should identify agreed remedial work, and a mutually agreed timetable.

If remedial work is to be done under TABB supervision, at TABB's direction the Responsible Contractor shall pay reasonable costs and expenses associated with that supervision.

Unresolved Complaints. If a complaint is not resolved by a job site visit and agreement, the customer either may make a formal Complaint pursuant to the TABB Certification Manual procedures (which will normally trigger a hearing and decision procedure), or may pursue any right or remedy otherwise available to it. If the customer makes a formal Complaint pursuant

to the TABB Certification Manual procedures, the customer will be asked to agree to TABB procedures, authority and the final TABB Decision. Specifically, the customer will be asked to agree that if the Decision finds no fault with the Responsible Contractor or its testing, adjusting and balancing work, the customer shall have no further right or remedy, but if the Decision directs the Responsible Contractor to perform remedial work, the customer shall have all rights and remedies available to it at law to enforce that Decision.

If a customer makes a formal Complaint pursuant to the TABB Certification Manual procedures, the Responsible Contractor shall be bound to the resulting Decision. Specifically, and without limiting any authority of TABB pursuant to the TABB Certification Manual, a TABB Decision may direct the Responsible Contractor to perform specific remedial work, and the Responsible Contractor shall be obligated to do so, at its expense. A TABB Decision which directs the Responsible Contractor to perform remedial work may be enforced by the customer, by court action or otherwise.

If a customer decides not to make a formal Complaint pursuant to the TABB Certification Manual procedures, but pursues any other right or remedy available to it, the Responsible Contractor shall be free to pursue any right or remedy otherwise available to it.

Disclaimer of TABB Liability. In no event is TABB responsible or liable for actual, consequential or other loss cost, expense or damage suffered by a customer or any other person, on account of any failure by any TABB Professional to perform or complete testing, adjusting and/or balancing work, or other work, in accordance with any contractual obligation or other legal duty.

Claims Against TABB. If in connection with making a formal Complaint under TABB Certification Manual procedures, the customer has agreed to be bound by any resulting Decision, that agreement shall govern. Otherwise, if a customer disputes any TABB determination under or in connection with this Quality Assurance Program, the customer may at its expense submit the dispute to arbitration by the American Arbitration Association under its Commercial Arbitration Rules.

If a Responsible Contractor disagrees with any TABB determination under or pursuant to this Quality Assurance Program, the Responsible Contractor's sole remedy shall be to make an Objection under the procedures set forth in the TABB Certification Manual.

LIMITATIONS. In the event of any of the following, TABB shall take no further action, and shall have no responsibility or liability to any person, under or on account of this Quality Assurance Program:

System Changes. If the system on which the testing, adjusting and balancing work was performed (the "System") has been changed, since that work was performed.

System Design or Equipment. If TABB reasonably determines that the Complaint is attributable to System design or installation, mechanical or other equipment, work performed by others affecting the System, incomplete work, which needs to be completed before the System will operate in accordance with its design, or other act or omission which is not the responsibility of the Responsible Contractor or its TABB Professionals. Neither TABB nor any TABB Professionals can be responsible for matters, beyond their control, which may affect System performance.

Customer Actions or Omissions. If a customer fails to fulfill conditions of any mutually agreed remedial work, which are beyond the responsibility of the Responsible Contractor, but which must be fulfilled for the work to be undertaken or successfully completed. In that event, TABB will suspend further action and the Responsible Contractor shall not be responsible or liable on account of any resulting failure to complete the work.

Termination of Contractor's Business. If between completion of the testing, adjusting and balancing work that is the subject of a Complaint, and either the Complaint under this Quality Assurance Program or completion of any agreed or directed remedial work, the Responsible Contractor goes out of business, TABB involvement shall cease. That is simply a matter which is not within TABB's control.

Time Limitation. TABB will not consider any customer Complaint which is made more than 90 days after the later of the date on which the Responsible Contractor last performed testing, adjusting and balancing work on the project in question, or the date of the Responsible Contractor's balancing report.

REMEDIAL ACTIONS; SANCTIONS.

Remedial Actions. If TABB determines that testing, adjusting and balancing work of a Responsible Contractor did not comport with TABB standards or otherwise meet the reasonable quality expectations of the customer pursuant to Section 5.2 of this Quality Assurance Program, TABB may require such remedial work as TABB deems appropriate. Each TABB Certified Contractor agrees that it is responsible to comply with any such direction. If a Responsible Contractor refuses to do so, it shall on assessment and demand

by TABB (to be made, or declined, by TABB in TABB's discretion) pay all reasonable costs and expenses necessary, appropriate or helpful to secure performance of that work by another TABB Certified Contractor. All provisions of Section 5.7, below, shall apply as to any such demand. Upon receipt of such amounts, TABB shall arrange for the remedial work to be done by another TABB Certified Contractor.

Sanctions. A contractor's failure to cooperate reasonably with a customer or with TABB and/or to timely and competently perform all mutually agreed remedial work and/or to pay any and all costs and expenses assessed against it under this Quality Assurance Program, may be grounds for Complaint initiated by TABB and sanctions up to and including withdrawal of TABB certification. A significant number of customer Complaints with respect to testing, adjusting and balancing work, against a single TABB Technician, or a TABB Certified Supervisor or Contractor, also may be grounds for such sanctions and/or non-renewal of TABB Certification.

COSTS. The goal of this Quality Assurance Program is to resolve customer Complaints with minimum cost to customer and the Responsible Contractor. To the extent TABB incurs costs (such as overhead or other costs in connection with a job site visit, or costs or expenses of another TABB Professional if TABB administration is unable to make the jobsite visit), those reasonable costs and expenses will be the responsibility of the Responsible Contractor, even if the Responsible Contractor was not at fault.

However, by participating in this Quality Assurance Program, each customer agrees that it will be responsible for any and all such costs, as reasonably determined and assessed by TABB, if and to the extent TABB determines that:

- (a) Such costs and expenses were attributable to a bad faith or frivolous Complaint, or
- (b) The customer changed the System after the testing, adjusting and balancing work was completed, or the customer Complaint is attributable to System design or installation, mechanical or other equipment, or work by someone other than the Responsible Contractor, and

by participating in this Quality Assurance Program each customer agrees to pay any and all such costs and expenses that are assessed against it by TABB, in accordance with the foregoing, immediately upon TABB's demand for the same.

If any person against whom costs and expenses are assessed or demanded (pursuant to this or any other provision of this Quality Assurance Program)

refuses to promptly pay those costs and expenses, TABB shall be entitled to recover those costs and expenses, as well as its costs of collection (including reasonable attorneys' fees and expenses, including such fees and expenses incurred in connection with any appeal of a lower court's judgment), plus interest on the assessed costs and expenses, from the date demanded until paid at the legal rate, by action in any court of competent jurisdiction.