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TESTING SERVICES AGREEMENT

REDWOOD TOXICOLOGY LABORATORY, INC., 3650 WESTWIND BLVD., SANTA ROSA, CA 95403

Customer Name	
Customer Legal Entity	
Address	
City, State, ZIP	
Effective Date:	
Initial Term:	from the Effective Date

Customer identified above (“**Customer**”) and Redwood Toxicology Laboratory, Inc., a California corporation (“**Contractor**”), enter into this Testing Services Agreement including this Signature Page, the General Terms and Conditions, Exhibits, and Addendum(s), all as identified below, and as may be mutually amended or added in writing on one or more occasion by Customer and Contractor (collectively, the “**Agreement**”), and, by signing below through their duly authorized representatives, Contractor and Customer agree to be legally bound by the Agreement on the Effective Date (set forth above).

AGREEMENT (included in Agreement at time of signing if box is checked)

GENERAL TERMS AND CONDITIONS AND EXHIBITS

- General Terms and Conditions
- ADR Exhibit

SERVICES EXHIBIT(S)

- Non-Clinical Testing Services Exhibit
- Clinical Testing Services Exhibit
- Ascertain Forensics™ Testing Services Exhibit
- Products Exhibit

ADDENDUM(S)

- Customer Addendum

Notice. Any notices required or permitted under this Agreement shall be in writing, shall refer specifically to this Agreement, and shall be sent by recognized national or international overnight courier or registered or certified mail, postage prepaid, return receipt requested, or delivered by hand to the below addresses for the applicable recipient. Notices under this Agreement will be deemed to be duly given: (a) when delivered by hand; (b) two days after deposit with a recognized national or international courier; or (c) on the delivery date indicated in the return receipt for registered or certified mail. A Party may change its contact information immediately upon written notice to the other Party in the manner provided in this section.



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If to Contractor:

Redwood Toxicology Laboratory,
Inc.
3650 Westwind Blvd.
Santa Rosa, CA 95403
Attn: Director, Government
Services

If to Customer: To the address set forth
above.

With a copy to:

Abbott Laboratories
100 Abbott Park Road
Abbott Park, Illinois 60064 USA
Attn: DVP and Associate General
Counsel, RMDx Legal

Each Party has caused this Agreement to be executed by its duly authorized representative on the date set forth below.

**REDWOOD TOXICOLOGY
LABORATORY, INC.**

Signature:

Printed Name:

Title:

Date:

Signature:

Printed Name:

Title:

Date:



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TESTING SERVICES AGREEMENT – GENERAL TERMS AND CONDITIONS

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1. Services. Contractor shall provide or arrange certain products (“**Products**”) and testing services (“**Services**”) for Customer described in the applicable Services Exhibit(s) checked on the Signature Page to this Agreement or later added by mutual written agreement of the Parties ordered on one or more occasion by Customer. Contractor is permitted to use Service Providers (defined below) to perform some or all of the Services under this Agreement. Contractor is permitted to modify or discontinue Products and Services if required under applicable Law (defined below) as determined by Contractor in its sole discretion. Additional terms and conditions governing the provision of Services are set forth in the applicable Services Exhibit(s).

2. Fees. Customer shall pay Contractor the fees set forth in the applicable Services Exhibit(s) as remuneration for the Products and Services (“**Fees**”). Customer shall pay all Contractor invoices in full no later than 30 days from the date of invoice. Any excise or other taxes applicable to accepted orders will be added to the invoice and are the sole responsibility of Customer. Customer shall pay all taxes, federal, state and local, which may be imposed upon the use of Products and Services supplied by Contractor hereunder. Customer shall reimburse Contractor for any such tax paid by Contractor. If Customer is tax exempt, Customer must provide a tax-exempt certification to Contractor before a sale. Customer shall provide Contractor and its designated representatives with all materials, documents, and other information reasonably requested by Contractor on one or more occasion(s) to enable Contractor to audit Customer’s use of the Products and Services for purposes of determining fees owed by Customer and Customer’s compliance with its other obligations hereunder.

3. Term. This Agreement is effective on the Effective Date and will continue until the later of the expiration of the Initial Term set forth on the Signature Page or the expiration of the Service Dates, if any, set forth in a Services Exhibit(s) that is part of this Agreement (“**Initial Term**”) or applicable Renewal Term (defined below). The Agreement will automatically renew at the expiration of the Initial Term for successive one-year periods (each, a “**Renewal Term**”) unless either Party provides written notice to the other Party of its intent to not renew this Agreement at least 90 days prior to the end of the Initial Term or then applicable Renewal Term. The Initial Term and Renewal Term(s) are referred to collectively as the “**Term.**”

4. Termination.

4.1. Either Party may terminate this Agreement immediately upon written notice to the other Party in the event of any of the following: (a) a material breach by the other Party of any provision of this Agreement that remains uncured 30 days following receipt of notice of such breach from the non-breaching Party; or (b) the other Party is dissolved, liquidated, put into receivership, makes an assignment for the benefit of creditors or files or suffers the filing of a petition in bankruptcy.

4.2. Contractor is permitted to terminate this Agreement without cause upon at least 30 days’ written notice to Customer.

4.3. Termination or expiration of this Agreement shall not affect any rights or obligations which have accrued prior to the date of termination or expiration, as applicable, or any other rights or remedies provided at law or equity which either Party may otherwise have.



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5. Intellectual Property.

5.1. The right, title, and interest to the Products and Services, including any trademarks and logos of Contractor and its Affiliates, and Intellectual Property Rights (defined below) of Contractor shall be the exclusive property of Contractor or its Affiliates or Third Parties from whom Contractor has secured the right to use the same. **“Intellectual Property Rights”** means all inventions, patents, patent applications, copyrights (including the right to use, reproduce, modify, distribute, publicly display, create derivative works from, and publicly perform the copyrighted work), trade secrets, trade dress, trademarks (including service mark, trade dress, trade names), rights of exploitation, authorship rights, rights of privacy, goodwill, trade identities, know-how, intellectual property, shop rights, moral rights, internet domain names, and other intangible proprietary or property rights, whether or not patentable, and any and all applications for, and extensions, divisions, and reissuances of, any of the foregoing, and rights therein, whether arising by statute or common law, existing now or in the future, in any state, country or other jurisdiction.

5.2. Subject to, and in accordance with, the terms and conditions of this Agreement, Contractor hereby grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable, and terminable license for the Term to use Contractor Intellectual Property Rights in the United States solely as determined by Contractor in its discretion for purposes of Customer’s use of the Products and Services. Notwithstanding the foregoing, nothing set forth in this Agreement shall be construed to grant to Customer any right, by license or otherwise, to use, reproduce, publish, display, or distribute Contractor’s or Contractor’s Affiliates’ trademarks, service marks, trade names, brand names, logos, taglines, slogans, certification marks, Internet domain names, trade dress, corporate names, business names, and any other indicia of origin (the **“Contractor Trademarks”**). Customer shall refrain from use of any Contractor Trademarks in any publication, press release, marketing or promotional materials, domain name, user name, hashtag, web site or otherwise without the prior written approval of Contractor, which may be granted or withheld at Contractor’s sole discretion. Contractor may from time to time grant to Customer the right to use all or certain of the Contractor Trademarks solely in connection with Customer’s use of the Products and Services. Customer agrees that it shall have no interest in or right to the use of such marks, except for any limited right of usage that Contractor may grant in writing pursuant to this Agreement. Any use by Customer of the Contractor Trademarks pursuant to this Agreement shall (i) inure to the benefit of Contractor or Contractor’s Affiliates, (ii) be in accordance with any written standards, specifications, and instructions provided by Contractor to Customer, as may be amended, modified, or replaced by Contractor from time to time, and (iii) be subject to inspection and monitoring by Contractor to ensure that such use is in accordance with all such written standards, specifications and instructions. Any license granted by Contractor hereunder shall terminate in accordance with the terms set forth in the applicable license grant.

5.3. All suggestions, enhancements, requests, feedback, recommendations, or other input provided by Customer relating to the Products and Services and/or Software Platform (defined below) shall be owned by Contractor. Contractor reserves all Intellectual Property Rights related to the Products and Services not otherwise expressly granted to Customer.



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6. Data.

6.1. Customer acknowledges that data may be stored, shared with or accessed by affiliated entities or Third-Party service providers located in the Philippines or other locations outside of the United States.

6.2. Customer shall provide any and all necessary notices, collect any and all necessary consents, and otherwise legitimize, as required under applicable law, the collection, processing, and cross-border transfer of any data entered into a Software Platform or otherwise stored by, transmitted by, or processed by, Contractor or a Software Platform.

6.3. **Except as necessary to establish and maintain Software Platform access but notwithstanding any fields or prompts requesting entry of Personal Information regarding Participants (defined below), Customer will not input into the Software Platform or otherwise provide to Contractor any data that relates to or identifies a natural person or that otherwise meets the definition of “personal data,” “personally identifiable information,” “personal information,” or similar under applicable law (collectively, “Personal Information”). Customer will ensure that each specimen provided to Contractor is accompanied by a unique identifier that does not include any Personal Information. Contractor may reject any specimen or other materials or documents that include or are accompanied by Personal Information. If a Software Platform includes fields or prompts requesting Personal Information, Customer will refer to guidance from Contractor on appropriate entries that do not include Personal Information.**

6.4. Notwithstanding anything to the contrary contained herein, to the extent permitted by Law, Contractor reserves the right to use Aggregate Data (defined below) for any lawful purpose, but in no event shall Contractor use such data in a manner that identifies Participant (defined below) or Customer.

7. Software Platform. Subject to the terms of this Agreement, during the Term, Contractor grants Customer a limited, revocable, non-perpetual, personal, nonexclusive, nontransferable, non-sublicensable, non-assignable right to access any relevant Software Platform(s) solely to the extent necessary to use or receive the Services.

7.1. Customer shall be responsible for any integration work on Customer’s network to integrate and implement the Software Platform(s) and Services into Customer’s network and operations and shall be responsible for the cost of any such work.

7.2. Customer agrees to use the Software Platforms and Services solely in accordance with the terms of this Agreement and the Software Terms (defined below) for its own use and not for resale, sublicensing, promotional, or other use.

7.3. The Software Platform(s) are owned by Contractor, its Affiliates or their respective licensors and are protected by copyright laws of the United States, by laws of other nations, and by international copyright treaties. The Software Platform(s) are licensed in accordance with the terms of this Agreement, and not sold. The use of the Software Platform(s) in any way, including the removal or alteration of advertising, except as may be expressly permitted under the limited grant of rights hereunder, is strictly prohibited.



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7.4. Customer shall not copy, modify, or adapt the object code or other code of the Software Platform(s), or reverse engineer, disassemble, decompile, reverse assemble, modify, or attempt to discover any source code of the Software Platform(s). Each Software Platform is provided as a single product and may contain or rely on components that are owned by Third Parties and have been licensed to Contractor for distribution within the Software Platform. Customer shall not separate the Software Platform's component parts for use, nor use any Third Party components in any way whatsoever other than through Customer's authorized use of the Software Platform as a single integrated application.

7.5. Customer shall not, without the express written consent of Contractor, modify, delete, or otherwise alter Software Platform functions, tools, devices, agents, scripts, robots or other means, devices, mechanisms, watermarks, digital marks, fingerprints, or processes (including robots, avatars, or intelligent agents) associated with the functioning of a Software Platform.

7.6. If Customer creates a user account to access a Software Platform, Contractor disclaims responsibility for all activities of any user that occur under such user account and password, if any. Any such user must be a representative, and Customer agrees that it will not sell, transfer, loan or assign their user accounts or cause or permit any other person to use such user account other than Customer or a Customer representative. Customer is solely responsible for any and all use under such user account.

7.7. Customer's use of the ToxAccess Software Platform shall also be subject to the additional terms and conditions set forth in the ToxAccess Terms and Conditions (the "**ToxAccess Terms**"), available at <https://toxaccess.redwoodtoxicology.com/Pages/Public/TermsandConditions.aspx>, as such ToxAccess Terms may be modified from time to time. Customer's use of ToxAccess and any other Software Platforms will also be subject to any additional software terms and conditions made available to Customer by Contractor from time to time (any such terms, collectively with the ToxAccess Terms, the "**Software Terms**"). In the event of any conflict between this Agreement and the Software Terms, this Agreement shall control.

7.8. Customer acknowledges and agrees that all restrictions, terms, and conditions set forth in this Agreement and the Software Terms as to the Services and Software Platform(s) (and use thereof) shall apply to Customer's representatives and Participants to the same extent as such are applicable to Customer. Accordingly, Customer shall be liable for all acts and omissions of its representatives and Participants with respect to the Services and Software Platform(s) (and their use thereof) and/or their obligations herein. Customer shall cause its representatives to comply with the restrictions, terms, and conditions under this Agreement and the Software Terms to ensure their use is consistent with and not otherwise in violation of this Agreement.

7.9. In the event Contractor determines substantial data integration services are required to provide Services and integrate with one or more Customer software platforms, the Parties shall complete and execute a separate statement of work covering such services, and upon execution, such statement of work will become part of this Agreement.



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8. Representations, Warranties, and Covenants.

8.1. Each Party represents, warrants and covenants to the other Party that (a) it has the legal power to enter into this Agreement, (b) it is an entity duly organized or formed and validly existing and in good standing under the laws of the state of its incorporation or formation, (c) it has the rights and authorizations necessary to perform its obligations and grant the rights set forth in this Agreement, (d) to the best of its knowledge, it does not have any outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement, or that would preclude it from complying with the provisions hereof, (e) it is not an Excluded Provider (defined below), and (f) except as otherwise provided in the Clinical Testing Services Exhibit, it will not submit claims to, and will not otherwise seek reimbursement or payment from, Medicaid or Medicare for the Services or any portion thereof.

8.2. Customer represents, warrants, and covenants that (a) Customer understands and agrees Contractor is not providing advice or consulting services on (i) the use of test results, including any use of such information for clinical, administrative, employment, legal, forensic, criminal justice, or occupational health purposes, or (ii) the development or enforcement of any programs or policies of any kind for any purpose (“**Testing Programs**”); (b) Customer is not relying on any statements by Contractor or its Affiliates or any Service Providers in developing, establishing, or implementing any Testing Programs; (c) Customer is solely responsible for determining the appropriateness of Services for Customer’s intended use, including for use in any Testing Programs; (d) Customer’s use of the Services will be in compliance with all applicable laws, rules, regulations, statutes and other legal requirements of any relevant country, and the transfer of specimens and any other materials or information provided to Contractor, and testing of the specimens by Contractor, will not be in violation of any applicable laws, rules, regulations, statutes and other legal requirements of any relevant country; (e) Customer shall not make any representation, warranty and/or covenant to any Third Party, including Participants, concerning the Services that exceed the representations and/or warranties of Contractor under this Agreement; and (f) Customer has obtained all necessary consents with respect to any specimens provided to Contractor.

8.3. Contractor represents, warrants and covenants that (a) Services are and will be performed (1) in compliance with applicable Law; (2) in a competent, professional and workmanlike manner using reasonable care and diligence in accordance with accepted industry standards; (3) by persons and entities with the requisite qualifications, licenses, and expertise required to provide the Services, and (b) Products delivered to a carrier for shipment to Customer, or delivered directly to Customer, will for the stated shelf life of such Product: (1) materially conform to published specifications set forth in the applicable package insert(s) for such Product; (2) not be adulterated or misbranded within the meaning of the U.S. Food, Drug and Cosmetic Act; and (3) be of good quality and free from defects in materials and workmanship. If any Product or Service does not comply with the representations, warranties, and covenants set forth in this Section 8.3, as Customer’s sole and exclusive remedy, Contractor shall, at its discretion, correct or re-perform the applicable Service, or repair or replace the applicable Product, at no additional cost to Customer. Notwithstanding the foregoing, Contractor’s representation, warranties, and covenants in this Section do not apply to any Software Platform.



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8.4. **DISCLAIMERS AND LIMITATIONS OF LIABILITY.** Except as provided in Section 8.3, the Products, Services, and Software Platform(s) are provided on an "AS IS" basis and Contractor makes no express or implied warranties, representations, or endorsements whatsoever with regard to the Products, Services or Software Platform(s). Customer assumes all risk for the suitability and use of the Products, Services and Software Platform(s), and the consequences that flow therefrom, including determinations applied to Participants, and Customer's compliance with applicable Law relating to Customer's use of test data.

CONTRACTOR ON BEHALF OF ITSELF AND ITS AFFILIATES, TO THE FULLEST EXTENT PERMITTED BY LAW, DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTIES' RIGHTS, AND FITNESS FOR A PARTICULAR PURPOSE RELATING TO THE PRODUCTS, SERVICES, AND SOFTWARE PLATFORM(S). FURTHER, CONTRACTOR ON BEHALF OF ITSELF AND ITS AFFILIATES, TO THE FULLEST EXTENT PERMITTED BY LAW, MAKES NO REPRESENTATION OR WARRANTY, ENDORSEMENT OF ANY KIND WHATSOEVER (EXPRESS OR IMPLIED) THAT (A) THE SOFTWARE PLATFORM(S) WILL BE FREE FROM INTERRUPTION OR ERROR-FREE OR THAT SOFTWARE PROGRAM DEFECTS WILL ALWAYS BE CORRECTED, OR (B) CUSTOMER'S ACTIVITIES OR USE OF THE PRODUCTS, SERVICES, OR SOFTWARE PLATFORM(S) COMPLY WITH APPLICABLE LAW, OR THAT THE PRODUCTS, SERVICES, OR SOFTWARE PLATFORM(S) WILL SATISFY CUSTOMER'S OWN REQUIREMENTS AND OBJECTIVES. NO WARRANTY PROVIDED BY CONTRACTOR WILL APPLY TO ANY PRODUCT IF: (I) SUCH PRODUCT HAS BEEN MISUSED, ALTERED, DAMAGED, OR USED OTHER THAN IN ACCORDANCE WITH THE APPLICABLE PACKAGE INSERT (INCLUDING THE SUBSTITUTION OF ANY MATERIAL OR CONSUMABLE NOT AUTHORIZED BY CONTRACTOR) SO AS TO AFFECT ITS STABILITY OR RELIABILITY; OR (II) THE SERIAL OR LOT NUMBER OF ANY PRODUCT HAS BEEN ALTERED, DEFACED, OR REMOVED.

EXCEPT AS OTHERWISE SET FORTH BELOW WITH RESPECT TO DIRECT DAMAGES, IN NO EVENT SHALL CONTRACTOR AND ITS AFFILIATES (EACH A "**DISCLAIMING PARTY**", COLLECTIVELY, "**DISCLAIMING PARTIES**") BE LIABLE TO CUSTOMER OR ANY OF CUSTOMER'S AFFILIATES FOR ANY DAMAGES, INCLUDING DIRECT, INDIRECT, INCIDENTAL, SPECIAL, AND CONSEQUENTIAL DAMAGES, LOST PROFITS, LOST BUSINESS, OR DAMAGES ARISING OUT OF THIS AGREEMENT, PRODUCTS, SERVICES, SOFTWARE PLATFORMS, OR THE USE OF OR INABILITY TO USE THE PRODUCTS, SERVICES, OR SOFTWARE PLATFORMS, WHETHER BASED ON WARRANTY, CONTRACT (INCLUDING CLAIMS FOR INDEMNIFICATION, CONTRIBUTION, OR SUBROGATION), TORT (INCLUDING NEGLIGENCE AND GROSS NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY DISCLAIMING PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

CUSTOMER'S SOLE REMEDIES UNDER THIS AGREEMENT WILL BE AS SET FORTH IN SECTION 8.3, AND TO SEEK DIRECT DAMAGES FROM CONTRACTOR. CUSTOMER HEREBY WAIVES ALL CLAIMS AGAINST EACH DISCLAIMING PARTY OTHER THAN CONTRACTOR TO THE FULLEST EXTENT PERMITTED BY LAW. CONTRACTOR'S



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MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS AND/OR LOSSES RELATED TO, RESULTING FROM OR IN CONNECTION WITH THE PRODUCTS, SERVICES, SOFTWARE PLATFORM, OR THIS AGREEMENT, INCLUDING ANY CLAIM FOR INDEMNIFICATION, SHALL NOT EXCEED THE TOTAL FEES PAID AND PAYABLE BY CUSTOMER TO CONTRACTOR FOR THE 12-MONTH PERIOD PRIOR TO THE OCCURRENCE OF THE EVENT GIVING RISE TO THE CLAIM AND/OR LOSS.

IN THE EVENT SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMERS, EXCLUSION, OR LIMITATION OF DAMAGES TO THE EXTENT INDICATED ABOVE, DISCLAIMING PARTIES' LIABILITY IN SUCH JURISDICTIONS SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE LIMITATIONS SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THIS AGREEMENT AND THE SERVICES WOULD NOT BE PROVIDED TO CUSTOMER ABSENT SUCH LIMITATIONS.

9. Indemnification. Customer agrees to defend, indemnify, and hold Contractor and its parents, subsidiaries, affiliated and related companies, directors, officers, employees, agents (collectively, "**Contractor Indemnified Parties**") wholly harmless from and against any and all liabilities, losses, proceedings, actions, damages, claims (including claims for defense, indemnification, and/or to be held harmless asserted by any Third Party), or expenses of any kind (including costs and reasonable attorneys' fees) (collectively, "**Losses**") arising under or in connection with this Agreement related to or arising from Customer's (a) negligent, grossly negligent, reckless acts and omissions or willful misconduct; (b) breach of the Agreement, including breach of any Customer representation, warranty, covenant, or obligation hereunder; (c) violation of applicable laws, rules, regulations, statutes and other legal requirements; (d) use of the Services; or (e) representation, warranty or covenant to any Third Party, including Participants, in connection with the Products or Services that exceeds any Contractor representations, warranties and covenants to Customer herein.

10. Confidential Information. Each Party agrees to (a) protect the other Party's Confidential Information (defined below) with the same standard of care it uses to protect its own Confidential Information, but in no event less than reasonable care, and (b) not disclose the Confidential Information of the other Party, except to its officers, employees, Affiliates, agents and consultants with a need to know such information and who have a written obligation to protect the confidentiality of such Confidential Information. Confidential Information may only be used to exercise the rights and perform the services and obligations under this Agreement. Notwithstanding the foregoing, a Party may disclose the other Party's Confidential Information if and to the extent required by any discovery request, subpoena, court order or governmental action, as evidenced by advice of legal counsel, provided that such Party gives the other Party reasonable advance notice of the same (e.g., so as to afford the other Party a reasonable opportunity to appear, object and obtain a protective order or other appropriate relief regarding such disclosure). The term "**Confidential Information**" means information of a Party that is not generally available to the public, whether of a technical, business, or other nature (including information relating to a Party's technology, products, or services), including the terms of this Agreement. Confidential Information does not include any information that: (x) is disclosed to the recipient without restriction by a Third Party (as hereinafter defined) and that Third Party



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has a legal right to make such disclosure; (y) is independently developed by the recipient without reliance upon or use of any of the disclosing Party's Confidential Information; or (z) is or become part of the public domain through no fault of the recipient.

11. Insurance.

- 11.1. Each Party shall, at its own cost and expense, procure and keep in full force and effect for the Term: (a) commercial general liability insurance, including products liability and contractual liability, covering liability resulting from bodily injury, property damage, personal injury, and advertising injury; this insurance shall have a minimum limit of \$2,000,000 per occurrence and \$2,000,000 in the aggregate; (b) professional/errors and omissions liability insurance with a minimum of \$2,000,000 per claim and \$2,000,000 in the aggregate, covering all acts, errors, and omissions; (c) Workers Compensation as required by applicable state statute with employer liability insurance with a minimum limit of \$1,000,000 per occurrence; and (d) Automobile Liability insurance covering any owned, non-owned, and hired autos used to perform the scope of services with a minimum limit of \$1,000,000 per occurrence.
- 11.2. The above required insurance shall be insured through licensed insurers authorized to do business and on policy forms approved for use in the jurisdiction of the Agreement and have a minimum A.M. Best financial rating (or equivalent rating agency outside the U.S. if a carrier is not rated by A.M. Best) of "A," size "IX." Unless otherwise stated, the required coverage shall (a) contain a waiver of rights of subrogation against the other Party, including the other Party's parent company(s), employees, officers, directors, and affiliates, and (b) with respect to the commercial general liability, workers compensation with employer liability and automobile liability insurances referenced in Section 11.1 above, include the other Party, the other Party's parent companies, employees, officers, directors, and affiliates as additional insureds; and (c) with respect to the commercial general liability, workers compensation with employer liability and automobile liability insurances referenced in Section 11.1 above be primary and non-contributory to any other insurance available to an additional insured as required herein.
- 11.3. Each Party shall furnish the other a certificate of insurance signed by an authorized representative of the other Party's insurer(s) on request. In the event of any notice or action to cancel, non-renew, or materially change the above required insurance, the impacted Party shall provide the other 30 days advance notice of such change. The acceptance by either Party of certificates of insurance providing for other or different coverage than herein required to be furnished, shall in no event be deemed to be a waiver of any provisions of this Agreement. Furthermore, the minimum limits of liability or conditions required in this paragraph do not in any way limit any indemnity obligation or other liability of the Parties under this Agreement.
- 11.4. Notwithstanding any requirement or provision of this Agreement to the contrary, Contractor may satisfy and discharge its obligations to procure or maintain insurance by maintaining self-insurance or a self-funded plan.



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12. Governing Law; Jurisdiction; ADR. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, U.S.A., excluding choice of law provisions. Except as provided in this section of the General Terms and Conditions, for any legal action relating to this Agreement, the Parties consent to the exclusive jurisdiction and venue of the federal courts of the Northern District of Illinois and, if there is no jurisdiction in federal court, to the exclusive jurisdiction and venue of the state courts in Lake County, Notwithstanding the foregoing, any issue or dispute shall be discussed in good faith by the Parties, and the Parties shall attempt to resolve such issue or dispute between themselves; however, if any controversy or claim arising out of, or relating to, this Agreement or the breach thereof cannot be resolved by the Parties within 14 days of one Party notifying the other Party of such controversy or claim, it shall be settled by Alternative Dispute Resolution (“ADR”) as set forth in the **ADR Exhibit**.

13. Independent Contractor. All work performed by Contractor in connection with the Services described in this Agreement shall be performed by Contractor as an independent contractor of Customer. Nothing contained herein shall be construed as creating a partnership, joint venture or agency relationship between the Parties.

14. Force Majeure. Neither Party shall be liable for any failure or delay in the performance of its obligations under this Agreement (other than the payment of money) due to causes beyond its reasonable control, including, but not limited to, fires, floods, earthquakes, interruption of transportation, inability to obtain supplies at reasonable prices or terms, shortage of raw materials, labor disputes, epidemics, other acts of God, accidents, embargoes, war, riots, terrorist acts and any act or order of any government or governmental agency.

15. Survival. All rights and obligations of the Parties that are intended to survive expiration or earlier termination of this Agreement shall survive such expiration or termination, including Sections 5 (Intellectual Property), 8 (Representations, Warranties, and Covenants), 9 (Indemnification), 10 (Confidential Information), and 12 (Governing Law; Jurisdiction; ADR). Any other provisions of this Agreement contemplated by their terms to pertain to a period of time following expiration or termination of this Agreement shall survive for such period.

16. Assignment. Customer shall not assign any rights, obligations or liabilities hereunder without the prior written consent of Contractor. Any such attempt by Customer to assign this Agreement shall be null and void and of no effect against Contractor.

17. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument. Each Party acknowledges that an original signature, electronically applied signature of a legible copy of either transmitted electronically in a portable document format (“PDF”) shall constitute an original signature for purposes of this Agreement.

18. Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to, or shall, confer upon any Third Party any right, benefit, or remedy of any nature whatsoever under, or by reason of, this Agreement.

19. Modification. This Agreement may not be modified except in writing signed by authorized representatives of both Parties.



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20. Waiver. No course of dealing between the Parties or any delay on the part of either Party in exercising any rights they may have under this Agreement shall operate as a waiver of any of the rights of the other Party. No express waiver shall affect any condition, covenant, rule, regulation, right or remedy other than the one specified in such waiver and only for the time and in the manner specifically stated.

21. Electronic Signature. Contractor and Customer agree that the electronic signature of a Party to this Agreement shall be as valid as an original signature of such Party and shall be effective to bind such party to this Agreement. The Parties agree that any electronically signed document (including this Agreement) shall be deemed (a) to be “written” or “in writing,” (b) to have been signed and (c) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, “electronic signature” means a manually signed original signature that is then transmitted by electronic means; “transmitted by electronic means” means sent in the form of facsimile or sent via the internet as a PDF or other replicating image attached to an e-mail message; and “electronically signed document” means a documented transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

22. Entire Agreement. This instrument, together with any applicable Software Terms, is intended by the Parties as a final expression of their agreement regarding the Services herein and as a complete statement of the terms thereof, and shall supersede all previous understandings and agreements regarding the subject matter herein. The Parties shall not be bound by any representation, promise, or inducement made by either Party or agent of either Party that is not set forth in this Agreement. If the terms or conditions contained in any exhibit or attachment to this Agreement or any document incorporated by reference is in conflict with the terms and conditions set forth in the Terms and Conditions of this Agreement, the terms and conditions in this Agreement shall control.

23. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, invalid or illegal, it shall be severed, and the remainder of the Agreement shall remain in full force and effect

24. Interpretation. The headings of the Sections of, and any Exhibits and Addenda to, this Agreement have been added for the convenience of the Parties and shall not be deemed a part hereof. Words in the singular shall be deemed to include the plural and vice versa, and words of one gender shall be deemed to include the other gender, as the context requires. The terms “hereof,” “herein,” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, Exhibit and Addenda references are to the Sections, Exhibits and Addenda to this Agreement, unless otherwise specified. Unless otherwise stated, all references to any agreement shall be deemed to include any and all Exhibits/Schedules/Annexes/Addenda to such agreement. The word “including” and words of similar import when used in this Agreement shall mean “including, without limitation,” unless the context otherwise requires or unless otherwise specified. The word “or” shall not be exclusive. Unless otherwise specified in a particular case, the word “days” refers to calendar days. References herein to this Agreement shall be deemed to refer to this Agreement as of its Effective Date and as it may be amended



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thereafter, unless otherwise specified. References to the performance, discharge, or fulfillment of any liability or obligation in accordance with its terms shall have meaning only to the extent such liability or obligation has terms; if the liability or obligation does not have terms, the reference shall mean performance, discharge, or fulfillment of such liability or obligation.

25. Certain Definitions. In addition to the terms in initial capitalized letters defined elsewhere in this Agreement, the following terms have the meanings set forth below:

- 25.1. **“Affiliates”** means any entity that directly or indirectly controls, is controlled by or is under common control with an entity.
- 25.2. **“Aggregate Data”** means any data provided by or on behalf of Participant to Contractor in connection with the Agreement that does not include any individual Participant’s personally identifiable information.
- 25.3. **“Excluded Provider”** means a person or entity that either has been convicted of a crime related to health care or, is currently listed by a federal agency as debarred, excluded or otherwise ineligible for federally-funded programs (including Medicare and Medicaid).
- 25.4. **“Laws”** means all United States federal, state, and local laws, statutes, and regulations.
- 25.5. **“Participant”** means an individual whose sample Contractor is instructed to test by Customer for purposes of Contractor providing Services to Customer under this Agreement.
- 25.6. **“Party”** means each of Contractor and Customer.
- 25.7. **“Service Provider”** means any Third Party service provider engaged by Contractor to provide the Services, including providers of laboratory services, sample collection and sample shipment services, and their respective staffs, agents and designees.
- 25.8. **“Software Platform”** means the software platforms (including any application program interface(s)) to which Contractor provides access to Customer and Participants under this Agreement in order for Customer to use or receive the Services, including DrugTestCheck.com, ToxAccess and custom solutions and interfaces.
- 25.9. **“Third Party”** means any person or party other than either or both Parties and/or their Affiliates.

[END OF GENERAL TERMS AND CONDITIONS]



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TESTING SERVICES AGREEMENT – ADR EXHIBITS

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If a dispute arises between the Parties regarding this Agreement, the Parties will attempt to resolve such dispute in good faith by direct negotiation by representatives of each Party. If such negotiation does not resolve the matter within 28 days after notice of the dispute is given, the matter will be resolved by the following alternative dispute resolution ("ADR") procedure.

To begin an ADR proceeding, a Party shall provide written notice to the other Party of the issues to be resolved by ADR. Within 14 days after its receipt of notice of ADR, the other Party may, by written notice, add additional issues to be resolved. Within 21 days following receipt of the original ADR notice, the Parties shall select a mutually acceptable independent, impartial, and conflicts-free neutral to preside over the proceeding. If the Parties are unable to agree on a mutually acceptable neutral within such period, each Party will select one independent, impartial, and conflicts-free neutral and those two neutrals will select a third independent, impartial, and conflicts-free neutral within ten days thereafter. None of the neutrals selected may be current or former employees, officers or directors of either Party or its Affiliates. The Parties shall convene in a location mutually agreed upon to conduct a hearing before the neutral no later than 56 days after selection of the neutral (unless otherwise agreed upon by the Parties).

The ADR Process shall include a pre-hearing exchange of exhibits and summary of witness testimony upon which each Party is relying, proposed rulings and remedies on each issue, and a brief in support of each Party's proposed rulings and remedies not to exceed twenty (20) pages. The pre-hearing exchange must be completed no later than ten days prior to the hearing date. Any disputes relating to the pre-hearing exchange shall be resolved by the neutral. No discovery shall be permitted by any means, including depositions, interrogatories, requests for admissions, or production of documents.

The hearing shall be conducted on two consecutive days, with each Party entitled to five hours of hearing time to present its case, including cross-examination. The neutral shall adopt in its entirety the proposed ruling and remedy of one of the Parties on each disputed issue but may adopt one Party's proposed rulings and remedies on some issues and the other Party's proposed rulings and remedies on other issues. The neutral shall rule within 14 days of the hearing, shall not issue any written opinion, and shall not refer any portion of the dispute to mediation without the Parties prior, written consent. The rulings of the neutral shall be binding, and non-appealable and may be entered as a final judgment in any court having jurisdiction. The neutral(s) shall be paid a reasonable fee plus expenses. These fees and expenses, along with the reasonable legal fees and expenses of the prevailing Party (including all expert witness fees and expenses), the fees and expenses of a court reporter, and any expenses for a hearing room, shall be paid as follows:

(a) If the neutral(s) rule(s) in favor of one Party on all disputed issues in the ADR, the losing Party shall pay 100% of such fees and expenses.



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(b) If the neutral(s) rule(s) in favor of one Party on some issues and the other Party on other issues, the neutral(s) shall issue with the rulings a written determination as to how such fees and expenses shall be allocated between the Parties. The neutral(s) shall allocate fees and expenses in a way that bears a reasonable relationship to the outcome of the ADR, with the Party prevailing on more issues, or on issues of greater value or gravity, recovering a relatively larger share of its legal fees and expenses.

[END OF ADR EXHIBIT]

SAMPLE