

Conduct of the Services. ARL Bio Pharma (“ARL”) will perform testing and prepare all reports in accordance with generally prevailing industry standards of professional conduct, and all applicable laws, regulations, and rules of the relevant governmental regulatory authorities. Client is responsible for selecting Test Material as defined below that Client sends to ARL for testing in compliance with all applicable laws, regulations, and rules of the relevant governmental regulatory authorities. All work will be conducted under non-cGMP conditions. For non-compendial testing, the specification(s) are for informational purposes only. For potency testing, the analyte is reported as it was calculated to derive the result. Client shall verify the specification and analyte reported are correct for the compounded formulation.

Test Material. As applicable, Client will provide ARL (at no cost to ARL) sufficient amounts of all compounds, materials, or other substances (“Test Material”) with which to perform each test, as well as such data and other information as may be necessary or useful for ARL to perform the testing and to apprise ARL of the stability, proper storage and safe handling requirements with respect to the Test Material, including a Material Safety Data Sheet (MSDS) or equivalent documentation. ARL will discard any remaining Test Materials after thirty (30) days following testing unless Client advises ARL prior to the expiration of thirty (30) days following testing that Client wants remaining Test Material returned and provides instructions and payment for return of remaining Test Material. Any Test Material returned to Client from ARL shall not be used for human and/or animal consumption.

Cancellation of Testing. ARL reserves the right to charge a cancellation fee for any testing cancelled by the Client after a sample has been logged in of \$20 per cancelled test.

Personnel. To the best of ARL’s knowledge, none of its employees who are to participate in testing (a) have been debarred or (b) are under consideration to be debarred by the Food and Drug Administration from working in or providing services to any pharmaceutical or biotechnology company under the Generic Drug Enforcement Act of 1992, as amended.

Inspections. Once a year upon reasonable advance notice, ARL will permit Client and/or

its designated representative reasonably acceptable to ARL, during normal business hours and at mutually agreeable times, to visit the ARL facilities where testing is taking place.

Test Records and Reports. ARL will keep complete and accurate records of each test for at least five (5) years.

Fees. Client agrees to pay all invoices within fifteen (15) days from the date of the relevant invoice. All amounts not paid when due shall bear interest from the applicable due date until paid at one and one half percent (1.5%) per month. In addition, ARL may elect to suspend any testing that may be in progress, delay the start of new testing, and/or withhold required reports or other deliverables if the Client does not make any required payment within the fifteen (15) day period referenced above. Additionally, ARL shall be entitled to reimbursement of reasonable costs of collection, including reasonable attorneys’ fees. All payments shall be in US Dollars. A surcharge may be added to the fees if a rush program is requested.

Subcontractors. ARL may outsource or use contractors for work under this Agreement.

Confidentiality. The parties anticipate that they may exchange proprietary and confidential information (the “Confidential Information”) during the term of the Agreement. All Confidential Information shall be identified, in writing, as confidential and/or proprietary. ARL will use its commercially reasonable efforts to maintain such Confidential Information in confidence and will employ reasonable and appropriate procedures to prevent its unauthorized publication or disclosure to third parties. ARL shall not use the other party’s Confidential Information for any purpose other than in performance of the services.

Warranties. Client warrants that it owns all rights, title, and interest in the Test Material furnished to ARL hereunder and intellectual property related thereto, and that ARL’s use of any and all such Test Material in connection with the testing does not infringe any patent rights or other intellectual property rights of any third party. ARL warrants only to Client that the services provided to Client under the

Agreement shall conform to the specifications set forth in the Agreement and any material applicable laws, regulations, and rules of the relevant governmental regulatory authorities. Client shall comply with all applicable laws, regulations, and rules of the relevant governmental regulatory authorities related to final product release related to any Test Material ARL tests. Any warranties are made only to the Client purchasing ARL’s services, are not transferable, and do not extend to the benefit of any other person or entity, unless otherwise expressly stated in writing by ARL. ANY PRODUCT OR SERVICE NOT COVERED BY AN EXPRESS WRITTEN WARRANTY IS SOLD AND PROVIDED “AS IS,” WITHOUT WARRANTY OF ANY KIND, STATUTORY, EXPRESS OR IMPLIED. THE WARRANTIES PROVIDED IN THIS PARAGRAPH ARE ARL’S SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO SERVICE AND ARE IN LIEU OF ALL OTHER WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, AND ALL OF WHICH OTHER WARRANTIES ARE EXPRESSLY DISCLAIMED AND INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR REGARDING RESULTS OBTAINED THROUGH THE USE OF ANY SERVICE (INCLUDING, WITHOUT LIMITATION, ANY CLAIM OF INACCURATE, INVALID, OR INCOMPLETE RESULTS), WHETHER ARISING FROM A STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF PERFORMANCE, DEALING, OR USAGE OF TRADE. IF A COURT FINDS LIABILITY ON THE PART OF ARL BASED ON A CLAIM OF INACCURATE, INVALID, OR INCOMPLETE RESULTS, CLIENT EXPRESSLY AGREES THAT ARL’S LIABILITY IS LIMITED TO THE PRICE PAID TO ARL FOR THE RELATED PRODUCT OR SERVICE.

Limitation of Liability. ARL WILL NOT BE LIABLE FOR PENALTIES OR LIQUIDATED DAMAGES OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY TYPE OR KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS) REGARDLESS OF WHETHER ANY SUCH LOSSES OR

DAMAGES ARE CHARACTERIZED AS ARISING FROM BREACH OF CONTRACT, BREACH OF WARRANTY, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF ARL IS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, OR IF SUCH LOSSES OR DAMAGES ARE FORESEEABLE.

ARL'S LIABILITY FOR DIRECT DAMAGES UNDER THE AGREEMENT, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE TOTAL SERVICE FEES PAID BY CLIENT FOR SERVICES UNDER THE APPLICABLE AGREEMENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, ARL'S SOLE LIABILITY, AND CLIENT'S SOLE REMEDY FOR ARL'S BREACH OF THE WARRANTY SET FORTH HEREIN SHALL BE REPERFORMANCE OF THE AFFECTED SERVICES OR THE PORTION THEREOF AFFECTED BY SUCH BREACH AS PROMPTLY AS POSSIBLE AT ARL'S SOLE COST AND EXPENSE.

Ownership. Client shall exclusively own all data generated in the performance of the services, together with any discoveries or inventions developed, generated or conceived in the performance of the services which are modifications or improvements to any proprietary technology, information or materials provided by Client to ARL hereunder.

ARL shall exclusively own all techniques, methods, processes, models, tools, assays, or other discoveries or inventions that are developed, generated, conceived, or utilized in the performance of the services except to the extent expressly owned by Client herein.

Independent Contractor. The business relationship of the parties is that of independent contractors and not of partners, joint venturers, employers, employees, or any other kind of relationship. Each party will be solely responsible for expenses and liabilities associated with the employment of its employees.

Applicable Law. This Agreement will in all events and for all purposes be governed by, and construed in accordance with, the laws of the State of Oklahoma, USA without regard to any

choice of law principle that would dictate the application of the law of another jurisdiction.

Force Majeure. ARL shall not be liable for any delay or failure of performance, including without limitation failure to perform a service, where such delay or failure arises or results from any cause beyond ARL's reasonable control, including, but not limited to, flood, fire, explosion, natural catastrophe, military operations, war, computer or other equipment failure, unusually severe weather, earthquake or other act of God, power loss or reduction, labor disputes of any kind (whether relating to its own employees or others), embargo, governmental regulation, or an inability or delay in obtaining materials. In the event of any such delay or failure of performance, ARL shall have such additional time within which to perform its obligations hereunder as may be reasonably necessary under the circumstances.

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