

Protocol Laboratory Testing

CR Testing Labs TERMS AND CONDITIONS OF SERVICE

The CR Testing Labs Terms and Conditions of Service (the “**Terms**”) apply to all Services performed by CR Testing Labs and form part of the Agreement between Customer and CR Testing Labs for Services. By entering into an Agreement with CR Testing Labs for Services or by receiving Services from CR Testing Labs, Customer agrees to the following terms and conditions.

1. SERVICES. CR Testing Labs performs protocol testing of Customer’s products as required by the Poison Prevention Packaging Act of 1970 (16 CFR 1700) or other international guidelines (collectively the “**Services**”). The specific Services to be performed for Customer shall itemized from the website form and invoice (“**Invoice**”), which shall be subject these Terms and shall be mutually agreed by the Parties.

2. PRICING AND PAYMENT TERMS.

2.1 Prices and additional payment terms for the Services shall be set forth in the Invoice. Customer shall pay all fees for the selected Service as specified in the Invoice (“**Service Fee**”). Customer agrees that: (i) payment obligations are non-refundable; (ii) additional Service Fees will be incurred if Customer changes the scope, upgrades or purchases more Services during any Term, (iii) all costs and fees charged to CR Testing Labs by any independent contractors or suppliers incurred in providing the Service shall be paid by Customer.

2.2 All Service Fees are due and payable upon receipt of the Invoice by Customer. All payments shall be made in U.S. dollars and, unless otherwise agreed by CR Testing Labs, be paid via ACH or wire transfer to the CR Testing Labs account set forth in the Invoice. Deposit and or Payments instructions are subject to change and shall be determined by CR Testing Labs.

2.3 In the event of a term agreement, if payment is not received within thirty (30) days from date of the Invoice, such late payment shall be subject to a service charge equal to 1.5% per month of the amount due (or the maximum legal rate). If Customer’s account is thirty (30) days or more overdue, in addition to any of its other rights or remedies, CR Testing Labs reserves the right to suspend performance of the Services without liability to Customer, until such amounts are paid in full. In the event of non-payment, the Customer will reimburse CR Testing Labs for all costs and expenses (including but not limited to legal, collection, storage and late fees due to factories) incurred in the collection of any overdue. The Buyer understands that each payment is non-refundable.

3. TAXES. Fees for Services do not include any federal, state, county, or local sales, excise tax, or taxes imposed by any foreign governmental entity unless otherwise stated. Other than taxes on CR Testing Labs’s net income, Customer is solely responsible for, and shall pay all such taxes, including personal property, inventory, gross receipts, sales, value added and use taxes related to the Services.

4. INDEPENDENT CONTRACTOR. CR Testing Labs provides Services to Customer as an independent contractor. Nothing herein is intended, nor shall be construed, to create an employment, agency, partnership, joint venture or other relationship.

5. TERM AND TERMINATION

5.1 **TERM.** The term of this Agreement shall commence on the Effective Date and shall continue in effect until all itemized testing on the Invoice has been completed, terminated or have expired. This Agreement may be renewed upon mutual agreement of the parties. The initial term and any and all renewal terms are referred to herein as the "**Term.**"

5.2 **TERMINATION.** Either party may terminate this Agreement or testing order thereunder if the other party: (a) fails to cure any material breach of these Terms within thirty (30) days after written notice; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party. CR Testing Labs may terminate any test order, or this Agreement, for convenience upon thirty (30) days prior written notice, provided that CR Testing Labs will refund any already paid Service Fees prorated for any remaining Term after such termination for convenience. No refund will be given in the event of termination for cause by CR Testing Labs.

6. REPRESENTATIONS AND WARRANTIES.

6.1 The parties have the power to enter into and perform this Agreement, and the execution of this Agreement has been duly authorized by all necessary corporate action.

6.2 This Agreement constitutes a valid and binding obligation on each party, enforceable in accordance with its terms.

6.3 No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened against or affecting the parties, their business or properties, their financial or other condition, or the transactions contemplated under this Agreement.

6.4 No consent or approval of any other person or governmental authority is necessary for this Agreement to be effective.

6.5 Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by it would constitute a default or violation of the parties' articles of incorporation, bylaws, or any license, lease, franchise, mortgage, instrument, or other agreement.

6.6 **DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE PARTIES MAKE NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. THE PARTIES HEREBY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

7. **INSURANCE.** CR Testing Labs is not an insurer, does not carry insurance on Customer's products and does not provide or sell insurance services. Insurance related to loss or damage of products during manufacture, transportation, storage and other events is at Customer's sole risk of loss. Customer represents and warrants to CR Testing Labs that it has secured adequate insurance covering damage, loss or theft to products.

8. **INDEMNITY.** Except to the extent of CR Testing Labs's negligence or willful misconduct, Customer shall at all times indemnify, defend and hold harmless CR Testing Labs, its agents and employees from and against all actions, settlements, losses, damages, claims, costs, and expenses (including reasonable

attorney's fees), relating to or in any way arising from the negligence and willful misconduct of Customer, including, without limitation, claims for bodily injury, death and damage to property or to Customer's agents, contractors and employees asserted, against Contractor which claims relate, directly or indirectly, to Customer's products or performance under this Agreement.

9. FORCE MAJEURE. If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, war, civil commotion, fire, or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance will be excused. This clause shall not apply to obligations to pay for Services performed hereunder.

10. LIMITATION OF LIABILITY.

10.1 LIMITATION OF LIABILITY AND DAMAGES. IN NO EVENT SHALL EITHER PARTY'S TOTAL AGGREGATE LIABILITY TO THE OTHER FOR ALL DIRECT DAMAGES, LOSSES AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT, INCLUDING NEGLIGENCE, OR OTHERWISE) ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AMOUNTS DUE AND PAYABLE TO CR TESTING LABS OVER THE TWELVE MONTH PERIOD PRECEDING THE CLAIM AT ISSUE.

10.2. NO CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL CR TESTING LABS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST SALES, AND LOST OPPORTUNITY COSTS), PUNITIVE, OR OTHER EXTRAORDINARY DAMAGES OF ANY KIND RESULTING, FROM OR IN ANY WAY RELATED TO THIS AGREEMENT, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, AND EVEN IF CR TESTING LABS OR CUSTOMER ARE AWARE OF THE POSSIBILITY OF SUCH DAMAGES. THE PROHIBITION ON THE FOREGOING TYPES OF DAMAGES SHALL APPLY WHETHER THE DAMAGES ARE CHARACTERIZED AS "CONTRACT DAMAGES," "TORT DAMAGES" OR OTHERWISE.

11. COMPLIANCE WITH APPLICABLE LAWS. Customer and CR Testing Labs will at all times comply with all applicable laws, statutes, ordinances, rules, regulations, orders, and other legal requirements, regardless of whether such law, statute, ordinance, rule, regulation, order, or legal requirement had taken effect on the Effective Date or on some later date.

12. GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado, without reference to rules regarding conflicts of laws. Any dispute arising out of this Agreement shall be submitted to a state or federal court sitting in Denver, Colorado, which, subject to the arbitration requirement herein, shall have the exclusive jurisdiction regarding the dispute and to whose jurisdiction the parties irrevocably submit.

13. ARBITRATION. Any dispute, controversy or claim arising out of or relating to this contract, including the formation, interpretation, breach or termination thereof, including whether the claims asserted are arbitrable, will be referred to and finally determined by arbitration in accordance with the JAMS International Arbitration Rules. The Tribunal will consist of one arbitrator. The place of arbitration will be Denver, Colorado. The language to be used in the arbitral proceedings will be English. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

14. NOTICE. All notices required to be given under the terms of this Agreement or which either party hereto may desire to give to the other shall be in writing, signed by or on behalf of the party providing the

notice, and if to CR Testing Labs, sent by certified mail to the addresses set forth below or at such other address as either party may furnish to the other in writing: **CR Testing Labs, Attention: Legal Department, PO Box 140196, Denver, CO 80214, United States.**

15. SURVIVAL. The rights and obligations of the parties under Sections 2, 3, 6, 8, 10, 12 and 14 of this Agreement shall survive any termination of this Agreement.

16. SUCCESSORS AND ASSIGNS. This Agreement shall be binding on and inure to the benefit of the parties and their heirs, legal representatives, successors and assigns.

17. WAIVER. No delay or omission to exercise any right, power, or remedy accruing to a Party under this Agreement shall impair any such right, power, or remedy, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement (1) shall be effective unless it is in writing and signed by the party making the waiver; (2) shall be deemed to be a waiver of, or consent, to any other breach, failure of a condition, or right or remedy, or (3) shall be deemed to constitute a continuing waiver unless the writing expressly so states.

18. SEVERABILITY. If a court or an arbitrator of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid for any reason, the validity and enforceability of the remaining provisions of this Agreement shall not be affected.

19. NO THIRD-PARTY BENEFICIARIES. No provisions of this Agreement are intended or shall be construed to confer upon or give to any person) any rights, remedies or other benefits under or by reason of this Agreement.

20. ENTIRE AGREEMENT. This Agreement, including the CR Testing Labs Terms and Conditions of Service, and all other agreements, exhibits, and schedules referred to in this Agreement, constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the providing of Services by CR Testing Labs to Customer and supersedes all other prior or contemporaneous oral or written understandings and agreements of the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty except those expressly set forth in this Agreement.

END OF TERMS AND CONDITIONS OF SERVICE