



Analytical Services and Manufacturing: Standard Terms and Conditions

Services provided by Chemic Laboratories or its subsidiaries (collectively, "Chemic") are expressly limited to the terms and conditions stated herein. Chemic and Customer may be referred to herein collectively as the "Parties".

Services. Chemic will use its commercially reasonable efforts to perform the services ("Services") described in any Proposal, Contract or Work Order ("Contract") attached hereto and duly executed by the Parties, pursuant to certain specifications and timeline set forth therein and subject to such other conditions as are specified in the Proposal, Contract or Work Order and any accompanying exhibits or schedules, all of which are included within the defined term "Contract". The Services to be performed under a Contract are described herein as the "Project".

1. Project Management.

- 1.1. Each Party will designate a Project Manager under each Contract, who will be such Parties primary contact for the Services being rendered under such Contract. A Party may change its Project Manager from time to time in its discretion, and shall promptly notify the other Party upon any such change.
- 1.2. During the term of performance of any Project (the "Project Term"), each Parties Project Manager will be available for regular communications, as detailed in the Contract, with the other Parties Project Manager regarding Services being rendered under the applicable Contract.
- 1.3. Customer acknowledges that development of drugs involves many variables and unknowns and that the fees proposed by Chemic in a Contract are an estimate based on certain assumptions, some of which may turn out to be incorrect. In the event that those assumptions change or are not accurate and Chemic desires to change the fees for the Services, it shall prepare and deliver to Customer a written estimate ("Change Request Estimate") of the new fees that it proposes to charge. Customer will consider in good faith the Change Request Estimate and if it agrees to proceed on the basis of the estimate, the Parties shall enter into a written amendment to the applicable Contract. If the Parties do not come to mutual agreement on the terms of the Change Request Estimate, the fee change will not be implemented and Chemic shall not be obligated to perform any services associated with such a Change Request Estimate.

2. Personnel.

Chemic represents and warrants to Customer that it has, and shall engage, competent employees, agents and subcontractors with the proper skill, training and background to support its obligation to render the Services to Customer in accordance with this Agreement. Customer represents and warrants to Chemic that it has, and shall engage, competent employees, agents and subcontractors with the proper skill, training and background to support Chemic in providing the Services to Customer in accordance with this Agreement. Chemic shall be solely responsible for any and all salaries, benefits, state and federal taxes, withholding, FICA, worker's compensation or other payments due to or in respect of any employee employed by Chemic. Chemic's employees, agents and subcontractors shall not be deemed to be employees of Customer for any purpose, including, but not limited to, employee benefits, such as health and accident insurance, sick leave or vacation, which are accorded to Customer's own employees.

3. Records.

- 3.1. Chemic shall prepare and maintain and shall furnish to Customer reports and documentation evidencing the performance of the Services as may be required by the Contract or applicable law.
- 3.2. Chemic shall keep records of all Services performed under all Contracts. Records will be maintained by Chemic for a minimum of five (5) years after completion of a Project, or the period required by applicable law if longer. Customer will pay to Chemic any reasonable fees and costs incurred by Chemic in retrieving and delivering to Customer any such records.

4. Regulatory Matters.

Subject to any agreements concerning regulatory matters set forth in the Contract, Chemic and Customer shall coordinate all contacts and communications with any regulatory authorities with respect to matters relating to any of the Services provided hereunder.

5. Payment.

As compensation for performance of Services by Chemic, Customer will pay to Chemic the payment amount in accordance with the Contract. Unless otherwise stated in the Contract, Chemic will submit invoices for payment every two weeks. Customer will pay any tax, duty, custom or other fee of any nature, other than taxes on Chemic's income, imposed upon the provision of the Services, by any federal, state, local or foreign government authority in addition to the price quoted or invoiced. Invoices are due and payable within thirty (30) days following receipt by Customer. Payment shall be deemed late if not received within such time and shall be subject to interest equal to one-half percent (0.5%) per month. All payments shall be made in U.S. dollars.

In the event Customer requires an accelerated deliverable schedule as part of the Services, Chemic shall charge and additional fee ("Rush Fee") of up to 100% of the total estimated Project cost.

6. Termination

The Services may be terminated as follows:

- (a) By Customer by providing five (5) days written notice to Chemic. Customer remains responsible for the cost of any Services through the end of the five day notice period. Customer is also responsible for any ancillary costs Chemic will incur in the performance of the Services including but not limited to temporary staff fees, material costs, staff time and reporting costs. In addition, Customer shall also pay to Chemic a cancellation fee equal to 25% of the total Project balance.
- (b) By Chemic by providing five (5) days written notice to Customer. Termination shall become effective at the end of the five (5) day period.

7. Notices

All notices to Chemic or Customer shall be made by certified mail, return receipt requested, addressed as follows:

Chemic: Chemic Laboratories, Inc.
480 Neponset Street
Building 7
Canton, Massachusetts 02021
Attn: President [Customer]

Attn: [_____]

8. **Assignment.** This Agreement may not be assigned by a Party without the prior written consent of the other Party, provided that this Agreement may be assigned by a Party without consent to any successor to such Parties business, whether by merger, change of control or sale of all or substantially all of its assets. In the event of such an assignment, the Parties successor shall be obligated to provide the Services set forth in any Contract then in effect.
9. **Entire Agreement.** This Agreement (including any executed Contracts) represents the entire agreement of the parties as to its subject matter and supersedes all prior representations and discussions with respect to such subject matter. No change or modification of this Agreement shall be effective unless it is in writing and signed by a duly authorized officer of Chemic and Customer. Chemic may accept Customer purchase orders for administrative convenience, but any terms of purchase orders that purport to modify or supplement the terms of this Agreement shall have no effect. Nothing herein grants or assigns a license or right to use any Chemic product or service, including but be limited to, the ChemSmart™ Transdermal Drug Delivery Platform.
10. **Ownership.** Chemic shall own all right, title and interest (including patent rights, copyrights, trade secret rights, trademark rights and all other intellectual rights of any sort throughout the world) relating to any and all inventions (whether or not patentable), works of authorship, designations, designs, know-how, ideas and information made or conceived or reduced to practice, in whole or in part, whether created before, during or after the term of this Agreement, that arise out of Chemic's performance of its customary business, including, without limitation, the transdermal drug delivery platform known as the ChemSmart™ transdermal platform, Chemoenzymatic synthesis of lactate esters and use of lactate esters as permeation enhancers, and the use of lactate esters for the solubilization and stabilization of a drug and any and all products and services as part of said ChemSmart™ Platform now and in the future.
11. **Proprietary Information.** Chemic will hold in confidence and not disclose or, except in performing the Services, use any Proprietary Information of Customer provided such information is marked Confidential. However, Chemic shall not be so obligated with respect to information that Chemic can document (i) is or becomes readily publicly available through no fault of Chemic, or (ii) that Chemic knew prior to its disclosure by Customer. Upon termination of this Agreement or as otherwise requested by Customer, Chemic will promptly return to Customer all items and copies containing or embodying Proprietary Information. Proprietary Information shall not include confidential and proprietary information developed by Chemic including but not limited to Chemic's ChemSmart™ transdermal platform, Chemoenzymatic synthesis of lactate esters and use of lactate esters as permeation enhancers, and the use of lactate esters for the solubilization and stabilization of a drug. Customer shall keep confidential and not disclose to third parties, any and all Chemic Intellectual Property and Proprietary Information not readily available to the public without the express prior written consent of Chemic.
12. **Use of Name.** Customer agrees that it will not use Chemic Laboratories name and/or data in any manner which may cause damage to Chemic's reputation or business. Under no circumstances is the name Chemic Laboratories, Inc., or any variation or alteration thereof, to be published, either alone or in association, without prior, written approval from an officer of Chemic. Chemic prohibits the use of its name in connection with any unauthorized conclusions based upon its reports without its prior written consent. Customer agrees that Chemic may identify Customer as a current or past Chemic Customer in marketing materials.
13. **Provision of Safety Data.** In order to ensure the safety of Chemic's employees, Chemic will assess a \$250 MSDS literature search fee to obtain applicable MSDS and/or documented human health impact data associated with the test article(s) unless Customer provides such data at the time of approval of a Contract.

14. **Investigations and Exceptions.** Chemic shall investigate any exception, non-conformity, out-of-specification, out-of-trend, or unexpected result associated with a test article provided by Customer following discussion with Customer and agreement to do so. The investigation may include additional sample analysis and related fees. In the event the unexpected data value is confirmed by means of additional analysis and found to be in agreement with the initial data, Customer will be invoiced for such efforts expended. In the event the initially generated data is deemed in error due to laboratory issues due solely to some material error by Chemic, the fees associated with the repeat analysis conducted by Chemic will be born by Chemic.
15. **Sample Return.** All samples and portions thereof will be disposed of by Chemic sixty (60) days after completion of the testing and fulfillment of any financial obligations by Customer. If Customer requires its samples to be returned, it must indicate such in writing or on the sample submission form. Samples will be returned to Customer at its expense and may not be used for any purpose other than those specified in a related Contract.
16. **Reference Standards.** Where product release of test material is required by Customer, Chemic will make commercially reasonable efforts to utilize compendial grade reference standards with an accompanying certificate of analysis documenting purity. In the event compendial grade material is unavailable, it is the responsibility of Customer to provide or support the purchase of a qualified reference standard and acceptable documentation of product purity.
17. **Product Release.** Where product release is requested by Customer, Chemic must be provided specification at least five (5) business days in advance of product testing. In the event product specification is unavailable, generated data will be reported for informational purposes only.
18. **Litigation.** All costs associated with compliance to any subpoena or other official request for documents, for testimony in a court of law, any proceeding before an administrative or regulatory body, or for any other purpose relating to the Services, shall be paid for by Customer. Such costs shall include, but are not limited to, hourly charges for persons involved in responding to subpoenas, travel, per diems, accommodations, mileage, and attorney preparation of testimony and advice of counsel in connection with subpoenas or other legal matters pertaining to said litigation, as well as all other expenses deemed reasonable and associated with said litigation.
19. **Dispute Resolution.** In the event of any dispute or disagreement between Chemic and Customer with respect to this Agreement, the performance of Chemic or Customer under any Contract, or any other matter related to any Contract, upon the written request of either party, authorized representatives of Chemic and Customer will meet for the purpose of resolving such dispute or disagreement. Those representatives will, for a period not to exceed thirty (30) days, discuss the problem and negotiate in good faith without the necessity of any formal proceedings related thereto.
20. **Arbitration.** If a dispute or disagreement described in Section 19 is not resolved as described in Section 19, that dispute or disagreement shall be finally settled by binding arbitration held according to the commercial Arbitration Rules of the American Arbitration Association, by which Chemic and Customer agree to be bound. The sole venue for any arbitration shall be the City of Boston in the Commonwealth of Massachusetts, unless the Parties otherwise agree in writing.
21. **Solicitation of Employees.** During the term of this Agreement and for a period of one (1) year from the termination of this Agreement, Customer will not solicit, recruit, or hire any employee of Chemic. Nothing herein shall preclude a Chemic employee from pursuing and securing employment opportunities with Customer on such employee's own initiation, provided that no prior communication or solicitation has been made by Customer to Employee in this regard.
22. **Indemnification.**
 - 22.1. Customer shall indemnify, defend, and hold harmless Chemic, its directors, officers, employees, contractors, consultants, agents, successors and assigns (collectively, the "Chemic Indemnitees") from and against any and all Claims incurred by or rendered against any Chemic Indemnitees which arise out of or in connection with (i) alleged or actual infringement of a third Parties intellectual property rights against any of the Chemic Indemnitees, which Claim would not have arisen but for any materials or property provided to Chemic under this Agreement by Customer, (ii) any Claim based upon Customer's and/or its Affiliates' use of the Deliverables, (iii) material breach by Customer of its obligations, representations or warranties contained in this Agreement, or (iv) personal injury or property damage suffered by a Chemic Indemnitee as a result of Customer's negligence or willful misconduct.
 - 22.2. Any Party entitled to indemnification under this Article 22 shall give notice to the indemnifying Party of any claims that may be subject to indemnification, promptly after learning of such claim, and the indemnifying Party shall assume the defense of such claims with counsel reasonably satisfactory to the indemnified Party.
23. **Limited Warranty:**
 - 23.1 Each Party warrants and represents that the terms of this Agreement are valid and binding obligations, and are not inconsistent with any other contractual and/or legal obligations it may have, or with that Parties policies or the policies of any institution or company with which it is associated.
 - 23.2 Chemic warrants that it shall provide the Services to a reasonable professional standard.
 - 23.3 Other than as expressly set forth in this Agreement, Chemic makes no representations, warranties or guarantees regarding the Deliverables supplied by Chemic to Customer, or the use of, or the results of the use of such Deliverables, or the performance of the Services.
 - 23.4 CHEMIC AND ITS AFFILIATES DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. IN NO EVENT WILL CHEMIC OR ITS AFFILIATES BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS

OF BUSINESS INFORMATION OR PROPERTY DAMAGE SUSTAINED BY CUSTOMER FROM THE USE OF, OR INABILITY TO USE, ANY OF THE SERVICES, EVEN IF CHEMIC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. AS TO ANY CHEMIC LIABILITY NOT LEGALLY SUBJECT TO THE FOREGOING, CHEMIC'S MAXIMUM LIABILITY WILL NOT EXCEED THE AGGREGATE AMOUNT PAID BY CUSTOMER TO CHEMIC UNDER THE CONTRACT IN QUESTION.

24. **Force Majeure.** Chemic will not be liable for non-performance of any of its obligations hereunder or to perform any Services to the extent that such performance is prevented, prohibited or delayed by any circumstance for reasons beyond its control including, without limitation, third party strikes, lock-outs or labor disputes, fire, flood, natural disaster, war, blockade, military operations, riot, civil commotion, plant breakdown, shortage of suitable parts, data or materials (including from Customer or Customer vendors), computer malfunctions or power outage.
25. **Agents.** No agent, employee or other representative has the right to modify or expand Chemic's standard warranty applicable to Services or to make any representations concerning Services other than those set forth in this Agreement or a written amendment thereto. Any such affirmation, representation or warranty, if made, should not be relied upon by Customer and does not form a part of the Contract or this Agreement.
26. **Insurance.** Chemic maintains the following insurance coverage(s): \$2,000,000 general liability, \$2,000,000 product liability, \$500,000 workers compensation, \$1,000,000 auto and \$5,000,000 umbrella policy. Customer agrees to amend Customer insurance policy(s) to name Chemic as additionally insured ("AI") in relation to any and all information and materials ("Service Materials") provided to Chemic by Customer or Customer appointed third party or secured by Chemic on behalf of Customer in connection with Chemic's performance of the Services or Project. In no event will Chemic's maximum, aggregate liability for any and all claims relating to such Service Materials exceed the lesser of the net, direct cost of such Service Material or the amount paid by Customer to Chemic in connection with the specific, single Contract under which the Service Materials directly relate.
27. **Miscellaneous.**
- 27.1 Without in any way limiting any equity interest in Customer that Chemic is granted pursuant to any Contract, Chemic is an independent company and nothing in this Agreement shall be construed to create a partnership, joint venture or employment relationship between the parties. Neither Party has authority to bind or act on behalf of the other.
- 27.2 If any provision of this Agreement shall be determined to be invalid or unenforceable, such determination shall not affect the validity of the other provisions of this Agreement.
- 27.3 Notwithstanding termination of this Agreement for any reason, the rights and obligations, which by the terms of this Agreement survive termination of the Agreement, shall remain in full force and effect.
- 27.4 Waiver by either party or the failure by either party to claim a breach of any provision of this Agreement shall not be deemed to constitute a waiver or estoppel with respect to any subsequent breach of any provision of this Agreement.
- 27.5 This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts without giving effect to the choice of laws provisions thereof.
- 27.6 In the event Customer delays or suspends a Project for a period of at least 10 business days as it relates to Chemic Services, Chemic reserves the right to Terminate or re-schedule the Services.