

## **MASTER SERVICES AGREEMENT**

**THIS MASTER SERVICES AGREEMENT** (this "Agreement") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_ by and between \_\_\_\_\_, a \_\_\_\_\_ corporation ("Client"), and Global Laboratory Services, Inc., a Virginia corporation ("GLS").

### **WITNESSETH**

**WHEREAS**, GLS is an independent laboratory and inspection company that offers various laboratory testing, inspection, analytical evaluation, reporting, research and development and other scientific and regulatory consulting services (the "Services").

**WHEREAS**, Client wishes to engage GLS to provide certain Services with respect to samples provided to GLS by or on behalf of Client and GLS is agreeable to furnishing such Services to Client as further detailed below and on the attached Statements of Work incorporated herein and pursuant to the terms hereinafter and thereafter described.

**NOW THEREFORE**, in consideration of the foregoing premises, it is hereby mutually agreed by and between the parties hereto as follows:

#### **1. Services; Appointment of Representatives.**

(a) Subject to the terms and conditions in this Agreement, the Services to be performed hereunder will be as specified in one or more (i) Sample Submission Forms, a form of which is attached hereto as Exhibit A, and as such form is submitted by Client to GLS and agreed to and executed by representatives of both parties (each a "Sample Submission Form"), and/or (ii) Consulting Services Forms, a form of which is attached hereto as Exhibit B, and as such form is submitted by GLS to Client and agreed to and executed by representatives of both parties (each, a "Consulting Services Form") (each Sample Submission Form and each Consulting Services Form are also referred to herein as a "Statement of Work" or "SOW"). Each SOW will be attached to this Agreement and incorporated herein upon execution of same by both parties in accordance herewith.

(b) Changes in the scope of the Services (but not changes in the manner of performing the Services) being performed under this Agreement and each applicable SOW will be made only if agreed to in writing in the form of an amendment to such SOW executed by authorized representatives of both parties. In the event of any inconsistency between the provisions of any SOW and the provisions of this Agreement, the provisions of this Agreement will control.

(c) In connection with each SOW, each of Client and GLS will appoint a designee as the Client representative and GLS representative, respectively, which person shall be the primary point of contact under such SOW. The representatives will interface regarding the delivery of and performance of Services arising under the applicable SOW.

## **2. Term; Termination.**

(a) This Agreement will commence on \_\_\_\_\_, 2011 and continue for an initial term of \_\_\_\_\_ years, and be automatically renewed for successive one-year terms upon the same terms and conditions as set forth herein unless either party gives the other party at least sixty (60) days' written notice of its intent not to renew the term hereof. In addition, this Agreement may be terminated by either party for any reason upon ninety (90) days' written notice to the other party. Further, either party may terminate this Agreement, immediately, without advance notice, (i) in the event of a material breach of this Agreement by the other party, which breach is not cured within thirty (30) days after such breaching party's receipt of notice of such breach or (ii) if the other party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other party (and such proceeding is not dismissed within ninety (90) days). Upon the expiration or termination of this Agreement, Client will pay GLS all fees for Services earned as of and through the effective date of expiration or termination and will also pay and reimburse GLS for all expenses incurred prior to and through the effective date of expiration or termination and all non-cancelable commitments that shall have been pre-approved by Client.

(b) In addition, the parties may terminate one or more SOWs, without terminating or effecting this Agreement or other SOWs under this Agreement, only upon the same terms and pursuant to the same procedures set forth above in Section 2(a) or as otherwise specified in the SOW at issue. Upon the expiration or termination of one or more SOWs, Client will pay GLS all fees for Services earned as of and through the effective date of expiration or termination under the SOW(s) and will also pay and reimburse GLS for all expenses incurred prior to and through the effective date of expiration or termination under, and all non-cancelable commitments that shall have been pre-approved by Client in connection with, the applicable SOW(s).

## **3. Fees.**

(a) Fees and other charges for the Services will be as specified in Exhibit C attached hereto, as such Exhibit C may be amended by GLS from time to time, or in the applicable Consulting Services Form as provided in Section 9(a) below, and will be invoiced by GLS to Client. GLS will submit invoices to Client on a regular basis and will send a final invoice to Client upon completion of the Services set forth in a SOW. Unless otherwise specified in a SOW, payment for the amount invoiced will be due upon presentation of the applicable invoice and all undisputed amounts will be paid within thirty (30) days of the date of invoice.

(b) If there is a dispute regarding an invoice, the issue will first be addressed by email, a meeting or telephone conference, within thirty (30) days after the date of invoice, between the representatives representing each party for the applicable project, and the parties agree to cooperate in good faith to attempt to resolve the dispute. Payment of all amounts due, if any, upon resolution of such dispute will be made within thirty (30) days after resolution of such dispute. Client will continue to pay GLS for all Services set forth in a SOW except those disputed in good faith.

(c) A one percent (1%) per month (12% per annum) service charge will be added to all undisputed amounts remaining unpaid after the date on which they were due to GLS. A \$40.00 charge will apply to all returned checks.

#### **4. Samples.**

(a) Sample Requirements. Samples delivered to GLS will be clearly identified with all information deemed reasonably necessary by GLS, examples of which are set out in Exhibit A, and as submitted by Client to GLS and agreed to and executed by representatives of both parties. For tobacco samples, unless otherwise arranged with and approved by GLS in writing, Client must provide GLS with at least 300 grams of the representative tobacco sample that has not been ground. Notwithstanding anything herein to the contrary, Client acknowledges and agrees that, if Client provides GLS with a sample that has been ground (whether with the approval of GLS or otherwise): (i) the Services performed with respect to such sample, as well as the results and Work Product (as defined below) derived therefrom, may be compromised; (ii) GLS will not be responsible or liable in any way for any Services, results or Work Product so compromised; and (iii) Client will not be entitled to any of the remedies set forth in Section 6(a) or 13(a) below or elsewhere in this Agreement in connection with such Services, results and Work Product.

(b) Delivery of Samples. Unless otherwise arranged with and approved by GLS in writing, Client will deliver, or cause to be delivered, each sample to GLS' testing facilities. Within five (5) business days of delivery to GLS, GLS will notify Client of any missing samples or samples that are received in a damaged and/or contaminated condition or any other discrepancy. Upon such notification, Client will provide GLS with additional instructions regarding such missing, damaged and/or contaminated samples. GLS will have the right to refuse acceptance of, or to return at Client's expense, any sample that GLS deems, in its sole discretion, to present a hazard or an unreasonable risk with respect to its handling and/or analysis. Notwithstanding anything to the contrary herein, Client will retain the risk of loss or damage to all samples during shipment to GLS.

(c) Storage and Retention of Samples.

(i) While in GLS' control or possession and while not undergoing testing, GLS will store all samples in accordance with GLS' policies in effect from time to time, including, once GLS is qualified, current good manufacturing practices ("cGMP"), unless special storage procedures are agreed to by the parties in the applicable Sample Submission Form, in which case, GLS will comply with such procedures. Notwithstanding the foregoing, GLS will not be liable for any loss or theft of any samples.

(ii) GLS will retain all samples following completion of the relevant Services for at least seven (7) days depending on the nature of the relevant Services. If Client desires for GLS to retain any samples for a longer period of time, such longer period of time must be agreed to by the parties and set forth in the applicable Sample Submission Form. After the retention time set forth above has expired, GLS will properly dispose of the sample. If so agreed to

by the parties and set forth in the applicable Sample Submission Form, GLS will return non-hazardous samples to Client at Client's expense.

## **5. Performance of Services.**

(a) GLS will perform the Services in a manner consistent with that degree of care, skill and diligence as is ordinarily exercised by a professional laboratory testing contractor under similar conditions and circumstances, and each individual whom GLS intends to engage to perform the Services will possess the qualifications, licenses, skills and experience needed to perform such Services.

(b) In performing the Services:

(i) GLS will be responsible for the professional quality, technical accuracy, completeness and coordination of all tests, analyses and reports performed, conducted or prepared by or on behalf of GLS as part of the Services;

(ii) GLS will use reasonable commercial efforts in a diligent manner to perform the Services on a timely basis in accordance with the timing agreed to by the parties in the applicable SOW, if any;

(iii) GLS will have sole control and discretion over the means, methods, techniques, equipment, sequences and procedures its uses to perform the Services, without having to confer with, or obtain the consent or approval of, Client; and

(iv) If GLS implements any material changes in the manner in which it performs the Services, whether as required by changes in applicable law, rule or regulation or otherwise, GLS will notify Client of such changes within a commercially reasonable period of time or as required by applicable law, but will not be required to confer with, or obtain the consent or approval of, Client in connection with implementing such changes.

(c) GLS will comply with all federal, state and local laws, rules and regulations applicable to the performance of its obligations under this Agreement.

## **6. Retesting and Correction of Services and Work Product.**

(a) Client may request that GLS (i) re-perform any Services completed, and/or review the substance and accuracy of any related Work Product produced, by or on behalf of GLS hereunder or (ii) correct any inaccuracies or errors in any such Services and/or Work Product (collectively, "Additional Work"); provided, that Client shall have submitted such request to GLS in writing (which writing will set forth in reasonable detail the basis of Client's request) within seven (7) days after the delivery by GLS to Client of a final report with respect to the relevant Services, unless otherwise agreed to by the parties in writing. If Client submits any such written request to GLS, GLS will, within a commercially reasonable period of time, perform the Additional Work requested to the extent deemed necessary, advisable or appropriate

by GLS, in its sole discretion. If, upon completing such Additional Work, GLS confirms its original results, then Client will be charged for the Additional Work performed by GLS as provided in Section 3(a). However, Client will not be charged for any Additional Work performed by GLS to correct any inaccuracies, or errors made by GLS, in the Services and/or Work Product originally performed or produced by GLS. Furthermore, notwithstanding anything herein to the contrary, GLS will not be liable for any consequential, incidental, exemplary, indirect, punitive or special damages, including, without limitation, loss of profits or loss of business opportunities.

(b) Notwithstanding the provisions of Section 6(a), Client hereby acknowledges and agrees that the re-testing of samples by GLS after the 7-day period provided in Section 6(a) may produce results different from those originally observed by or on behalf of GLS.

## **7. Regulatory Changes; Regulatory Investigations and Inspections.**

(a) Regulatory Changes. In the event any changes or additions to the laws, rules or regulations of the U.S. Food and Drug Administration or any other regulatory authority (each, a “Regulatory Authority”) (i) require that GLS change the manner in which it performs the Services and/or (ii) impose additional expenses, charges, fees and costs applicable to GLS and/or the Services, Client will promptly reimburse GLS for any and all incremental costs incurred by GLS under this Agreement and the applicable SOW(s) as a result thereof.

### **(b) Regulatory Investigations and Inspections.**

(i) In the event a Regulatory Authority notifies GLS of its intent to undertake an investigation and/or inspection (each, a “Regulatory Investigation”) of (1) the Services being performed under this Agreement and/or (2) the samples which are the subject of such Services and in the possession of GLS or its subcontractors, GLS will, to the extent permitted by applicable law, notify Client thereof within a commercially reasonable period of time or as otherwise required by applicable law.

(ii) If, as part of, in connection with, or as a result of, any such Regulatory Investigation:

(1) GLS is requested to disclose any Confidential Information to the Regulatory Authority or its designees, then GLS will be permitted to do so as provided in Section 10(d) below and will not be liable for any such disclosure; or

(2) GLS is requested to participate or cooperate in, or in any way facilitate, such Regulatory Investigation, then (x) GLS will be permitted to do so in the manner it deems necessary, advisable or appropriate, in its sole discretion, without having to confer with, or obtain the consent or approval of, Client, and (y) Client will promptly reimburse GLS for any and all time and

resources expended, and any and all costs, expenses and other amounts incurred, by GLS in doing so.

(iii) If any part of any such Regulatory Investigation is to be undertaken at any of GLS' or any of its subcontractors' facilities, Client will not be permitted to be present at such facilities during such part of the Regulatory Investigation, unless, and then only to the extent, mandated by applicable law.

(iv) Upon completion of each Regulatory Investigation, GLS will provide Client with a copy of any report of the Regulatory Authority's findings made available to GLS by the relevant Regulatory Authority, but only to the extent (1) such report relates to Services performed under this Agreement or any SOW, and (2) permitted by applicable law.

## **8. Accounting Records; Reviews.**

(a) GLS will keep and maintain complete and accurate records, books of account and other data (but excluding any and all samples which are the subject of the Services (whether tested in whole or in part)) necessary for the proper administration of this Agreement. GLS will keep and maintain such documentation for three (3) years after the expiration or termination of this Agreement.

(b) Client will have the right, at its sole expense, upon sixty (60) days' prior written notice to GLS, to review or to have an outside auditor review GLS' books and records relating to the Services performed by GLS under this Agreement, including compliance with ISO/IEC 17025, and, once GLS is qualified, cGMP; provided, however, that, unless otherwise agreed to by GLS: (i) any outside auditor engaged by Client to perform any such review must first sign a Confidentiality Agreement with, and in a form reasonably satisfactory to, GLS, and Client will be responsible and liable for all acts, omissions and breaches of such outside auditor; (ii) Client will not be entitled to more than 1 such review (whether performed by Client or an outside auditor) in any 12-month period during the term of this Agreement; and (iii) neither Client nor its outside auditor will have the right (1) to review GLS' financial records, including, but not limited to, any information concerning GLS' costs or profit margins related to any Service provided to Client hereunder or any SOW, (2) to witness the services provided by GLS for its other customers or (3) to review GLS' records related to the performance of services for GLS' other customers.

## **9. Consulting Services.**

(a) During the term of this Agreement, Client may request that GLS provide to Client certain consulting services related to product sample testing, product regulatory compliance or other matters. To the extent the parties agree that GLS is to provide any such consulting services, such consulting services and the fees and other charges for such consulting services will be specified in the applicable Consulting Services Form.

(b) Client hereby acknowledges and agrees that GLS shall not be responsible or held liable in any manner whatsoever for (i) Client's use of, or any action taken by or on behalf of Client in reliance upon or in response to, any recommendations, guidance or other

information provided or made available to Client by GLS as part of the consulting services agreed to and provided pursuant to any Consulting Services Form, or (ii) any after effect resulting from such use or action by or on behalf of Client.

#### **10. Confidential Information.**

(a) For purposes of this Agreement, “Confidential Information” means all information or items (including information, data and materials relating to current or prospective products and processes) made available (whether intentionally or otherwise) to a party or its affiliates or subcontractors, or its or its affiliates’ or its subcontractors’ employees, agents and other representatives, by or on behalf of the other party and relating to the business, operations, affairs, technologies, plans and strategies of such other party, whether observed or provided orally, in written, graphic or electronic form, or in the form of samples, and whether or not marked, labeled or otherwise identified as “confidential,” “secret” or “proprietary” (it being acknowledged and agreed that the existence and terms of this Agreement will be considered to be Confidential Information as to both parties).

(b) Each party hereby agrees that, with respect to Confidential Information (as defined below) of the disclosing party, the receiving party will: (i) maintain such Confidential Information in confidence using the same degree of care the receiving party uses to prevent disclosure, dissemination or publication of its own confidential, proprietary or secret information, data, materials and items (but in no event less than reasonable care); (ii) not disclose such Confidential Information publicly or to any third party in an unauthorized manner; (iii) use such Confidential Information only for purposes of its obligations under this Agreement, and for no other purpose; and (iv) disclose such Confidential Information only to its affiliates, its subcontractors and its, its affiliates’ and its subcontractors’ respective employees, agents and other representatives, who have a “need-to-know” in connection with, and agree to comply with, the obligations imposed upon the receiving party by this Agreement (with the receiving party bearing ultimate responsibility for any breach by such persons or entities of those obligations by a party to the other party).

(c) Notwithstanding the foregoing, “Confidential Information” does not include any information or items that: (i) were generally available to the public, or otherwise part of the public domain, when received by the receiving party; (ii) become generally available to the public, or otherwise part of the public domain, other than through breach of this Agreement; (iii) can be demonstrated by the receiving party to have already been in its possession, or otherwise known by it, prior to the time of receipt from the disclosing party; (iv) are received by the receiving party from a third party that is (1) in lawful possession thereof and (2) under no confidentiality obligation to the disclosing party; or (v) are independently developed by the receiving party without use of the Confidential Information of the disclosing party.

(d) If a party receives a request from a Regulatory Authority or by judicial process to disclose Confidential Information of the disclosing party then the receiving party (i) will use reasonable efforts to promptly give the disclosing party notice of such required disclosure in order to afford the disclosing party adequate opportunity to seek a protective order or other legal remedy to prevent the disclosure, (ii) will reasonably cooperate with the disclosing party’s efforts to secure such a protective order or legal remedy, and (iii), if efforts seeking such

order or remedy are unsuccessful, will take reasonable steps to seek confidential treatment of such information or items to be disclosed.

(e) Subject to the provisions of Section 10(c) above and Section 10(f) below, and Client having paid GLS in full for all Services under the relevant SOW, Client will own and have all right and title in all work product related to such Services and specifically produced or generated for, and delivered to, Client by GLS under this Agreement during the term of this Agreement (collectively, “Work Product”); provided that such Work Product is (i) based solely on Confidential Information of Client and/or (ii) developed directly and solely as a result of GLS’ performance of the Services. To the extent possible, all Work Product shall be considered a work made for hire for Client within the meaning of Title 17 of the United States Code (the Copyright Act); provided, however, that, notwithstanding anything to the contrary in this Agreement, GLS reserves the right to utilize the Confidential Information of Client and Work Product for the Services and otherwise internally for the limited purposes of the conduct of its business, including training, research and education, and to use Confidential Information of Client and Work Product, in the aggregate, to determine trends in the industry for the express and limited purpose of establishing the best practices for audits, inspections and testing in the industry, so long as no use of the Confidential Information of Client or Work Product, in the aggregate, for this purpose will allow the identification of Client or a third party subject to the Services or disclosure of particular Client-identifiable Confidential Information.

(f) Further, the “Confidential Information” and “Work Product” which will belong to Client, to the extent provided in this Section 10, will not include any Background Technology or Preliminary Data and Materials of GLS, which at all times will remain the sole and exclusive property of GLS. For purposes of this Agreement: (i) “Background Technology” means all intellectual property and other proprietary rights in and to: (1) all specifications, checklists, audit tools, scoring criteria, risk profiling tools, protocols, methods (analytical, testing and otherwise), ideas, know-how, concepts, plans, creations, work product, reports, writings, compilations, trade secrets, data, databases, software, files, programs, writings, models and devices, patents, processes (including, but not limited to, polymerase chain reaction and real-time polymerase chain reaction processes and technologies), policy developments, documents, equipment and other materials owned, possessed, developed or acquired by, or licensed or sublicensed to, GLS prior to the later of the date of this Agreement or disclosure to Client; and (2) all general additions, accretions, improvements and enhancements to the same which are owned, possessed, developed or acquired by, or licensed or sublicensed to, GLS during the term of this Agreement that are not developed or acquired expressly and exclusively for Client; and (ii) “Preliminary Data and Materials” means all laboratory test data, calculations, estimates, reports and other electronic or written communications describing the results of any Services (or element thereof) and any memoranda and status summaries prepared by or on behalf of Contractor in connection with the Services performed hereunder (excluding any Work Product).

(g) Client hereby acknowledges and agrees that it may not and it will not make any Work Product available for external publication, or provide copies of any Work Product to any third parties without obtaining GLS’ prior written consent, except that no prior written consent will be required if disclosure of any Work Product is required by law or pursuant to a valid and lawful subpoena or order issued by a court or Regulatory Authority having authority to issue such subpoena or order. If Client is served with a lawful subpoena or order to



produce Work Product to a court or Regulatory Authority, Client will promptly notify GLS that such a subpoena or order has been received and provide a copy thereof to GLS.

(h) Each party hereby acknowledges and agrees that: (i) any unauthorized disclosure or use of Confidential Information would cause irreparable harm to the disclosing party; (ii) money damages would be inadequate to compensate the disclosing party for such harm; and (iii) the breach or threatened breach of this Agreement may entitle the disclosing party to obtain specific performance and injunctive relief (and each party agrees that it will not oppose the disclosing party's efforts to obtain such relief), in addition to any other legal remedies that may be available. Each party hereby expressly waives any requirement for the disclosing party to post a bond in order to obtain an injunction or other equitable relief.

## **11. Representations and Warranties.**

(a) GLS hereby represents and warrants that it has the power and authority to enter into this Agreement, and is duly licensed, authorized and qualified to perform the Services. GLS hereby further represents and warrants that the execution of this Agreement and the performance of the Services will not, directly or indirectly, contravene, conflict with or result in a violation of any agreement, authorization or other obligation of GLS.

(b) Client hereby represents and warrants that it has the power and authority to enter into this Agreement and procure the Services. Client hereby further represents and warrants that the execution of this Agreement and the performance of the Services will not, directly or indirectly, contravene, conflict with or result in a violation of any agreement, authorization or other obligation of Client.

(c) EXCEPT TO THE EXTENT OF THE LIMITED WARRANTIES SET FORTH IN SECTION 5 AND IN THIS SECTION 11, AND NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED HEREIN OR IN ANY SOW, REPORT OR OTHER STATEMENT OR INSTRUMENT, GLS MAKES NO WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**12. Limitations on Scope and Use of Work Product.** Client hereby acknowledges and agrees that:

(a) GLS is neither an insurer nor a guarantor, that GLS does not take the place or assume the responsibilities and obligations of Client or any designer, manufacturer, agent, buyer, distributor, transportation company or other third party, and that GLS disclaims any and all liability in such capacities;

(b) if Client requests GLS to perform certain Services that are required or mandated by any Regulatory Authority, then (i) neither the performance of such Services by GLS nor any use by Client or any third party of any portion of the sample(s) or Work Product related to such Services will imply that GLS is subject to the jurisdiction of such Regulatory Authority and (ii) no privity or other relationship will be created between GLS and such Regulatory Authority as a result of the performance of such Services;

(c) any Work Product produced by GLS as part of the Services performed hereunder (x) will relate only to those specific samples actually tested by GLS as part of such Services and (y), in no way, can be taken or relied upon as being representative of any other portion of the lot or batch from which such samples were taken;

(d) GLS assumes no responsibility for the purposes for which Client or any third party uses any Work Product; and

(e) Client may not and will not, under any circumstances, hold out or represent to any third party that GLS has in anyway whatsoever certified, guaranteed or otherwise passed judgment on the efficacy of any results derived from the performance of the Services hereunder, except to the extent GLS has certified that it has performed the Services in accordance with the provisions of the applicable SOW.

### **13. Indemnification.**

(a) GLS will indemnify, defend and hold Client and its affiliates and its and their respective officers, directors, shareholders, employees, agents and representatives (“Client Indemnified Parties”) harmless from and against any and all losses and damages, including, but not limited to, any and all fines, penalties, liabilities and obligations (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due), including all reasonable fees, costs and expenses (including, without limitation, reasonable expenses of investigation and mediation and reasonable attorneys’, accountants’ and other professional fees) relating thereto (collectively, “Damages”), which any Client Indemnified Party may incur or be liable for as a result of any claim, suit or proceeding or threatened claim, suit or proceeding (collectively, “Proceedings”), directly or indirectly, arising out of or in any way related to any breach of this Agreement by GLS; provided that, with respect to the Services rendered by GLS under this Agreement, Client’s sole remedy shall be as set forth in Section 6(a) above.

(b) Client will indemnify, defend and hold GLS and its affiliates and its and their respective officers, directors, shareholders, employees, agents and representatives (“GLS Indemnified Parties”, and together with the Client Indemnified Parties, the “Indemnified Parties”) harmless from and against any and all Damages, which any GLS Indemnified Party may incur or be liable for as a result of any Proceeding, directly or indirectly, arising out of or in any way related to any (i) breach of this Agreement by Client, (ii) adverse health effects or health risks relating to the use of Client’s products, or (iii), to the extent asserted by any third party, including, but not limited to, any Regulatory Authority, Services performed by GLS under this Agreement at the request of client, provided, that Supplier has performed such Services without having breached this Agreement.

**14. Damages; Injuries.** Client acknowledges that many tests or other procedures performed by GLS in connection with the Services may be hazardous and agrees that, except as such injury or damage relates to the gross negligence or willful misconduct of GLS, GLS will not be liable for any injury or damage to any property, products, employees, agents or other representatives of Client or any third party (acting on behalf or at the request of Client) that may

occur during, or as a result of, the performance of the Services or any onsite visit at any of GLS' or any of its subcontractors' facilities conducted in connection with this Agreement. In addition, Client will indemnify and hold each GLS Indemnified Party harmless from and against any and all Damages which such GLS Indemnified Party may incur as a result of any Proceeding, directly or indirectly, arising out of or in any way related to such injury or damage.

**15. Insurance.** During the term of this Agreement:

(a) GLS hereby agrees to maintain the following insurance coverage:

(i) Worker's Compensation Insurance to the full extent required by the laws of the states in which the Services are being performed;

(ii) Commercial General Liability Insurance with a combined single limit of liability for bodily injury and property damage of not less than \$2,000,000; and

(iii) Errors and Omissions insurance with a minimum limit of at least \$1,000,000 per occurrence and in the aggregate.

(b) Client hereby agrees, in addition to its obligations under Section 14, to maintain Worker's Compensation Insurance and Commercial General Liability Insurance sufficient to cover any and all employees, agents or other representatives of Client or any third party (acting on behalf or at the request of Client) that will be conducting any onsite visit at any of GLS' or any of its subcontractors' facilities in connection with this Agreement.

(c) Each party hereby agrees to provide the other party with a certificate of insurance of the insurance coverage required hereunder upon the other party's reasonable request.

**16. Notices.** All notices and other communications given hereunder will be in writing. Notices will be effective when delivered, if delivered personally. Otherwise, they will be effective when sent to the parties at the addresses or numbers listed below, as follows: (i) on the business day delivered (or the next business day following delivery if not delivered on a business day) if personally delivered or sent by overnight delivery courier, (ii) the next business day after transmission by telefax or other facsimile or electronic means or (iii) three business days after mailing if mailed by registered or certified U.S. mail, postage prepaid and return receipt requested.

If to GLS, to:

Global Laboratory Services, Inc.  
2107 Black Creek Road  
Wilson, North Carolina 27893  
Attention: \_\_\_\_\_  
Fax No.: (252) 234-4959

If to Client, to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Fax No.: \_\_\_\_\_

Any person or entity may change the address or number to which notices are to be delivered to him, her or it by giving the other persons or entities named above notice of the change in the manner set forth above.

**17. Force Majeure.** Notwithstanding anything to the contrary in this Agreement, GLS will not be liable to Client by reason of any failure in performance of this Agreement if the failure arises out of acts of God, acts of Client, acts of governmental authority, fires, strikes, labor shortages, riots or war, acts of terrorism or any cause beyond the reasonable control of that GLS (each, a “Force Majeure Event”). If any Force Majeure Event delays performance, GLS will promptly notify Client thereof and the time allowed for such performance will be extended for the length of the Force Majeure Event; provided, however, that GLS will exercise reasonable commercial steps to minimize the delay. Notwithstanding the foregoing, if one or more Force Majeure Events results in a delay of one-hundred twenty (120) consecutive days in the performance of a particular SOW, Client may terminate that SOW without any further liability; provided, however, that Client will remain subject to the provisions of Section 2(b).

**18. Entire Agreement.** This Agreement, including the applicable SOWs attached hereto from time to time, constitutes the complete and exclusive statement of the terms, conditions and agreements between the parties and supersedes all prior understandings and agreements, oral and written, between the parties relating to this Agreement, the Services or other matters set forth herein or in the SOWs. This Agreement may not be modified or altered except by written instrument duly executed by both parties.

**19. Governing Law.** The parties agree that this Agreement is entered into and will be governed by and constructed in accordance with the laws of the State of North Carolina, without regard to its choice of laws principles.

**20. Dispute Resolution.**

(a) General. The parties desire to avoid and to settle without litigation any controversy, claim or dispute arising out of or relating in any way to this Agreement, including the SOWs attached hereto from time to time, (each, a “Dispute”). Accordingly, the parties agree to engage in good faith negotiations to resolve any such Dispute and, upon failure to agree, to utilize the mediation procedures described in Section 20(c) below as the exclusive method in which to resolve any such Dispute.

(b) Informal Resolution. A party to this Agreement that has a Dispute will notify the other party of the nature of and basis for the Dispute. Within thirty (30) days after such notice is given, the parties, each represented by a senior executive, will meet and confer in good faith to attempt to resolve the Dispute described in the notice.

(c) **Mediation.** In the event said senior executives are unable to resolve the Dispute or agree upon a mechanism to resolve such Dispute during the 30-day period provided for in Section 20(b), then the parties will use good faith efforts to resolve such Dispute through a non-binding mediation process agreed to by the parties. The mediation of the Dispute will be administered by one (1) mediator selected and agreed to by the parties. The mediation will be held in Raleigh, North Carolina. The mediator's fees and all other administrative costs and expenses related to the mediation will be shared equally by the parties, but each party will be responsible for its own legal fees and other costs and expenses related thereto.

**21. Construction.** The parties have participated mutually in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted mutually by the parties and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

**22. Severability.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction or mediator, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable. The parties agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purpose of such void or unenforceable provision.

**23. Survival.** Notwithstanding the termination or expiration of this Agreement, the provisions of Sections 2, 3, 6, 8(a), 9(b), 10, 11(c), 12, 13, 14, 16, 18, 19, 20, 21, 22, 23, 24 and 26 will survive the expiration or termination, as the case may be, of this Agreement.

**24. Relationship of the Parties.** GLS is an independent contractor of Client and not an employee, franchisee, agent, partner or joint venture of Client. Neither party has the authority to bind the other party without the express written authorization of the other party. Nothing herein may be construed so as to create an employer-employee, franchisor-franchisee, agency, partnership, or joint venture relationship between the parties hereto.

**25. Assignment; Subcontracting.**

(a) Neither this Agreement nor the Services or SOWs hereunder may be assigned by either of the parties or by operation of law without the prior written consent of the other party.

(b) Notwithstanding the provisions of Section 25(a), GLS may, in its sole discretion and without Client's consent or approval, subcontract or otherwise delegate, in whole or in part, its obligations or the performance of the Services under this Agreement to one or more of its affiliates or subcontractors; provided, that GLS (i) will notify Client as to (1) the extent it so subcontracts or otherwise delegates its obligations under this Agreement and (2) the identity of the relevant affiliate(s) or subcontractor(s), and (ii) will remain responsible for the failure of such affiliate(s) or subcontractor(s) to perform such Services in accordance with the provisions of this Agreement.

**26. Successors; Assigns.** The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective executors, administrators, heirs, successors and assigns permitted under this Agreement. Except as expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto, any rights or remedies under or by reason of this Agreement.

**27. Additional Documents.** Each of the parties hereto agrees to execute such other documents as may be reasonably necessary to effectuate the purposes of this Agreement.

**28. Headings.** The headings contained in this Agreement are for reference purposes only and will not affect the meaning or interpretation of this Agreement.

**29. Counterparts.** This Agreement and any SOW hereunder may be executed in one or more counterparts, each of which will be deemed an original and all of which, when taken together, will constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement to be effective as of the date first written above.

**GLOBAL LABORATORY SERVICES, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**[CLIENT]**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**FORM OF SAMPLE SUBMISSION FORM**

See attached.



## EXHIBIT B

### FORM OF CONSULTING SERVICES FORM

#### CONSULTING SERVICES FORM

This Consulting Services Form (this "Form"), dated as of \_\_\_\_\_, 201\_, is made pursuant to and incorporated into the Master Services Agreement between \_\_\_\_\_, a \_\_\_\_\_ corporation ("Client"), and Global Laboratory Services, Inc., a Virginia corporation ("GLS"), dated as of \_\_\_\_\_, 201\_ (the "Master Services Agreement"). Any terms not defined herein shall be as defined in the Master Services Agreement.

1. **Consulting Services.**

[Consulting Services to be listed/described here.]

2. **Fees and Other Charges.** The fees and other charges to be paid to GLS for the Services set forth in this Form will be as follows: \_\_\_\_\_.

3. **Master Services Agreement.** This Form is in addition to, and not in lieu of or as an amendment to, the Master Services Agreement. In the event of any inconsistency between the provisions of this Form and the provisions of the Master Services Agreement, the provisions of the Master Services Agreement will control.

**IN WITNESS WHEREOF**, the parties have executed this Form to be effective as of the date first written above.

#### GLOBAL LABORATORY SERVICES, INC.

By: \_\_\_\_\_  
Name:  
Title:

#### [CLIENT]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT C**  
**FEES SCHEDULE**

**[TO BE PROVIDED]**