**AGREEMENT FOR LAB SERVICES**

**BETWEEN**

**THE UNIVERSITY OF WYOMING**

**AND**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

This Agreement for Lab Services (hereinafter “Agreement”) is made and entered into by and between the University of Wyoming (hereinafter “University”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a(n) [individual, corporation] (hereinafter “Contractor”), whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

WITNESSETH

WHEREAS, the University, in the exercise of its lawful duties, has determined that the lab services of Contractor are necessary to the performance of its duties as the State of Wyoming’s educational institution; and

WHEREAS, the University has concluded that either its personnel are not available to perform said function, or it would not be feasible to utilize its personnel to perform said function; and

WHEREAS, Contractor desires to provide such services.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby duly acknowledged, the University and Contractor agree as follows:

1. **Term.** This Agreement shall commence upon July 1, 2015, and shall remain in full force and effect until June 30, 2017.
2. **Termination.**
	1. The University may terminate this Agreement upon thirty (30) days prior written notice to the Contractor.
	2. Termination of this Agreement shall not relieve a party from its obligations incurred prior to the termination date. Upon early termination of this Agreement by the University, except in the case of a material breach by Contractor, the University shall pay all costs accrued by the Contractor as of the date of termination. In the event of termination, all work product prepared by the Contractor shall be immediately surrendered to the University and all unused University-provided materials and Confidential Information (defined below) shall be returned to the University.
3. **Payment.** The University agrees to pay the amount agreed upon between the campus departments and the Contractor for each job/order, consistent with the rate sheet attached and incorporated hereto as Exhibit A. No price increases will be accepted during the term of this agreement. Payment shall be made after services have been completed. Total payment under this agreement shall not exceed fifty thousand dollars ($50,000).
4. **Shipping.** The cost of shipping for each lab analysis order agreed upon is the responsibility of the Contractor. Contractor shall insure the shipping for each shipment.
5. **Confidentiality.**
	1. In order to perform the services described in Exhibit A under this Agreement, Contractor may be provided with or given access to University confidential or privileged materials, information, data, knowledge, or documents (“Confidential Information”). Contractor agrees that during and after termination of this Agreement, Contractor shall maintain in confidence all Confidential Information, shall use Confidential Information only for the purposes of performing the services under this Agreement, and shall not use Confidential Information for itself or any other person or business. Contractor agrees that Confidential Information will not be transferred or otherwise disclosed to any person except its employees who require transfer or disclosure for the purposes of performing the services under this Agreement, without the prior written authorization of the University. Contractor agrees to protect the Confidential Information with the same degree of care it gives its own confidential information of a similar nature, but in any case no less than a reasonable degree of care.
	2. The obligations of confidentiality shall not apply to Confidential Information that:
		1. is already known by or is in the Contractor’s possession at the time of disclosure by University, as evidenced by Contractor’s written records;
		2. is or later becomes part of the public domain through no breach of this Agreement or through no fault of the Contractor;
		3. is received by Contractor from a third party having no obligations of confidentiality to the University;
		4. is independently developed by Contractor without the use of Confidential Information of the University, as evidenced by Contractor’s written records; or
		5. is required by law or regulation to be disclosed.
6. **University’s Materials.**
	1. The University shall provide to Contractor material(s) for testing purposes as described in the attached Exhibit A, which is incorporated herein. Materials will be used by Contractor to perform the services designated in Exhibit A only and not for any other purpose. Contractor shall exercise reasonable care in handling the University’s material(s). If the Contractor fails to exercise reasonable care in handling the University’s material(s), Contractor shall be liable to the University for loss or damage to the material(s) and any cost to re-create such material.
	2. All intellectual property, materials, and information (including Confidential Information) provided to Contractor by the University under this Agreement is and shall remain the sole and exclusive property of the University. This Agreement and any supply of such intellectual property, materials, and information (including Confidential Information) by the University shall not grant to Contractor any rights or licenses, expressed or implied, in such intellectual property, materials or any product or process derived therefrom, and information (including Confidential Information), except as provided herein.
	3. All materials (including data/information provided in electronic format) will be destroyed at the conclusion of the performance of the services under this Agreement or upon termination of this Agreement, unless the University requests that Contractor return all unused materials to the University.
	4. Contractor agrees not to perform or permit others to perform any test analyses, or other evaluation of the University’s materials except for in accordance with this Agreement and agrees not to share these materials or any portion thereof with other parties.
	5. Any materials provided to Contractor by the University under this Agreement are understood to be experimental in nature and will be used with prudence and appropriate caution since not all their characteristics are known and since they may have hazardous properties.
7. **Export Control.**  In performance of this Agreement, Contractor shall comply with all U.S. export control laws and regulations, including without limitation, the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799.
8. **Publicity.** Neither party will use the name of the other party in any publicity, advertising, or news release without the prior written approval of the authorized representative of the other party.
9. **General Provisions.**
	1. **Amendments.** Either party may request changes to this Agreement. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon shall be incorporated by written instrument, executed and signed by all parties to this Agreement.
	2. **Applicable Law.** Both parties shall fully adhere to all applicable local, state and federal law governing the transport, storage, handling, and disposal of the material(s) covered in this Agreement.
	3. **Assignment.** Without prior written consent of the other party, neither party may assign this Agreement. This Agreement shall inure to the benefit of, and be binding upon, permitted successors and assigns of the parties.
	4. **Attorney’s Fees.** In any action or proceeding to enforce or interpret any provision of this Agreement, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney’s fees, costs and expenses.
	5. **Availability of Funds.** Payment by the University is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services, the Agreement may be terminated by the University at the end of the period for which the funds are available. The University shall notify the other party at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the University in the event this provision is exercised, and the University shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the University to terminate this Agreement to acquire similar services from another party.
	6. **Entirety of Agreement.** This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.
	7. **Equal Employment Opportunity.** Both parties shall fully adhere to all applicable local, state and federal law, including equal employment opportunity and including but not limited to compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and the American with Disabilities Act of 1990. The University is committed to equal opportunity for all persons in all facets of the University’s operations and is an Equal Opportunity/Affirmative Action employer. The University will provide all applicants for admissions, employment and all University employees with equal opportunity without regard to race, gender, religion, color, national origin, disability, age, protected veteran status, sexual orientation, genetic information, gender identity, creed, ancestry, political belief, any other applicable protected category, or participation in any protected activity. The University ensures non-discriminatory practices in all matters relating to its education programs and activities and extends the same non-discriminatory practices to recruiting, hiring, training, compensation, benefits, promotions, demotions, transfers, and all other terms and conditions of employment.

Contractors are notified that they may be subject to the provisions of 41 CFR Section 60-300.5(a); 41 CFR Section 60-741.5(a); 41 CFR Section 60-1.4(a) and (c); 41 CFR Section 60-1.7(a); 48 CFR Section 52.222-54(d); and 29 CFR Part 471, Appendix A to Subpart A with respect to affirmative action and posting requirements.  If applicable**, this contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans**.  If applicable**, this contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**

* 1. **Governmental Claims.** Any actions or claims against the University under this Agreement must be in accordance with and are controlled by the Wyoming Governmental Claims Act, W.S. 1-39-101 et seq. (1977) as amended.
	2. **Indemnification.** Contractor agrees to defend, indemnify and hold harmless the University and its public employees from any and all claims arising from this Agreement or related to this Agreement.
	3. **Insurance.** Contractor shall carry liability insurance including property damage and bodily injury, contractual liability, errors and omission, products/completed operations, and pollution with minimum limits of not less than $1,000,000 occurrence and $2,000,000 aggregate. If Contractor will use automobiles in performance of the Agreement, Contractor must carry automobile liability insurance covering all owned, non-owned and hired autos with minimum limits of $1,000,000 combined single limit. Contractor must carry any workers’ compensation coverage and employer’s stop gap liability coverage required by law. Any deductible or retention on any required policy must be in an amount acceptable to the University. Insurance shall be placed with insurers licensed to do business in Wyoming. Policies other than workers’ compensation and employer’s liability must name the University, its trustees, officers, and employees as additional insureds.  Certificates must be on file with University Risk Management prior to any work and must be kept current throughout the term of the Agreement.
	4. **Interpretation.** The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The courts of the State of Wyoming shall have jurisdiction over any action arising out of this Agreement and over the parties, and the venue shall be the Second Judicial District, Albany County, Wyoming.
	5. **Ownership of Work Product.** All works, information, materials and deliverables created for the University pursuant to this Agreement (the “Deliverables”) shall belong to the University, and Contractor disclaims any ownership interests therein. Contractor hereby irrevocably transfers and assigns all right and interest in and to all Deliverables created, invented, developed or prepared as part of performing this Agreement, including without limitation, all copyrights and intellectual property of the Deliverables including the native files. Contractor agrees at any time, upon request of the University and at the University’s expense, to execute any assignments and other documents and to cooperate with the University to perfect ownership by the University in the Deliverables. The Deliverables that are copyrightable shall be deemed to be “works made for hire” to the extent permitted pursuant to federal copyright laws. The University has the right to alter, reproduce, and use the Deliverables in its sole discretion. Contractor shall not use or reproduce the Deliverables unless specifically for and authorized by the University. Contractor represents and warrants to the University that the services performed under this Agreement and the Deliverables will not violate or infringe a third party’s patent, copyright, trade secret or other intellectual or proprietary right, and that no third party has an ownership interest in the Deliverables.
	6. **Prior Approval.** This Agreement shall not be binding upon either party unless this Agreement has been reduced to writing before performance begins as described under the terms of this Agreement, and unless this Agreement is approved as to form by the Office of General Counsel.
	7. **Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect.
	8. **Sovereign Immunity.** The University does not waive its sovereign or governmental immunity by entering into this Agreement, and fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this Agreement.
	9. **Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement, and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement. The parties to this Agreement intend and expressly agree that only parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party’s performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.
	10. **Legal Authority**. Each party to this Agreement warrants that it possesses the legal authority to enter into this Agreement and that it has taken all actions required by its regulations, procedures, bylaws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Agreement and to bind it to its terms. The person(s) executing this Agreement on behalf of a party warrant(s) that such person(s) have full authorization to execute this Agreement.

**Signatures.** In witness whereof, the parties to this Agreement through their duly authorized representatives have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement as set forth herein.

**University of Wyoming** **Contractor**

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Signature Date Signature Date

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Title Title

**Exhibit A**

**RATES**