

Babcock Laboratories, Inc.

Terms & Conditions

COMPANY INFORMATION

Babcock Laboratories, Inc. (or Babcock Labs) is located at 6100 Quail Valley Court, Riverside CA, 92507. Additional Company information can be found at www.babcocklabs.com.

AGREEMENT

This Agreement sets forth the terms and conditions pursuant to which Babcock Laboratories, Inc. dba E.S. Babcock & Sons (hereafter referred to as "the Company") will provide the Client with laboratory services. All work shall be subject to the terms and conditions of this Agreement.

TERM

This Agreement shall remain in effect until terminated. Either party may terminate this Agreement at any time, with or without cause upon thirty (30) days' prior written notice to the other. The Client may terminate, at any time, with or without cause and in whole or in part, an agreed upon request for services; provided, however, that if the Client terminates without cause, it shall compensate the Company for all work performed prior to actual receipt of notice and all of the Company's costs and expenses incurred as a result of the termination. If at the time of termination of the Agreement, the Client's request for services is left outstanding, the terms of this Agreement shall continue to apply to such services until the work is completed, or specifically terminated.

INDEPENDENT SERVICES

The Company shall be fully independent in performing the services and shall not act as an agent or employee of the Client. As such, the Company shall be solely responsible for its employees, subcontractors, and agents and for their compensation, benefits, contributions, and taxes, if any. All means and methods for accomplishment of the work requested shall be under the exclusive direction and control of the Company and the Client shall have only the right and responsibility to define the scope of the project requirements for the work requested. Nothing included herein may be construed to establish any partnership, joint venture, or principal-agent relationship between the Company and the Client.

AVAILABLE SERVICES

Additional available services include but are not limited to field and courier services, data deliverables, emergency response services, and special project accommodation (including rush analysis, special sample preparation, non-typical report format, or other non-typical client requests or needs). Additional fees for these services may apply.

CHARGES

An \$80 minimum charge per submission applies. Prices are based on the estimated quantities. Should the Scope of Work change, contact the Company for price verification. Additional charges may be assessed for Travel Blank analysis and samples requiring multiple dilutions due to client-specific reporting requirements.

PAYMENT & CREDIT POLICY TERMS AND CONDITIONS

Prepayment is required for all first-time clients. Payment terms are net 30 days of invoice date, upon approved credit. A finance charge of 1.5%/mo. (18% annually) will be applied to all unpaid balances 30 days past the due date. The minimum finance charge is \$10. Delinquent accounts will be on a prepayment/cash in advance (CIA) basis only. Past Due under this contract is not dependent upon receipt of payment by the Client's third party and/or user, and the Client is solely responsible for timely payment of all invoices not withstanding payment or non-payment by any said third party and/or user. Credit accounts with unpaid finance charges past 90 days will be closed and future credit may be denied, whereby future sales will only be made on a CIA basis.

Payments for accounts without approved credit are due in advance of services being performed.

REPORTING

A Standard QC package, when requested, may contain any combination of the following: Method Blank (MB), Lab Control Sample (LCS), Lab Control Sample Duplicate (LCSD), Matrix Spike (MS),

Matrix Spike Duplicate (MSD), Sample Duplicate (DUP), and/or Surrogate (SURRE). Electronic deliverables can be provided for a nominal fee.

SAMPLE SUBMISSION

Before submitting the first sample, the Client must fill out a New Client Information form. Results only apply to the samples submitted. When submitting a sample the following paperwork must be submitted:

Chain of Custody: Sample identification, name and address, telephone and fax numbers, written instructions or list of analyses to be performed, email address, and date and signature must be included. The Client is responsible for only submitting work approved under their contract. Any additional analyses on the Chain of Custody outside of the quote or contract will be billed at list price. Once the Chain of Custody has been signed by the authorized persons and obtained by the Company, the contract work is in progress. The Client accepts responsibility for full payment should the Client choose to cancel any or all work in progress.

Price Quote: A copy of the official price quote (if obtained) must be submitted with the sample.

Samples must be submitted on ice and in the proper containers to help maintain the integrity of the sample. All samples must be clearly labeled and identified. Instructions must be included at the time of sample submission and may not be submitted separately. The Company reserves the right to refuse samples at its discretion.

Standard sample turnaround time is 10 working days from the date of sample receipt, unless otherwise stated in the quotation or contract agreement. Results will be provided via email and are also available for download on the Company's website. Hardcopy reports can be sent via USPS mail for a nominal fee. Rush analyses and results are available at an additional charge and must be arranged in advance.

SUBCONTRACTED ANALYSIS

Should instrumentation problems, special methods, or circumstances outside of the Company's control occur, the project may be subcontracted to a State-certified subcontract lab. Additional charges may be incurred for subcontracted analyses and prices for such work are subject to change. The Client should contact the Project Manager prior to sample submittal to verify pricing and turnaround time.

SAMPLE DISPOSAL

If a sample is contaminated or requires extraordinary disposal measures, the Client is responsible for either taking custody of the sample after analysis or paying an additional fee to the Company so that it can properly dispose of the sample.

GENERAL POLICIES

The Company's liability for any service rendered or test performed on behalf of a client is limited to the amount the Company has been paid by the Client for that particular test or service. The Company will not be liable for any consequential damages allegedly sustained by the Client as a result of or in connection with a test or service performed by the Company. Under no circumstances shall the Company's liability arising from or in connection with the performance of a test or service exceed the amount it was paid for that test or service.

Repeat Analyses: The Company may repeat an analysis per the Client's request. If the repeat analysis results confirm the original results, the Client may be charged for the duplicate testing. The Company may, at its sole discretion, destroy any and all documentation in conjunction with the services rendered pursuant to this contract after a period of seven (7) years from the date that services were last provided by the Company to the Client. It is the Client's responsibility to advise the Company of any pending litigation that may require retention of records. Terms and Conditions under written contract between the Company and the Client supersede these Terms and Conditions, as applicable, except where these Terms and Conditions are more exhaustive.

LABORATORY REPRESENTATIONS

The Company represents as follows:

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Compliance with Standards: The Company will perform the services requested on the submitted and accepted Chain of Custody in a diligent and workmanlike manner consistent with accepted professional practices, all applicable and existing federal, state, and local laws, regulations, and ordinances; and the Client's standards and specifications as known to the Company prior to execution of work requested in the submitted Chain of Custody.

Notice of Violations: The Company shall notify the Client if (a) the Company is served with notice of significant violation of any law, regulation, permit or license which relates to its services hereunder; (b) permits, licenses, or other governmental authorizations relating to such services are revoked; (c) litigation is commenced against the Company which could affect such services; or (d) the Company becomes aware that its equipment or facilities related to such services are not in compliance with applicable laws, regulations, permits, or licenses.

Professional Standards: As applicable for the services performed, the Client will apply its best judgment, use its best level of effort consistent with professional standards in performing the services, and endeavor to enable the Client to meet its objectives at the location(s) specified in each order as the same shall be disclosed to the Company by the Client.

INDEMNITY

Company: The Company agrees to indemnify and hold harmless the Client (including its officers, directors, employees, and agents) from and against any and all losses, damages, liabilities and expenses (including legal fees and reasonable costs of investigation) resulting from or arising out of (a) failure of the Company to comply in material respects with federal, state, and local laws and regulations applicable to services undertaken by the Company in this Agreement; or (b) any injury or death of any person (including employees and agents of the Client and the Company), damage or loss or destruction of any property (including property of the Client and Laboratory and their respective employees and agents) resulting from or arising out of negligence or willful misconduct on the part of the Company in performing services pursuant to this Agreement, provided, however, that such indemnification shall not apply to the extent any losses, damages, liabilities, or expenses result from, are attributable in whole or in part to, or arise out of (i) any negligence or willful misconduct of the Client; (ii) any delay attributable to the Client or the Client's conduct; or (iii) any breach by the Client of any warranties or other provisions hereunder except losses, damages, liabilities, or expenses resulting from negligence or willful misconduct by the Company. The Company's duty to defend the Client is limited to the reimbursement of reasonable attorney's fees to the extent of the Company's actual adjudicated negligence.

Client: The Client agrees to indemnify and hold harmless the Company (including its officers, directors, employees, and agents) from and against any and all losses, damages, liabilities, and expenses (including legal fees and reasonable costs of investigation) resulting from or arising out of (a) any negligence or willful misconduct of the Client, (b) any condition existing at the site prior to the arrival of the Company of which the Company had no actual knowledge and over which the Company had no control, including the presence of nonconforming hazardous substances; provided however, that such indemnification shall not apply to any losses, damages, liabilities, or expenses which result from or arise out of (i) any negligence or willful misconduct of the Company; (ii) any unjustifiable delay attributable to the Company's conduct; or (iii) any breach by the Company of any representations hereunder.

FORCE MAJEURE

Neither party shall be deemed in default of this Agreement or any order here under to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as natural disasters, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, power disruptions, adverse weather conditions, strikes, or lock-outs, and changes in laws, statutes, regulations or ordinances, and ministerial actions or omissions by regulatory authorities or their representatives, unless such omission or action shall have been caused or contributed to by the responsible party hereunder.

If any such force majeure condition occurs and continues for a period of more than fourteen (14) days, then the party experiencing such condition shall give immediate written notice to the other party which may then elect to: (1) terminate the affected service requested or any part thereof, (2) suspend the affected service or any part thereof for the duration of the force majeure condition and resume performance once the force majeure condition ceases. Unless written notice is given within thirty (30) days after being notified of the force majeure conditions, the other party shall be deemed to have elected option 2.

ATTORNEY FEES

In the event either party shall file suit for damages for breach of this Agreement, including nonpayment of invoices, or to enforce this Agreement or to enjoin the other party from violating this Agreement, the prevailing party shall be entitled to recover as part of its damages its reasonable legal costs and expenses for bringing and maintaining any such action.

GOVERNING LAW

This Agreement shall be governed by and interpreted under the laws of the State of California. Any litigation arising out of or related in any way will be commenced in the Superior Court of California, County of Riverside.

CONSEQUENTIAL DAMAGES

Neither the Company nor the Client will be liable to the other for any indirect, incidental, special or consequential damages (including loss of anticipated profits, business interruption, good will or other economic or commercial loss) relating to the services renders. Furthermore, the Client agrees that the Company's RESPONSIBILITY TO SUCH CLAIMS OR LOSSES ARE LIMITED TO THE VALUE OF EACH WORK ORDER.

CONFIDENTIAL INFORMATION

The Company will not disclose to other any confidential information furnished by the Client in connection with this Agreement. These restrictions do not apply to information that (i) the Company has in its possession prior to disclosure by the Client; (ii) becomes public knowledge through no fault of the Company, (iii) the Company lawfully acquires from a party not under any obligation of confidentiality to the Client; or (iv) is independently developed by the Company. The Company and its personnel will not publish, in any technical articles or otherwise, information obtained from this Agreement or during performance of work hereunder in a manner that would be identifiable with this Agreement without the prior written consent of the Client.

SEVERABILITY/DISPUTES

Every part, term, or provision of this Agreement is severable from others. Notwithstanding any possible future finding by duly constituted authority that a particular part, term, or provision is invalid, void, or unenforceable, this Agreement has been made with the clear intention that the validity and enforceability of the remaining parts, terms, and provisions shall not be affected thereby. The validity and effect of this Agreement, its interpretation, operation and all questions arising with respect to performance shall be determined by the Company.

In the event a dispute shall arise between the parties to this service agreement, the parties agree to participate in mediation in accordance with the mediation procedures of JAMS. The parties agree to share equally in the costs of the mediation.

I am an authorized representative of the Client and have read and agree to the Terms and Conditions listed above on behalf of the Client.

Signature: _____ Date: _____

Client (Company Name): _____

Client Contact Information: Phone: () _____ Email: _____