

**BOISE STATE UNIVERSITY
AGREEMENT FOR NON-FEDERALLY FUNDED ANALYTICAL SERVICES**

This Analytical Services Agreement, dated the _____ day of _____, 20____, is between Boise State University, an Idaho State Institution of higher education, ("University") and _____, ("Company") collectively referred to as the "Parties."

The Parties agree as follows:

- 1) SERVICE TO BE PROVIDED: (Provide DETAILED description. Attach additional pages if necessary.)

- 2) TERM OF SERVICE: Date(s): _____ to _____
- 3) FEES: In no event shall Aggregate Fees under this Agreement exceed \$ _____. Analytical Services Fee: \$ _____
Material Disposition/Waste Disposal Fee: \$ _____ Equipment and Service Charge Estimate: \$ _____
Company will be billed for all services requested by Company or required by University. Company will also be billed for all costs incurred by University during the performance of the Services. This includes, but is not limited to, as applicable, facilities and administrative costs, custodial costs, post-service clean up, equipment rental, repair or replacement costs, or additional technical labor and supervisory costs. If payment is not received within thirty (30) days of billing, a one percent (1%) monthly late fee will be added each month to the total amount due, until paid in full.
- 4) MATERIAL OR SAMPLE DISPOSITION [] Return to Customer [] Disposition/disposal by University
- 5) COMPANY ALLOWS UNIVERSITY TO PUBLISH RESULTS [] Yes [] No
- 6) SPECIAL PROVISIONS: SDS information must be provided for any chemical samples.

- 7) Contact for BSU: _____ Contact for Company: _____
Department: _____ Name: _____
Name: _____ Email: _____
Phone: _____ Phone: _____

The Boise State University Analytical Service Agreement Terms & Conditions (Nos. 1 – 16) are attached and made a part of this Agreement.

AGREED, by a duly authorized representative of the Parties, as of the date written above:

Boise State University,
1910 University Drive
Boise, Idaho 83725,
an Idaho State Institution of Higher Education

Company:
Address:

FEIN or Tax Identification Number:

By: _____
Printed Name: _____
Title: _____
Date: _____

By: _____
Printed Name: _____
Title: _____
Date: _____

Boise State Non-Federally Funded Analytical Service Agreement Terms and Conditions

1. Company may not assign or in any way transfer its rights under this Agreement to any other parties. Each Party is an independent contractor engaged in its own business and nothing in this Agreement implies a partnership, joint venture, or other association between the Parties. Company shall not use University's name or logos to suggest co-sponsorship or endorsement of any activities without prior written approval by University.
2. If, due to causes beyond the reasonable control of the University, the facilities or equipment required to perform the Services are unavailable or unusable, the University may elect to terminate this Agreement. Any monies prepaid by Company shall be returned to Company and University will have no further obligations.
3. If any required deposit or other sum is not paid when due or if Company violates any of the terms of the Agreement, University may terminate the Agreement, and University may retain all sums received prior to the termination.
4. University will perform the Services in a way which will comply with all applicable governmental rules, laws, ordinances and regulations, including but not limited to those applicable to hazardous materials, controlled substances and waste products.
5. University may dispose of any materials or products belonging to Company left with University at the conclusion of the Term and University reserves the right to charge Company accordingly for such disposal.
6. Unless otherwise provided herein, all equipment and supplies purchased with funds provided under this Agreement for use in connection with this Agreement shall be the exclusive property of University in perpetuity, and shall be utilized in part in order to complete the Services.
7. Each Party agrees to be responsible and assume liability for its own wrongful or negligent acts or omissions, or those of its officers, agents, contractors or employees, to the full extent required by law. Liability of University is at all times herein strictly limited and controlled by the provisions of Idaho law, including, without limitation, the Idaho Tort Claims Act, Idaho Code §§ 6-901 *et seq.* as amended from time to time. Company agrees to indemnify and hold University and its trustees, employees, officers, and agents harmless from any liability, loss or damage suffered as a result of claims, demands, costs or judgments arising out of use by Company of the results obtained from the activities performed by University under this Agreement.
8. Each Party represents and warrants it maintains comprehensive general liability insurance and all coverages required by law sufficient for the purpose of carrying out the duties and obligations arising under this Agreement. University shall maintain, at all times applicable hereto, comprehensive liability coverage in such amounts as are prescribed by Idaho Code § 6-924 as amended from time to time, as well as worker's compensation coverage for its employees as required by Idaho Code § 72-301 as amended from time to time.
9. This Agreement is governed by the laws of the State of Idaho. Any action to enforce the provisions of this Agreement shall be brought in state district court in Ada County, Boise, Idaho. If any term of this Agreement is held to be invalid or unenforceable by a court, the remaining terms of this Agreement will remain in force.
10. University is a state agency in Idaho. Nothing in this Agreement constitutes a waiver by Boise State University of any privilege, protection or immunity otherwise afforded it under the Idaho Constitution, Idaho Tort Claims Act, or any other applicable law.
11. This Agreement constitutes the full, complete, and entire Agreement between the parties. This Agreement supersedes all prior understandings, agreements, or arrangements which may be either oral or written, between the parties with respect to the subject matter. All changes must be made in writing and signed by the authorized representatives of both Parties.
12. COMPANY UNDERSTANDS THAT DATA, RESEARCH RESULTS, DELIVERABLES, REPORTS, ANALYSIS, AND ALL OTHER OUTPUT GATHERED BY UNIVERSITY OR BY COMPANY UNDER THIS AGREEMENT ARE PROVIDED STRICTLY "AS-IS" WITHOUT ANY OTHER WARRANTY OR GUARANTY OF ANY KIND. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE HEREBY EXPRESSLY DISCLAIMED INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. UNIVERSITY SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGE OF ANY KIND, INCLUDING, WITHOUT LIMITATION, LOST PROFITS (REGARDLESS OF WHETHER OR NOT UNIVERSITY KNOWS OR SHOULD KNOW OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES).
13. Either Party may terminate this Agreement, without cause, upon not less than thirty (30) days' written notice. 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 Company, Company shall pay all costs accrued by University as of the date of termination, such as non-cancelable obligations for the Term.
14. In the course of performing the Services under this Agreement, the University may have access to Company information. If the information is clearly marked as confidential, University shall treat such information as confidential, and University shall not disclose to any third party or use, for purposes not set forth in this Agreement, any such confidential information of Company. Except as expressly permitted by this Agreement or as required by law or regulation, for a period of three (3) years from the termination of this Agreement, the University shall protect the Company confidential information from unauthorized dissemination, using the same degree of care University ordinarily uses with respect to its own proprietary information. Company confidential information will not include information that: (i) is or becomes generally known or available by publication or otherwise through no fault of University; (ii) is known and has been reduced to tangible form by University at the time of disclosure and is not subject to restriction; (iii) is independently developed by University; (iv) is lawfully obtained from a third party who has the right to make such disclosure; or (v) is released for publication by Company in writing.
15. University hereby assigns to Company, for no additional consideration, all of University's rights, including copyrights, in all data prepared by University under this Agreement. University shall promptly sign and deliver any documents and take any actions Company reasonably requests to establish and perfect the rights assigned to Company under this provision. Company hereby grants to University a nonexclusive, royalty-free license to use the same rights in perpetuity for the lawful purposes of the University.
16. The Parties acknowledge that activities covered by this Agreement may be subject to export control laws that prohibit or restrict: (i) transactions with certain persons; and/or (ii) the type and level of items that may be exported, reexported or deemed exported. Each Party is responsible for its own compliance with Export Control Laws. Should it be necessary for the Parties to exchange items which are known or suspected to be export controlled, the Party disclosing such controlled items shall, prior to the disclosure or exchange: (i) give written notice to the other Party; and (ii) provide the other

Party with the applicable Export Control Classification Number or other classification for such items. The Parties agree to identify and label all controlled Items as export controlled and specify the cognizant authority (e.g., EAR, ITAR, OFAC Regulations, NRC/DOE Regulations).