

WEST VIRGINIA UNIVERSITY RESEARCH CORPORATION LABORATORY TESTING SERVICES AGREEMENT

THIS LABORATORY TESTING SERVICES AGREEMENT (“Agreement”) is made this Effective Date day of Month, Year by and between WEST VIRGINIA UNIVERSITY RESEARCH CORPORATION and its WVU WISER Analytical Laboratory (“WVURC”), a State of West Virginia 501(c)(3) corporation, having principal offices at 886 Chestnut Ridge Road, Morgantown, West Virginia, 26506 and Enter Third Party a Limited Liability Corporation, having an office and place of business at Third Party Address (hereinafter known as “CLIENT”). WVURC and CLIENT are sometimes collectively referred to herein as “Parties”, or individually, as a “Party”.

In consideration of the mutual promises, conditions and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Section 1. Scope of Testing Services.

- 1.1 Subject to and in accordance with the provisions of this Agreement, WVURC is willing to provide and CLIENT wishes to obtain those certain professional testing services described in Attachment A, attached hereto and incorporated herein by this reference (the “Testing Services”). All Testing Services provided by WVURC under this Agreement shall be provided in a competent, prompt, and professional manner. WVURC agrees to cooperate in good faith with Client in connection with the resolution of any concerns that may arise with respect to any of the Testing Services. The Testing Services will be performed by employees of WVURC (“Staff Members”).

Section 2. Term.

This Agreement shall be effective from the Effective Date and shall continue in full force until the date specified in Attachment A or until terminated upon thirty (30) calendar days written notice by either Party. In the event Client seeks to terminate this Agreement while Services remain pending, Client agrees to pay WVURC for its documented costs and expenses associated with a pending order.

Section 3. Payment; Fixed Price Amount.

- 3.1 Fixed Payment: CLIENT agrees to pay WVURC on a per order basis for analyses according to the rates identified in Attachment A for the Testing Services.
- 3.2 WVURC will submit its invoices to CLIENT along with the report summarizing the results after each request/Chain of Custody is completed. CLIENT will pay each invoice within thirty (30) days of the invoice date. Any invoice not paid within thirty (30) days of the invoice date will be considered delinquent and subject to one and one-half percent (1.5%) per month fee for each month or fraction thereof, until payment is received.



- 3.3 CLIENT will make payments to:
WVU WISER Analytical Laboratory,
2872 Evansdale Drive
Morgantown, WV 26506
Attn: Gabriela Perhinschi/Robert Vincent
- 3.4 WVURC may choose to discontinue performance of the Testing Services if CLIENT fails to pay any WVURC invoice within the time specified in Section 2.

Section 4. Reports.

- 4.1 WVURC will provide CLIENT, if required, a report summarizing the results of the Testing Services as mutually agreed to and as defined in Attachment A (“Scope of Services”).

Section 5. Publicity.

- 5.1 Each Party agrees not to authorize or commission the publication of any promotional materials containing any reference to the other Party without the prior written approval of the other Party, provided however that WVURC and the West Virginia University and West Virginia University Research Corporation (“WVU”) may include CLIENT’s name and project title in listings of research sponsors. The provisions of this Section shall survive termination of this Agreement.

Section 6. Intellectual Property.

- 6.1 WVURC hereby grants to CLIENT the right, title, and interest to the data or test results generated during the performance of the Testing Services and contained in the Final Report.
- 6.2 Title to all other intellectual property developed by Staff Members, including without limitation any inventions and discoveries conceived or first reduced to practice, all computer software, works, and material developed in the course of performance of the Testing Services, whether or not protectable by patent or copyright, will reside in WVURC.
- 6.3 Subject to Section 7 hereunder and notwithstanding anything to the contrary contained herein, CLIENT hereby grants to WVURC and WVURC reserves for itself and WVU an irrevocable, fully paid-up, worldwide, non-exclusive, royalty-free license in and to the data and test results developed hereunder for educational and research and development purposes, whether alone or with a third party.

Section 7. Proprietary Information and Confidentiality.

- 7.1 In the course of performing the Testing Services, CLIENT may disclose to WVURC CLIENT Proprietary Information. “CLIENT Proprietary Information” means any data or information having commercial value which may include but not be limited to data, databases, product plans, strategies, forecasts, research procedures, marketing techniques and materials, customer names and other information related to customers, price-lists, pricing policies, and financial information which CLIENT considers sensitive



and which is not generally known to the public.

- 7.2 WVURC agrees to hold in confidence and not disclose any and all CLIENT Proprietary Information received from CLIENT hereunder. The confidentiality obligations of WVURC shall extend for three (3) years from the Effective Date. Unless otherwise permitted by separate written agreement, WVURC shall use the CLIENT Proprietary Information only for and to the extent required to perform the Testing Services. WVURC shall only disclose the Proprietary Information to those Staff Members that have a legitimate business need for such information and only for and to the extent required to perform the Testing Services. Notwithstanding the foregoing, WVURC may disclose CLIENT Proprietary Information to WVU provided that WVU is obligated to WVURC under terms at least as restrictive as those contained in this Agreement not to disclose CLIENT Proprietary Information to any other third party.
- 7.3. Written information exchanged hereunder shall be clearly marked with an appropriate stamp or legend "Proprietary Information". Markings such as "In Confidence", "Proprietary", or "CLIENT Use Only" shall be sufficient. Non-written information exchanged hereunder shall only be considered Proprietary Information if, at the time of such disclosure, the Proprietary Information being disclosed is identified as proprietary and the CLIENT provides WVURC with a written notice that clearly identifies the nature and content of the disclosed information within thirty (30) days after such disclosure.
- 7.4 WVURC will not be liable to the CLIENT for the disclosure of Proprietary Information that:
- a. is published or otherwise in the public domain through no fault of WVURC;
or
 - b. can be demonstrated by WVURC to have been in its possession prior to receipt under this Agreement; or
 - c. is obtained by WVURC without restriction from a third party;
or
 - d. is independently developed by WVURC by individuals who have not had either direct or indirect access to such information; or
 - e. is required to be disclosed pursuant to any regulation, law, or statute; or
 - f. is disclosed by WVURC to a third party with the written approval of the CLIENT without any restriction.
- 7.5 WVURC shall follow Title 40, Part 136-Guideline establishing test procedures for the analysis of pollutants. All written documentation is retained by WVURC for five years and all samples provided by CLIENT for six months.

Section 8. Disclaimer.

- 8.1 WVURC DISCLAIMS ANY AND ALL WARRANTIES BOTH EXPRESS AND IMPLIED WITH RESPECT TO THE TESTING SERVICES TO BE PERFORMED



HEREUNDER AND ANY DELIVERABLES (INCLUDING COPYRIGHTABLE DELIVERABLES) RESULTING THEREFROM, INCLUDING THEIR CONDITION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS THEREIN, THEIR MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, VALIDITY OF ANY INTELLECTUAL PROPERTY RIGHTS OR CLAIMS, OR NON-INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

Section 9. Limitation of Liability.

- 9.1 The cumulative liability of WVURC to CLIENT for all claims, demands, or actions arising out of or relating to this Agreement, the Testing Services to be performed hereunder, and any deliverables resulting therefrom will not exceed the total amount paid to WVURC hereunder during the twelve (12) months immediately preceding such claim, demand, or action. Without limiting the foregoing, in no event shall WVURC be liable for any business expense; machine down time; loss of profits; any incidental, special, exemplary, or consequential damages; or any claims or demands brought against CLIENT or CLIENT's customers even if WVURC has been advised of the possibility of such claims and demands. The foregoing limitation of liability will survive any termination of this Agreement and will apply without regard to any other provision of this Agreement which may have been breached or have been proven ineffective.

Section 10. Termination.

- 10.1 Either Party may terminate this Agreement for any reason upon thirty (30) days' written notice to the other Party.
- 10.2 CLIENT will pay WVURC any costs which have accrued or been encumbered up to the actual date of termination under this Section and CLIENT will not be relieved of the obligation to pay those costs because of a termination under this Section.

Section 11. Export Control.

- 11.1 The Parties understand and agree that any and all information provided or exchanged shall be in compliance with all applicable United States export control laws (EAR/ITAR) including "deemed exports". The transfer of certain technical data and commodities may require a license from a government agency or written assurances by the disclosing Party that Party will not re-export data or commodities to foreign countries without prior approval of the appropriate U.S. Government Agency. The Parties agree to cooperate with the other Party in securing any such license necessary in connection with this Agreement.
- 11.2 Deemed export means any release of technology to a foreign national within the United States. Technology is released for export when it is (i) made available to foreign nationals for visual inspection, (ii) exchanged orally, or (iii) made available by practice or application under the guidance of persons with knowledge of the technology. The obligations of this Section shall survive any expiration or termination of this Agreement.



Section 12. Miscellaneous.

12.1 All notices and other communication given under this Agreement will be effective five (5) days following deposit in the United States mail, postage prepaid, and addressed to the parties at their respective addresses set forth below unless by a previous notice a different person or address has been designated.

To WVURC for administrative matters:

886 Chestnut Ridge Road
Morgantown, WV 26506

Attention: Harley H
Title: Title
Telephone: Telephone
Fax: Fax
Email: Email

To CLIENT for administrative matters:

Address
Address
City, State, ZipCode
Attention: Full Name
Title: Title
Telephone: Telephone
Fax: Fax
Email: Email

To WVURC for technical matters:

2872 Evansdale Drive
Morgantown, WV 26506

Attention: Gabriela Perhinschi
Title: LAB Manager
Telephone: 304 293 6134
Fax: Fax
Email: gperhinschi@mail.wvu.edu

To CLIENT for technical matters:

Address
Address
Address
Attention: Full Name
Title: Title
Telephone: Telephone
Fax: Fax
Email: Email

12.2 WVURC and CLIENT are and will remain independent contractors and nothing herein will be construed to create a partnership, agency, or joint venture between the Parties for federal and state law purposes. Each Party will be responsible for wages, hours, and conditions of employment of its respective personnel during the term of, and under, this Agreement.

12.3 All questions concerning the validity, operation, interpretation, and construction of this Agreement will be governed by and determined in accordance with the laws of the State of West Virginia.

12.4 The Parties irrevocably and exclusively submit to the jurisdiction of the state and federal courts of or for the State of West Virginia, including the related appellate courts, in any such action or proceeding and waive any rights to a jury trial. Personal jurisdiction over the Parties may be obtained by the mailing (postage prepaid) of a summons or similar legal document to the Party's address for notices under this Agreement.



- 12.5 No waiver by either Party of any breach of any provision hereof will constitute a waiver of any other breach of that provision or of any other provision hereof.
- 12.6 This Agreement sets forth the entire agreement and understanding between WVURC and CLIENT and merges all prior discussions between the Parties pertaining to the subject matter hereof; and neither Party will be bound by any conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof except as expressly provided herein or in writing. This Agreement may not be modified or altered except by a written document executed by authorized representatives of both Parties. No provision contained in any standard form document issued by CLIENT, including but not limited to any purchase order or confirmation order, will be applicable, even if signed by the Parties, unless the Parties also execute a separate document expressly modifying this Agreement to include such provisions.



IN WITNESS WHEREOF, this Agreement has been duly executed by our duly authorized representatives on the day and year set forth below.

West Virginia University
Research Corporation

Client

X

X

Print Name: Name

Print Name: Name

Title: Title

Title: Title

Date: Date

Date: Date



ATTACHMENT A
SCOPE OF SERVICES

Define Fully the Scope of Services

2025 PRICE LIST

Since 1993, the WVU WISER Analytical Laboratory has supported environmental and engineering project analyses for academic, corporate, and government clientele. Our mission is to provide high quality physical and chemical analytical testing services to our clients. The WVU WISER Analytical Laboratory offers:

ICP-OES – Inductively Coupled Plasma-Optical Emission Spectroscopy (Agilent 720)
(EPA Method 200.7)

Al – Aluminum	Fe – Iron	Sb – Antimony
As – Arsenic	K – Potassium	Se – Selenium
B – Boron	Li – Lithium	Si – Silicon
Ba – Barium	Mg – Magnesium	Sn – Tin
Be – Beryllium	Mn – Manganese	Sr – Strontium
Ca – Calcium	Mo – Molybdenum	Ti – Titanium
Cd – Cadmium	Na – Sodium	Tl – Thallium
Co – Cobalt	Ni – Nickel	V – Vanadium
Cr – Chromium	P – Phosphorus	Zn – Zinc
Cu – Copper	Pb – Lead	

IC – Ion Chromatography (Thermo Sci. ICS-1600)
(EPA Method 300.0)

Br – Bromide	NO ₂ – Nitrite	SO ₄ – Sulfate
Cl – Chloride	NO ₃ – Nitrate	F – Fluoride
	PO ₄ – Phosphate	

General Chemistry

pH	Conductivity	Total Dissolved Solids
Alkalinity	Hardness	Total Suspended Solids
Acidity		

Discrete Analyzer

Chloride
Sulfate

Thermogravimetric and Elemental Analysis

ICP-MS – Inductively Coupled Plasma-Mass Spectroscopy (PerkinElmer)
(EPA Method 200.8)

Rare Earth Elements



WISER Analytical Laboratory Year 2025 Price List

(External clients)

AMD Package :
Alkalinity, Acidity, pH, Conductivity, SO₄, Al, Ca, Fe, Mg and Mn \$66.00

AMD Metal Package :
Al, Ca, Fe, Mg, Mn \$38.00

Coal Package :
Proximate and Elemental \$190.00

Ravenscroft Package :
NO₂, NO₃, NH₃, and P \$43.00

Rare Earth Elements (16 elements) :
Sc, Y and Lanthanides (excluding Pm) \$83.00

High Bay REE Package:
Sc, Y and Lanthanides (excluding Pm), AMD Metals package,
Co, Na, Ni, Si, Zn, SO₄, Cl \$175.00

High Bay REE Package_2: (solid samples)
Sc, Y and Lanthanides (excluding Pm), AMD Metals package, Co, Na, Ni, Si, Zn, S, Cl \$163.00

pH	\$7.00		
Alkalinity	\$7.00	ICP-OES	\$10.00 per elem
Acidity	\$7.00	Metals Digestion - Solid	\$19
Conductivity	\$7.00	Metals Digestion - Water	\$17
Hardness	\$2.00	Fusion	\$37.00
Total Dissolved Solids	\$23.00	ICP-MS	\$10.00 per elem
Total Suspended Solids	\$23.00	Calcination	\$46
Ferrous Iron	\$8.00		
Moisture	\$13.00		

		Discrete	
IC Anions	\$11 per ion	Chloride	\$16.00
		Sulfate	\$16.00

Coal Analyses

Proximate(moisture, volatile, ash)	\$114.00
Elemental(N,C,H,S)	\$114.00
Calorimetry	\$61.00



The Parties agree to the performance of the following tests according to the following schedule:

(Insert)

The Parties agree to the following fixed fee for services payable according to Section 3 of the Agreement: **One Hundred Dollars (\$100.00) per Test.**

By signing below, the Parties agree to the terms and conditions of this Attachment A, which is governed by the Laboratory Testing Services Agreement (“Agreement”) and in the event of any conflict between this Attachment A and the Agreement, the Agreement shall control:

West Virginia University
Research Corporation

X

Print Name: Name

Title: Title

Date: Date

Client

X

Print Name: Name

Title: Title

Date: Date