**Testing Service Agreement**

This Testing Service Agreement (the “Agreement”) is effective as of date of signing by both parties, and is between <CLIENT NAME> having an address of <CLIENT ADDRESS>(“**CLIENT**”), and the **Board of Regents of the University of Nebraska for and on behalf of the University of Nebraska-Lincoln specifically the West Central Research and Extension Center Pesticide Application Technology Lab at the University of Nebraska-Lincoln** (“**WCREC**”). WCREC and CLIENT enter into this Agreement for data collection services (the “Services) on the following terms and conditions:

1. **SCOPE OF WORK**: WCREC will complete the Services in a professional and diligent manner. The Scope of Work is detailed in Appendix A, attached hereto.
2. **PROJECT COORDINATOR**: The project shall be under the supervision of Dr. Greg Kruger. If for any reason the Project Coordinator shall be unavailable to continue to serve, and a successor acceptable to both parties is not available, this Agreement shall be terminated as hereafter provided.
3. **TERM:** The term of this Agreement is one (1) year from the date of its execution by

WCREC.

1. **PAYMENT:** WCREC will invoice CLIENT for the Services as set forth in Appendix A. All payments will be made within thirty (30) days of receipt of, and acceptance by, CLIENT of an invoice from WCREC.
2. **INTELLECTUAL PROPERTY:** CLIENT will retain ownership of all data, information or intellectual property furnished to WCREC by CLIENT in connection with this Agreement. All intellectual property and work product produced by WCREC in performance of the Services (“Results”) will belong to CLIENT.
3. **INFORMATION:** For purposes of this Agreement, the term “Information” shall mean Results and all written information relating to the Services, including but not limited to data; know-how; technical and non-technical materials; and any samples which CLIENT shall deliver to WCREC pursuant to this Agreement.
4. **CONFIDENTIALITY**: WCREC shall maintain the Information in confidence with the same degree of care it holds its own confidential information consistent with applicable Nebraska and federal public records laws and regulations. WCREC shall not use the Information except to perform the Services. WCREC will disclose the Information only to its officers and employees directly concerned with carrying out

the Protocol, but will neither disclose the Information to any third party nor use the

Information for any other purpose. WCREC will not analyze or have analyzed any samples provided by Client to determine the chemical composition of such samples.

1. **EXCEPTIONS TO CONFIDENTIALITY:** WCREC’s obligation of nondisclosure and the limitations upon the right to use the Information shall not apply to the extent that WCREC can demonstrate that the Information: (a) was in the possession of the WCREC prior to the time of disclosure; or (b) is or becomes public knowledge through no fault or omission of WCREC; (c) is obtained by WCREC from a third party under no obligation of confidentiality to CLIENT; or (d) was independently developed by WCREC without violating the terms of this Agreement. All Information and any unused samples will be returned to CLIENT upon termination of this Agreement for any reason, except for

one copy, which WCREC may use for determining its continuing confidentiality obligation to CLIENT under this Agreement. In addition, WCREC will retain one copy to document that it meets quality standards and other requirements of the Agreement. If WCREC receives a request to produce records related to this Agreement, it will immediately advise CLIENT.

1. **EQUIPMENT, TOOLS, MATERIALS, AND SUPPLIES:** WCREC shall provide the facilities, management and all equipment, materials, supplies and services necessary

to accomplish its work under this Agreement.

1. **SURVIVAL OF CONFIDENTIALITY OBLIGATION:** All confidentiality obligations of WCREC under this Agreement shall survive the termination of this Agreement for a period of three (3) years.
2. **RELATIONSHIP WITH CLIENT:** WCREC shall render the Services as an independent contractor and neither WCREC nor its employees are employees of CLIENT. Accordingly, neither WCREC nor its employees will (a) participate in CLIENT employee benefit plans nor receive any other compensation beyond that stated below, (b) have the power or authority to bind CLIENT or to assume or create any obligation or responsibility, express or implied, on CLIENT’s part or in CLIENT’s name, except as otherwise set forth in this Agreement, or (c) represent to any person or entity that WCREC or any employee of WCREC has such power or authority.
3. **ENTIRE AGREEMENT:** This Agreement sets forth the entire agreement between CLIENT and WCREC as to its subject matter. None of the terms of this Agreement shall be amended except in a writing signed by both parties.
4. **TERMINATION:** CLIENT or WCREC may terminate this agreement with or without cause by giving thirty (30) days notice to WCREC or CLIENT in writing. If CLIENT terminates this Agreement, CLIENT shall pay WCREC for the Services performed up

to the date of termination.

1. **BREACH:** If either party breaches this Agreement, the other may terminate it if the breaching party does not cure the breach within thirty (30) days of written notice of same. Termination shall be without prejudice to any rights, which may have been accrued to either party before termination.
2. **FORCE MAJEURE:** Neither CLIENT nor WCREC shall be liable for failure of or delay in performing obligations set forth in this Agreement, and neither shall be deemed in breach of its obligations, if such failure or delay is due to natural disasters or any causes reasonably beyond the control of CLIENT or WCREC.
3. **AUTHORITY AND COMPLIANCE:** WCREC represents and warrants it has the right and authority to enter into and perform its obligations under this Agreement.

Both CLIENT and WCREC will perform all of its obligations under this Agreement in accordance with all applicable governmental laws, rules and regulations.

1. **PUBLICATIONS:** WCREC shall not make any presentation or publication relating to WCREC’s work under this Agreement that would include any confidential information provided by CLIENT or identify CLIENT, unless requested by or approved by CLIENT.
2. **PUBLICITY:** No press releases or other statements in connection with this Agreement intended for use in the public or private media shall be made by CLIENT or WCREC without the prior written consent of the other party. If either party is required by law or governmental regulation to describe its relationship to the other, it shall promptly give the other party notice with a copy of any disclosure it proposes to make. In addition, WCREC shall not use CLIENT’s name in connection with any products, services, promotion, or advertising without CLIENT’s prior written permission. In any such statements, it shall accurately describe the scope and nature of the relationship and the work being conducted.
3. **MUTUAL INDEMNIFICATION:** Each Party agrees that it will be responsible for its own acts and the results thereof and shall not be responsible for the acts of the other party and the results thereof. Each Party therefore agrees that it will assume all risk and mutual indemnification to itself, its agents or employees for any injury to persons or property resulting in any manner from gross negligence or willful misconduct in the conduct of its own operations and the operations of its agents or employees under this Agreement, and for any loss, costs, or damage caused by or in connection with its own gross negligence or willful misconduct during the performance of this Agreement.
4. **GOVERNING LAW & FORUM:** This Agreement shall be governed by the laws of the State of Nebraska. Any legal actions brought by either party hereunder shall be in the District of Lancaster County, Nebraska.
5. **Work Verification Status:** University and its subcontractors shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska pursuant to Neb. Rev. Stat. 4-108 to 4-114 as amended.

1. **FAIR EMPLOYMENT:** WCREC shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges of employment on the basis of such person’s race, color, religion, sex, disability, national origin, ancestry, age, or marital status pursuant to the requirements of Lincoln Municipal Code Chapter 11.08 and Neb. Rev. Stat. Section 48-1122, as amended.
2. **FAIR LABOR STANDARDS:** WCREC shall maintain Fair Labor Standards in the performance of the Agreement, as required by Chapter 73, Nebraska Revised Statutes, as amended.
3. **SEVERABILITY & SAVINGS:** Each section and each subdivision of a section of this Agreement is hereby declared to be independent of every other section or subdivision of a section so far as inducement for the acceptance of this Agreement and invalidity of any section or subdivision of a section of this Agreement shall not invalidate any other section or subdivision of a section thereof.
4. **DEBARMENT LIST:** No contract shall be awarded to any Contractor/Bidder listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension,” (the “Debarment List”). For contracts which in the aggregate exceed $25,000, Contractor/Bidder specifically warrants and represents that it is not included on the Debarment List. Contractor/Bidder further agrees that should it be included on the Debarment List at the time the contract/proposal is awarded, or at any time during which it performs its contractual obligations pursuant to the contract, such listing shall be considered a material breach of the contract between the University and the Contractor.

I, as Project Coordinator, certify that my laboratory is an active service center, the work to be undertaken in this agreement does not have a research component and that I am not working as a consultant for this CLIENT for the purpose of analyzing the data delivered under this TSA.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Project Coordinator

**Accepted and Agreed: Accepted and Agreed:**

**BOARD OF REGENTS FOR AND ON BEHALF OF THE UNIVERSITY OF NEBRASKA-LINCOLN**

<CLIENT NAME>

By:

By:

Name: Name: Title: Title:

Date: Date:

<INSERT APPENDIX A>