

## Confidentiality Agreement

\_\_\_\_\_ and FDA Laboratories are prepared to exchange information to determine the feasibility of working together in the area of testing services, (the "Program") and it will be necessary for both parties to disclose to each other certain valuable business, technical and/or trade secret information relating to the above. Such valuable business, technical and trade secret information shall be marked as confidential, or if disclosed orally, shall be confirmed in writing as confidential within thirty (30) days of its disclosure to be considered as "Confidential Information". It is agreed that each disclosing party is willing to disclose such Confidential Information under the conditions specified below:

1. Each receiving party agrees to maintain in confidence for a period of ten (10) years from the date of this Agreement, all Confidential Information disclosed by the other party and not to publish or otherwise divulge said Confidential Information, in whole or in part, to any third party, and not to make use of said Confidential Information other than in relation to the Program without the written consent of the disclosing party. This obligation shall not apply to:
  - (a) Confidential Information which is now or hereafter becomes public through no action or omission of the receiving party;
  - (b) Confidential Information which the receiving party can show by written records was in its possession at the time of the disclosure, or was developed independently of any Confidential Information received from the disclosing party;
  - (c) Confidential Information which was disclosed to the receiving party by a third party having no obligation of confidentiality to the disclosing party with respect to such Confidential Information.No aspect of the Confidential Information shall be deemed to be or to have been in the public domain or in the receiving party's possession because it is embraced by more general public information, or because unrelated parts may be found in the public domain or in the possession of the receiving party.
2. If either party learns that it is already in possession of all or any part of the Confidential Information disclosed concerning the Program, that party will arrange for evidence of this and its source to be given to the other party within fifteen (15) days to avoid any subsequent risk of dispute unless and to the extent that either party is prevented from doing so by any condition subject to which they received such information.
3. A receiving party may disclose Confidential Information to the extent required by law, however, prior to such disclosure the receiving party must give the disclosing party prompt notice of the request for disclosure to allow the disclosing party sufficient time to make a reasonable effort to obtain a protective order or other appropriate remedy to prevent such disclosure.
4. Each receiving party agrees that it shall restrict disclosure of the Confidential Information within its own organization to those persons having a need to know it for the purposes of this Program, and that such persons shall be bound by the obligations set forth in this Agreement.
5. Documents, drawings, prototypes, disks, tapes, and all other material bearing, containing, disclosing or relating to Confidential Information furnished by either party shall remain the property of the disclosing party, and shall be returned upon request of the disclosing party.



- 6 Nothing contained in this Agreement shall be construed as granting or conferring any rights, either express or implied, under any intellectual property rights, or any rights to use any Confidential Information made available hereunder other than for the limited purposes specified.
7. In providing Confidential Information, the disclosing party makes no representation or warranty, express or implied, as to its adequacy, sufficiency, fitness for any purpose or freedom from defect of any kind, including, without limitation, freedom from patent infringement that may result from use of the Confidential Information.
- 8 Nothing contained in this Agreement is intended to create any sponsored research, assignment, license, technology transfer, joint venture, partnership or agency relationship between the parties.
- 9 Nothing contained in this Agreement is intended to limit or preclude either party from dealing with others concerning the subject matter of this Agreement, provided that the terms of this Agreement are not breached.
10. Nothing contained in this Agreement shall obligate the parties either to negotiate or enter into any future business arrangement. If, as a result of the discussions contemplated under this Agreement, the parties decide to enter into a business arrangement, then such arrangement will be the subject of a separate negotiation between the parties.
11. This Agreement shall be construed, interpreted and applied in accordance with the laws of Republic of South Africa, RSA.

**Signed:**

**FDA Laboratories**

**Company:** \_\_\_\_\_

\_\_\_\_\_  
**Azel Swemmer, Technical Director**

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_