

## **MODEL LIFE SCIENCES DISPUTE REVIEW BOARD CLAUSE**

The Parties hereby agree to establish a Dispute Review Board ["DRB"]. The DRB shall have three Members who are listed below or shall be named within 30 days of execution of this Contract. The Parties and the Member shall execute an Agreement reflecting the terms set forth below.

The function of the DRB shall be to maintain a current knowledge of the [Parties/Joint Venture/Company/Project/implementation of the Contract] and to resolve disagreements at an early stage before they escalate into an adversarial posture. All disagreements or disputes arising out of or in connection with the present Contract ["Dispute"] shall be submitted—in the first instance—to the DRB. For any given Dispute, the DRB shall issue a recommended resolution ("Recommendation") pursuant to the procedure set forth below.

### **I. DRB COMPOSITION AND MEETINGS**

#### **A. The DRB shall have 3 Members**

1. The Dispute Review Board Members [each a "Member"] shall be appointed as follows:
  - a. Each Member shall be appointed by agreement of the Parties within 30 days of execution of this Contract. The Parties may utilize the list compiled by, and services of, the International Center for Dispute Resolution of the American Arbitration Association ("ICDR"). The Parties shall provide email notice to the ICDR when the DRB is appointed.
  - b. If the Parties do not agree upon the three Members, each Party shall appoint one DRB Member, and the ICDR shall administratively appoint the third Member from its list of potential DRB Members.
2. The term of each Member shall be the duration of the Contract. The Parties may jointly terminate their agreement with any Member with written notice that is effective immediately. A replacement Member shall be chosen within 30 days thereafter by agreement of the Parties or pursuant to subparagraph (1b) above. A Member may resign with 3 months' written notice.

#### **B. The Members shall have the following qualifications:**

- a. One Member who has served as a senior executive at a company in the [pharmaceutical] [biotechnology] [medical device] [food/dietary supplement/cosmetic] industry ["the Industry"]; and
- b. One Member who has served in a regulatory/compliance position in the Industry, including in consulting, at a manufacturer, a Contract Research Organization or Contract Manufacturing Organization; and
- c. One Member who is an attorney with both deep Industry knowledge and significant litigation, arbitration and/or mediation experience.

2. If the subject matter of this Contract encompasses operations on multiple continents, then the Members should preferably have experience dealing with matters on those continents.

**C. Meetings.**

1. The Parties shall host two meetings per year with the DRB in order to provide updates and to provide at least one tour of the relevant facility (facilities). These visits may be by remote video means or in person at the discretion of the Parties, but at least one in-person meeting should be held in the first year of this Contract, if practicable.
2. The Parties shall additionally provide to the DRB quarterly updates on the status of the Contract, and the DRB may request any further information it considers necessary.
3. The Parties shall make available for interviews subject matter experts employed by the company if requested by the DRB.

**II. COMPENSATION**

- A. The Parties shall pay each Member an annual fee of [ ] within 30 days of execution of their agreement with the Member and thereafter each year on the anniversary date of that agreement.
- B. The ICDR shall invoice all Parties equally, or in an allocation otherwise agreed to by the Parties, for such fees and any expenses the Members reasonably expect to incur within the following 12 months, and the Parties pay such amounts to the ICDR, which will then pay the Members.
- C. If a Dispute is referred to the DRB, a fee of [ ] shall be paid to the ICDR upon referral of the Dispute, and if the Dispute requires more than 20 hours of the Members' collective time to review the submissions, attend a hearing, and prepare the Recommendation, the Parties shall pay each Member an additional fee of [ ] immediately before the DRB submits the Recommendation.
- D. In rare cases where the Dispute requires a very large time commitment, the Members shall request that an additional fee be negotiated with the Parties, which fee shall also be paid prior to submission of the Recommendation.
- E. The Parties shall reimburse each Member for any travel or other business expenses incurred that are supported by documentation, including travel (Business Class), meals and lodging. A Member may, with prior written approval by the Parties, engage, and seek reimbursement at cost for, researchers or experts.

**III. DRB PROCEDURE**

**A. Dispute Hearing Process.**

1. If the Parties identify a Dispute that cannot be resolved amicably between them, they shall notify the DRB via email of the need for a Recommendation of the DRB.
2. Each Party shall, within 10 days following notification of a Dispute, submit a memorandum to the DRB not exceeding 10 pages setting forth its positions,

desired resolution, time frame required for resolution if urgent, and shall provide all relevant supporting documents. The DRB may permit a longer submission upon a showing of need.

3. Within 30 days of receipt of both Parties' written submissions, or within a shorter time frame if required by urgent circumstances, the DRB shall hold a hearing with both Parties present to pose questions. The hearing process will be informal, and no summary or transcript of the proceedings shall be maintained. The hearing may be conducted virtually.
4. The DRB shall provide a Recommendation within 30 days of the hearing (or shorter time frame if required by urgent circumstances). The Recommendation shall be in writing and contain supporting reasons if requested by the Parties and shall be sent to the Parties by email, with the Parties to confirm their receipt of the email and Recommendation.
5. In emergency situations, instead of following the time periods set forth in subparagraphs 2-4 above, the Parties may request an oral hearing and an immediate oral Recommendation, which the DRB will subsequently put into writing within 10 days after the hearing.

#### *B. Dispute Escalation*

1. If the DRB issues a Recommendation and one of the Parties rejects it, either Party may escalate the Dispute to arbitration in accordance with Clause [ ] of this Contract. If any Party fails to comply with a Recommendation, the other Party may refer that failure to arbitration in accordance with Clause [ ] of the Contract.
2. If the DRB does not respond within 10 days of notice by the Parties of a Dispute, or if the DRB does not issue the Recommendation within the time limit provided herein, either Party may escalate the Dispute to arbitration in accordance with Clause [ ] of the Contract.

#### **IV. PROCEDURAL CONSEQUENCES OF DRB PROCEDURE**

- A. The requirement for a DRB procedure shall not prevent a Party from applying to any tribunal or court of competent jurisdiction for provisional, injunctive and/or conservatory relief and/or provisional remedies in aid of arbitration.
- B. All applicable limitation periods and defenses based upon the passage of time shall be automatically tolled while the DRB procedure is pending. Should tolling not be possible under applicable law, the relevant limitation periods shall be extended by the time period used for the DRB procedure.

#### **APPENDIX**

The three Members of the DRB shall be:

- 1.
- 2.
- 3.