

Model Agreement Among Parties and Life Sciences Dispute Review Board

THE PARTIES AND DISPUTE REVIEW BOARD:

1. [Licensor/Joint Venturer/ Acquirer/Supplier] ["Party 1"]
2. [Licensee/Joint Venturer/Acquiree(s)/Purchaser] ["Party 2"]
3. Dispute Review Board Member ["DRB Member"]

AGREEMENT TERMS:

In clauses xx -xx of the Parties' Principal Contract dated _____, 202_ ["the Parties' Principal Contract"] between [Parties 1 and 2 above], collectively "The Parties," the Parties agreed to establish a Dispute Review Board ["DRB"]. The function of the DRB is to maintain a current knowledge of the [Joint Venture/Company(ies)/Project/implementation of the Contract] in order to resolve disagreements quickly and cost-effectively at an early stage before they escalate into an adversarial posture.

The Parties and DRB Member acknowledge adequate mutual consideration and agree as follows:

I. UNDERTAKING

The DRB Member shall serve as the Dispute Review Board and hereby agrees to perform the duties set forth in the Parties' Principal Contract and in this Agreement. The DRB Member confirms that [he/she] is and shall remain impartial and independent of the Parties.

II. COMPOSITION OF THE DRB AND CONTACT DETAILS

1. The DRB Member can be contacted as follows: *[name, address, telephone, email and any other contact details]*
2. The Parties to the Parties' Principal Contract are those indicated above with the following contact details:
 - Party 1. : *[name of person responsible for the Parties' Principal Contract, address, telephone, email and any other contact details]*
 - Party 2. : *[name of person responsible for the Parties' Principal Contract, address, telephone, email and any other contact details]*
3. Any changes in these contact details shall be immediately communicated to all persons listed above via email or other method.

III. QUALIFICATIONS

- A. The Parties recognize that the DRB Member has the necessary attributes, including professional qualifications and language ability, to undertake the duties of a DRB Member.
- B. The Parties confirm that neither the DRB Member nor [her/his] law firm or company is acting, or shall act, as legal counsel or as a consultant to any of the Parties during the term of this Agreement.

IV. DRB MEMBER TERM AND MEETINGS

- A. The term of the DRB Member shall be the duration of the Parties' Principal Contract. The DRB Member agrees to serve for the duration of the Parties' Principal Contract. The Parties may jointly terminate a DRB Member's term with written notice that is effective immediately. A DRB Member may resign with 3 months' written notice to the Parties.
- B. 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 Agreement, if practicable.
- C. The Parties shall additionally provide to the DRB quarterly updates on the status of the Parties' Principal Contract, and the DRB may request any further information it considers necessary. The Parties shall also make available for interviews subject matter experts employed by the company if requested by the DRB.
- D. If there is any conflict between the requirements set forth in subparagraphs A-C above and those contained in the Parties' Principal Contract, the latter shall prevail.

V. DRB PROCEDURE

- A. Notice of the DRB's formation shall be sent by the Parties to the International Center for Dispute Resolution ['ICDR'] by email to the following email address - ??.
- B. All disagreements or disputes arising out of or in connection with the Parties' Principal 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.

C. *Dispute Hearing Process*

- 1. If the Parties identify a Dispute that cannot be resolved amicably between them, they shall notify the DRB of the need for a Recommendation of the DRB. Notice shall be by simultaneous emails to the DRB and the ICDR.

2. Each Party shall, within 10 days after notice of a Dispute is provided to the DRB, submit a memorandum to the DRB not exceeding 10 pages setting forth its positions, desired resolution, and time frame required for resolution, if urgent. Each Party shall also provide all relevant supporting documents its the submission. The DRB may permit a longer submission upon a showing of need.
3. Within 30 days' receipt of both Parties' written submissions, or within a shorter time frame 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. All DRB proceedings, including submissions, hearings, site visits, and communications, shall be private and confidential unless otherwise agreed by the parties in writing, or required by applicable law. The parties, DRB members, and the ICDR shall not disclose any information relating to any dispute, including any recommendations or decisions, *except that* the DRB's recommendations and all materials created for or exchanged during the DRB process shall be admissible in any subsequent arbitration, mediation or litigation relating to that dispute. DRB members shall not be called as witnesses in any subsequent proceeding relating to the dispute.
4. The DRB shall issue 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 and to the ICDR by email with return receipt requested.
5. In emergency situations, 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.

D. 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 the Parties' Principal 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 Parties' Principal 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 Parties' Principal Contract.

VI. PROCEDURAL CONSEQUENCES OF DRB PROCESS

- 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 the applicable law, the relevant limitation periods shall be extended by the time period used for the DRB procedure.

VII. COMPENSATION

- A. The Parties shall pay the DRB Member an annual fee of [\$] within 30 days of execution of this Agreement and thereafter each year on the anniversary date of this 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 DRB Member reasonably expects to incur within the following 12 months, and the Parties shall pay such amounts to the ICDR, which will then pay the DRB.
- C. If the ICDR is not utilized, the DRB Member shall invoice all fees and expenses to [party x], with copies to the other Party, and [party x] shall paid the DRB Member within 30 days of the invoice date. [Party x] shall be reimbursed by the other Party for the latter's share of the fees and expenses so that they are borne equally by both Parties.
- D. If a Dispute is referred to the DRB, a fee of [\$] shall be paid upon referral of the Dispute. If the Dispute requires more than 20 hours of the DRB Member's time to review the submissions, attend a hearing, and prepare the Recommendation, the Parties shall pay the DRB Member, through the ICDR, an additional fee of [\$] immediately before the Member submits the Recommendation. The DRB may withhold its Recommendation until all fees are paid.
- E. In rare cases where the Dispute requires a very large time commitment, the DRB shall request that an additional fee be negotiated with the Parties, which fee shall also be paid prior to submission of the Recommendation.
- F. The Parties shall reimburse the DRB Member for any travel or other business expenses incurred that are supported by documentation, including travel (business class), meals and lodging. The DRB Member may, with prior written approval by the Parties, engage, and seek reimbursement at cost for, researchers or experts.

VIII. OPERATING TERMS OF THIS AGREEMENT

The DRB Member agrees to be bound, in all relevant parts, by paragraphs [-] of the Parties' Principal Contract, relating to the formation and operations of the DRB. If any conflict arises between provisions of this Agreement and the Parties' Principal Contract, the Parties' Principal Contract prevails.

IX. DURATION AND TERMINATION OF THE AGREEMENT

. The Parties may jointly terminate this Agreement or disband the DRB at any time, with immediate effect, subject to payment of the annual fee. The DRB Member may resign from the DRB at any time for any reason with three months' notice, or on 5 days' notice if the DRB Member concludes in her/his professional judgment or is advised by counsel that it would be professionally inappropriate to continue to serve. This Agreement remains in force and applicable to any replacement DRB Member, who shall acknowledge in writing his/her adherence to these terms.

X. INDEMNITY

The Parties shall jointly and severally indemnify and hold harmless every DRB Member, including any replacement DRB Member, from any claims by any party or the Parties for anything done or omitted in the discharge or purported discharge of the DRB Member's activities, unless the act or omission is shown to have been in bad faith.

XI. DISPUTES AND APPLICABLE LAW

All disputes arising out of or in connection with this Agreement shall be finally settled under the International Arbitration Rules of the ICDR by one arbitrator appointed in accordance with the ICDR's International Arbitration Rules. This Agreement shall be governed by [*specify applicable law*]. The place of arbitration shall be [*name of city/country*]. The language of the arbitration shall be [*specify language*].

Dated: , 202_

Party 1, by:

(Title)

Party 2, by:

(Title)

DRB Member

