

ROOKERY LABS, INC. SERVICE TERMS AND CONDITIONS

1.0 Introduction. These Terms and Conditions (this “*Agreement*”) govern the provision of Services (as defined herein) by Rookery Labs, Inc., a Delaware corporation (“*Company*,” “*we*,” “*us*,” or “*our*”) to its clients (“*Client*,” “*you*,” or “*your*”). By engaging our services or purchasing our product, you agree to comply with and be bound by the terms set forth herein under this Agreement.

2.0 Scope of Services.

2.1 The Company provides design, development, and consultancy services for medical devices (“*Services*”) as agreed upon in a proposal (“*Proposal*”) or statement of work (“*SOW*”) as provided to the Client by the Company.

2.2 Any changes to the scope of Services must be mutually agreed upon in writing by both parties.

3.0 Client Responsibilities.

3.1 The Client shall provide all necessary materials, information, documentation, and support to carry out the Services and ensure that such Client materials or information are complete and accurate in all material respects.

3.2 The Client shall obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the use of the Services and the development of medical devices before the date on which the Services are to start.

3.3 The Client warrants that any information or materials provided to the Company do not infringe on any third-party Intellectual Property Rights (as defined herein).

3.4 Notwithstanding the foregoing, if any of the Company’s performance of its obligations under this Agreement is prevented or delayed by any act or omission of Client or its agents, subcontractors, consultants, or employees under this Section 3 or any other provision of this Agreement, the Company shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Client, in each case, to the extent arising directly or indirectly from such prevention or delay.

4. Fees and Payment.

4.1 In consideration of the Services provided by Company and the rights granted to Client under this Agreement, Client shall pay the fees set forth in the Proposal or SOW.

4.2 Invoices shall be issued as Services are rendered or monthly, and unless otherwise set forth in the Proposal or SOW, payment for Services provided hereunder shall be due within thirty (30) days from the invoice date and Client shall make all payment in US dollars by a payment method mutually agreed upon by the parties.

4.3 Any payments not received by Company within thirty (30) days of the invoice date, Company may, in its sole discretion, (i) charge interest on any such unpaid amounts at a rate of one and a half percent (1.5%) per month, or (ii) suspend performance for all Services until payment has been made in full. Client shall reimburse the Company for all reasonable costs incurred by the Company in collecting any late payments, including but not limited to, attorneys' fees and court costs.

4.4 Client shall be responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Client hereunder. Client shall not be responsible for any taxes imposed on, or with respect to the Company's income.

5. Intellectual Property.

5.1 All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "*Intellectual Property Rights*") in and to all documents, work product, and other materials that are delivered to Client under this Agreement or prepared by or on behalf of the Company in the course of performing the Services, including any items identified as such in the Proposal or SOW (collectively, the "*Deliverables*") shall be owned by the Company.

5.2 Upon payment in full for the Services provided hereunder, the Company shall grant the Client a license to use the Deliverables on a non-exclusive, worldwide, non-transferable, non-sublicensable, fully paid-up, royalty-free, and perpetual basis in a manner mutually agreed upon in writing by the parties.

5.3 Notwithstanding the foregoing, any pre-existing Intellectual Property Rights or Deliverables of the Company shall remain the exclusive property of the Company.

6. Confidentiality.

6.1 Both parties agree to use the Confidential Information (as defined herein) disclosed during the engagement only to make use of the Services and Deliverables provided hereunder. For purposes of this Agreement "*Confidential Information*" shall mean all non-public, confidential or proprietary information of a party, including, but not limited to, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing disclosed by such party to the other party, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Services or this Agreement is confidential, and shall not be disclosed or copied by such party without the prior written consent of the disclosing party. Confidential Information does not include information that is (i) in the public domain; (ii) known to such party at the

time of disclosure; or (iii) rightfully obtained by a party on a non-confidential basis from a third party.

6.2 The parties acknowledge and agree that all provisions of any Non-Disclosure Agreement or similar agreement executed by the parties shall be abided by.

7. Warranties and Disclaimers.

7.1 The Company warrants that the Services will be performed with reasonable care and skill in accordance with industry standards.

7.2 The Company disclaims all other warranties, express or implied, including but not limited to merchantability and fitness for a particular purpose.

8. Liability.

8.1 To the fullest extent permitted by law, in no event should the Company's aggregate liability arising out of or related to this Agreement, whether arising out of or related to breach of contract, tort (including negligence) or otherwise, exceed the aggregate amounts paid or payable to the Company pursuant to this Agreement in the twelve (12) month period preceding the event giving rise to the claim.

8.2 In no event shall the Company be liable to client or to any third party for any loss of use, revenue or profit or for any consequential, incidental, indirect, exemplary, special, or punitive damages whether arising out of breach of contract, tort (including negligence), or otherwise, regardless of whether such damages were foreseeable and whether or not the Company has been advised of the possibility of such damages, and notwithstanding the failure of any agreed or other remedy of its essential purpose.

9. Term and Termination.

9.1 This Agreement commences on the date of acceptance and continues until the completion of Services unless terminated earlier in accordance with this Section 9.

9.2 Either party may terminate this Agreement for any reason upon thirty (30) days' prior written notice to the other party.

9.3 Upon termination, the Client shall pay the Company for all Services performed by the Company prior to the termination date in accordance with Section 4.

10. Compliance and Regulatory Requirements.

10.1 The Client acknowledges that regulatory compliance for medical devices is the Client's responsibility UNLESS explicitly stated otherwise in the SOW.

10.2 The Company agrees to assist in compliance efforts as specified in the SOW.

11. Force Majeure. The Company shall not be held liable or responsible to the Client or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts beyond the Company's reasonable control, including but not limited to (i) acts of God; (ii) flood, fire, earthquake, OTHER POTENTIAL DISASTER(S) OR CATASTROPHE(S), SUCH AS EPIDEMICS, or explosion; (iii) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (iv) government order, law, or action; (v) embargoes or blockades in effect on or after the date of this Agreement; (vi) national or regional emergency; (vii) strikes, labor stoppages, or slowdowns or other industrial disturbances; (viii) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and (ix) other similar events beyond the reasonable control of the Company.

12. Indemnification. Client shall indemnify, hold harmless, and defend the Company and its managers, officers, directors, employees, agents, affiliates, successors, and permitted assigns (collectively, "*Indemnified Party*") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including professional fees and reasonable attorneys' fees, that are incurred by the Company in judgment, administrative proceeding, or any alternative dispute resolution proceeding as set forth in Section 13 (collectively, "*Losses*"), arising out of any third-party claim alleging: (i) breach or non-fulfillment of any representation, warranty, or covenant of this Agreement by Indemnified Party; (ii) any negligent or more culpable act or omission of the Client or its officers, employees, agents, subcontractors, licensees or invitees (including any reckless or willful misconduct) in connection with the performance of its obligations under this Agreement; (iii) any bodily injury, death of any person, or damage to real or tangible personal property caused by the negligent or more culpable acts or omissions of the Client or its officers, employees, agents, subcontractors, licensees or invitee (including any reckless or willful misconduct); or (iv) any failure by the Client or its officers, employees, agents, subcontractors, licensees or invitee to comply with any applicable federal, state, or local laws, regulations, or codes in the performance of its obligations under this Agreement.

13. Governing Law and Submission to Jurisdiction. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction). Any legal suit, action, or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby shall be instituted in the federal courts of the United States of America or the courts of the State of New York in each case located in the City of Buffalo and County of Erie, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

14. Amendments. Any amendments to this Agreement must be made in writing and signed by both parties.

15. Severability. If any provision of this Agreement is found to be unenforceable, the remaining provisions shall remain in full force and effect.

16. Notices. All notices under this Agreement shall be in writing and sent to the addresses provided by the parties.

17. Waiver. No waiver by the Company of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by the Company. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

18. Acceptance. By engaging the Company's Services, the Client acknowledges that they have read, understood, and agree to this Agreement and the terms described herein.

Contact Information:

Rookery Labs, Inc.
665 Northland Ave
Buffalo, NY 14211