

Dettmer HAIR Lab Customer Agreement

This Dettmer HAIR Lab Customer Agreement (this “Agreement”) is between [_____] (the “Customer”) and Yale University (“Yale”), on behalf of the Dettmer HAIR Lab (hereinafter “Dettmer HAIR Lab”), for use by Customer of services provided by the Dettmer HAIR Lab.

1. Authorized Services.

- a. Dettmer HAIR Lab’s services consist of biological sample processing and assay services, as well as extra hormone analysis, by Yale students and employees, Dettmer HAIR Lab facilities, or equipment (“Dettmer HAIR Lab Services”).
- b. The Dettmer HAIR Lab Services shall be made available to Customer, provided Customer follows the Dettmer HAIR Lab Policy for HAIR & Nail Assay Services provided to Customer and incorporated by reference into this Agreement as Exhibit A (“Dettmer HAIR Lab Policy”) and Attachment A thereto as applicable (“Flow-Down” Clauses Applicable to Purchase Orders or Agreements Involving Funds from a Federal Grant).
- c. Customer acknowledges and agrees that while Yale shall employ reasonable efforts to carry out Dettmer HAIR Lab Services, it is not predictable whether the Dettmer HAIR Lab Services will conclude with usable, meaningful, or accurate data or results.
- d. Customer agrees that although Yale may provide data and/or any other results from the Dettmer HAIR Lab Services, Yale is not providing any clinical decision, diagnosis or treatment for any individual, and the Dettmer HAIR Lab Services may not be useful or appropriate for any clinical purpose.

2. Customer materials.

Customer may send materials to Yale for use of Dettmer HAIR Lab Services following the procedures and requirements set forth in the Dettmer HAIR Lab Policy.

- a. Yale bears no responsibility for preservation, maintenance, processing, or special treatment of materials sent by Customer, including but not limited to special requirements pertaining to temperature control, packaging, or handling.
- b. Surplus materials will be disposed of or otherwise handled as deemed appropriate by Yale in its sole discretion.
- c. Customer agrees that it will provide Yale no PHI or other information identifying any human source of any provided materials. Any samples and information provided by

Customer will be consistent with any donor consent obligations and any other required legal authorizations.

3. Attribution. Customer shall give credit and attribution to the Dettmer HAIR Lab as specified in the Dettmer HAIR Lab Policy.
4. Deliverables. Except as otherwise provided below, Yale bears no responsibility for retrieving or providing Customer data resulting from the Dettmer HAIR Lab Services. Yale may, in its discretion, retain information and data pertaining to the functioning of its equipment, facilities, and methodologies.
 - a. Yale shall provide Customer concentrations of hormones in samples provided by Customer to the Dettmer HAIR Lab.
 - b. Yale may retain and shall own data relating to, for example, processing times, calibration, and accuracy. Further detail about retained data may be obtained from Yale.
5. Payment.
 - a. Customer agrees to make payment for services as specified in the Dettmer HAIR Lab Policy. Rates are subject to change. Customer will be notified of any applicable rate changes in advance of Yale providing the Dettmer HAIR Lab Services.
 - b. Customer and Yale understand that Customer may need to facilitate payment through Customer-generated documents such as Purchase Orders. Customer agrees, however, that this Agreement contains or incorporates by reference all terms and conditions applicable to Customer payment for the Dettmer HAIR Lab Services, and that any previous or ensuing Customer-generated documents used to facilitate payment shall not be contractually binding between the Parties.
6. Confidentiality. Customer will not disclose confidential information to Yale unless a nondisclosure agreement has been signed by both parties.
7. Indemnification. Customer agrees, to the extent permitted by law, to indemnify, hold harmless and defend Yale, its officers, trustees, employees, students and agents against any and all claims, suits, losses, damages, costs, fees and expenses resulting from or arising out of Customer's use of the Dettmer HAIR Lab Services, including but not limited to (a) any breach by Customer under this Agreement; or (b) Customer's use of any data or information obtained pursuant to this Agreement. Customer shall not be liable for actions resulting from gross negligence or willful misconduct on the part of Yale.
8. Limitation of Damages. Neither party shall be liable for any indirect, incidental, or consequential damages or lost profits suffered by the other party or any others resulting from Customer's receipt of the Dettmer HAIR Lab Services, provided however, that this provision

shall not apply to Customer's obligation to indemnify as provided in this Agreement. Any damages payable to Customer arising out of this Agreement shall not exceed the amount paid by Customer to Yale for the Dettmer HAIR Lab Services.

9. NEGATION OF WARRANTY. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES PROVIDED BY YALE PURSUANT HERETO (INCLUDING ANY DATA, MATERIALS AND INFORMATION) ARE STATE-OF-THE-ART AND ARE PROVIDED "AS IS" WITHOUT GUARANTEE OF ANY PARTICULAR OUTCOME OR USABLE RESULTS. YALE MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND WITH RESPECT TO THE EQUIPMENT, SERVICES, OR FACILITIES, OR PROVISION OF ANY DATA, MATERIALS OR TECHNICAL INFORMATION DERIVED FROM THE SERVICES PROVIDED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. EXCEPT AS PROVIDED HEREIN, THIS AGREEMENT GRANTS NO TANGIBLE OR INTANGIBLE PROPERTY OR PROPERTY RIGHTS.
10. Term and Termination. The initial term of this Agreement will expire 12 months following the date on which both parties have signed below. Upon mutual written agreement, the parties may extend this Agreement for successive 12-month renewal terms. Yale reserves the right to terminate this Agreement without prior notice, whereupon all liabilities and obligations of both parties shall cease and terminate, excepting any liabilities or obligations accrued under the terms hereof prior to such termination and remaining unsatisfied at the time such termination becomes effective.
11. Survival. Any provision of this Agreement that by its nature contemplates performance or observance subsequent to any termination or expiration of this Agreement shall survive any termination or expiration of this Agreement and continue in full force and effect.
12. Governing Law and Jurisdiction.
 - a. To the extent permitted by law, this Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut but excluding that body of law relating to choice of law.
 - b. To the extent permitted by law, each party hereby irrevocably submits itself to the jurisdiction of the Courts of the State of Connecticut and the jurisdiction of the United States District Court for the District of Connecticut for the purpose of any suit, action or other proceedings arising out of or based upon this Agreement or the subject matter thereof. Each party agrees that it shall bring any such proceeding only in such courts. Each party hereby waives any claim that its property is exempt from attachment or execution, that such suit, action, or proceeding is brought in an inconvenient forum, or that the venue of such suit, action, or proceeding is improper. Each party hereby consents to service of process by registered mail at the address to which notices are to be given and agrees that such service shall be deemed effective upon it as if personal service had been made upon it within New Haven County, Connecticut.

13. Notices. All notices concerning this Agreement shall be in writing and deemed sufficiently given if delivered in person with a receipt signed by the person accepting delivery; or sent by facsimile, with confirmation of receipt; or by registered or certified mail, postage prepaid; or by email; or by recognized overnight delivery service, with confirmation of receipt, to the address of the applicable party as set forth below:

To Customer: [_____]

To Yale: Dr. Amanda M. Dettmer
HAIR Lab
Yale Child Study Center
230 S. Frontage Rd., New Haven, CT 06519

With a copy to:
Office of the Vice President and General Counsel
Yale University
2 Whitney Avenue, 6th Floor
New Haven, CT 06510
Fax: +1 203-432-4949
Ogc.notices@yale.edu

14. Entire Agreement. This Agreement, together with Exhibit A and Attachment A thereto (the Dettmer HAIR Lab Policy and “Flow-Down” Clauses Applicable to Purchase Orders or Agreements Involving Funds from a Federal Grant), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous negotiations, representations, commitments, offers, and writings with respect to the subject matter hereof. Any amendments shall be in writing and executed with by individuals authorized to sign on behalf of their respective party. Oral amendments shall not be binding upon either party.
15. Subcontracting or Delegation. Neither party may assign, subcontract or delegate its responsibilities under this Agreement in whole or in part, without the written consent of the other party, and any attempt to do so shall be void.
16. Force Majeure. In the event of either party being rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement it is agreed that when such party gives notice of such force majeure in writing to the other party within a reasonable time, the obligations of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of the inability caused by the force majeure. Provided, however, that obligations of that party to make payments committed hereunder prior to, during, or after the occurrence of the cause relied upon shall not be suspended.

17. Use of Yale Name or Endorsements. Customer shall not use the name of Yale University, or any of its component units, including the Dettmer HAIR Lab, on any product, service, advertisement, or promotional materials without prior written approval or as provided in the Dettmer HAIR Lab Policy. Yale does not directly or indirectly endorse any product or service provided by Customer. Customer shall not in any way imply that this Agreement or use of the Dettmer HAIR Lab Services is an endorsement of any such product or service.
18. Insurance. Customer agrees to carry commercial general liability insurance to cover any obligations under section 8 of this Agreement. Such insurance should contain limits no less than \$2M combined single limit per occurrence and shall include Yale as an additional insured on a primary and noncontributory basis for both ongoing operations and products/completed operations. Upon request, Customer shall provide Yale with a certificate of insurance evidencing such coverage.

IN WITNESS WHEREOF, the parties have caused the signature of their duly authorized representatives to be affixed hereto, as of the date specified below:

YALE UNIVERSITY

CUSTOMER

By _____

By _____

Title _____

Title _____

Date _____

Date _____

Exhibit A
Dettmer HAIR Lab Policy