

ELECTRONIC SAMPLE & DATA USE AGREEMENT

This Electronic Sample and Data Use Agreement (“AGREEMENT”) is entered into by and between The Board of Regents of the University of Oklahoma (“UNIVERSITY”) a constitutional state entity of the State of Oklahoma, by and through the Office of Technology Development, maintaining its office at Four Partners Place, Suite 3120, 301 David L. Boren Boulevard, Norman, Oklahoma, 73019, and USER, effective on the date when RESULTS were accessed by USER (“Effective Date”).

WHEREAS, UNIVERSITY has compiled DATA from various wastewater treatment facilities and generated certain proprietary and valuable RESULTS concerning the microbial ecology and related wastewater treatment information from said treatment facilities.

WHEREAS, USER wishes to access RESULTS and UNIVERSITY shall permit USER to access such RESULTS, provided, however, USER agrees not to publish or disclose the RESULTS or any literature arising from use of the RESULTS without the express consent of UNIVERSITY.

NOW THEREFORE, the parties agree as follows:

1. USER may not access, use, or modify the underlying DATA without the express consent of UNIVERSITY.
2. The USER may use and/or modify the RESULTS, provided however, USER shall not publish any literature arising out of a modification of the RESULTS without the written consent of UNIVERSITY.
3. USER may make modifications to the RESULTS solely for non-commercial, research purposes.
4. By modifying the RESULTS, the USER hereby acknowledges, accepts, and expressly agrees to the terms, conditions, and restrictions set forth in this AGREEMENT.
5. This AGREEMENT may be terminated at any time with thirty (30) days written notice by either party. Alternatively, if USER breaches any of the terms or conditions of this AGREEMENT, the

AGREEMENT shall terminate and such termination shall be effective upon the date of the breach.

6. Upon termination of this AGREEMENT, USER will permanently destroy or cause to be permanently destroyed all copies of RESULTS or DATA.
7. USER agrees to indemnify UNIVERSITY, its Regents, officers, directors, employees, students, agents, and representatives and hold it/them harmless from any action, claim or liability resulting from this AGREEMENT, including without limitation, liability for death, personal injury or property damages arising directly or indirectly from USER's possession, distribution, or otherwise use of DATA provided by UNIVERSITY under this AGREEMENT.
8. Both parties agree to be responsible for their own negligent or intentional acts; understood, however, that the UNIVERSITY's liability is limited by the State of Oklahoma's Governmental Tort Claims Act.
9. This AGREEMENT shall be binding on the heirs, successors, and assigns of the parties hereto.
10. This AGREEMENT shall be governed by and interpreted in accordance with the laws of the State of Oklahoma, and any claim or dispute arising out of this AGREEMENT shall be resolved by a court of competent jurisdiction in the State of Oklahoma, to which jurisdiction and venue the parties expressly agree.
11. The prevailing party in any dispute between UNIVERSITY and USER arising from the interpretation or application of any provisions of this AGREEMENT shall be entitled to recover all of its reasonable attorney fees, court costs, and expenses, including any appellate or enforcement proceedings, to the extent permitted by applicable law and as determined by a court of law.
12. This AGREEMENT contains the entire AGREEMENT of the parties with respect to the subject matter hereof, all prior understandings relating thereto being merged herein.
13. This AGREEMENT cannot be altered or terminated orally, but only in writing signed by both parties.

14. Neither party is authorized or empowered to act as agent for the other for any purpose and shall not enter or purport to enter any contract, warranty, or representation as to any matter on behalf of the other party. Neither party shall be bound by the acts or conduct of the other party.
15. The Parties do not anticipate the need to disclose to each other technical data that are subject to control under the Constitutional Control List of the Export Administration Regulations, 15 CFR 730-774, or the U.S. Munitions List of the International Traffic in Arms Regulations, 22 CFR 120-130, (collectively, “export controls”). In the event a party believes it is necessary to disclose technical data that is regulated under export controls, the Disclosing Party will clearly mark such data as “export controlled” and provide sufficient notice and information to allow Receiving Party to comply with applicable export controls. The parties shall not export, disclose or transfer any such data directly or indirectly without complying with these and any other applicable laws and regulations.
16. As applicable, the provisions of Executive Order 11246, as amended by EO 11375 and EO 11141 and as supplemented in Department of Labor regulations (41 CFR Part 60 et. seq.), are incorporated into this AGREEMENT and must be included in any subcontracts awarded involving this AGREEMENT. The parties represent that all services are provided without discrimination on the basis of race, color, religion, national origin, sex, disability, political beliefs, or veteran’s status; they do not maintain nor provide for their employees any segregated facilities, nor will the parties permit their employees to perform their services at any location where segregated facilities are maintained. In addition, the parties agree to comply with the applicable provisions of Section 504 of the Rehabilitation Act and the Vietnam Era Veteran’s Assistance Act of 1974, 38 U.S.C. §4212.

READ AND UNDERSTOOD

~~THE BOARD OF REGENTS OF THE USER~~
~~UNIVERSITY OF OKLAHOMA~~

By: _____ By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____