

P23 – LICENSE AGREEMENT FOR USE OF THE CALA ACCREDITATION SYMBOL AND/OR THE ACCREDITED LAB COMBINED ILAC MRA MARK

Revision 3.2

October 8, 2019



LICENSE AGREEMENT, made this _____ day of _____, 20_____

BETWEEN:

CANADIAN ASSOCIATION FOR LABORATORY ACCREDITATION INC.
(Referred to herein as "CALA")

AND

(Referred to herein as "the Laboratory")

WHEREAS CALA is an accreditation body for the accreditation of testing laboratories;

AND WHEREAS the Laboratory has been accredited by CALA to conduct and report upon specific tests listed in the scope of accreditation approved by CALA;

AND WHEREAS CALA is the owner of the trade-mark (referred to herein as the "Accreditation Symbol"), whether registered or unregistered, which appears in Schedule "A" to this Agreement and has the right to license the use thereof in Canada;

AND WHEREAS CALA has the right to license the use of the Accredited Lab Combined ILAC MRA Mark, which appears in Schedule "B" to this Agreement on the terms and conditions set out herein;

AND WHEREAS CALA has agreed to license to the Laboratory the non-exclusive use of the Accreditation Symbol and/or the Accredited Lab Combined ILAC MRA Mark on the terms and conditions set out in this License Agreement (referred to herein as the "Agreement");

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. GRANT OF LICENSE

CALA hereby grants to the Laboratory, and the Laboratory hereby accepts from CALA, a non-exclusive, limited, right and license to use the CALA Accreditation Symbol and/or the Accredited Lab Combined ILAC MRA Mark, hereafter referred to as the Symbols, to evidence its accreditation by CALA, conditional upon continued compliance with the Terms and Conditions of Use as set out hereafter.

If the Laboratory intends to use the Symbols outside of Canada, the Laboratory shall notify CALA if it becomes aware of any instances which contravene the laws, or infringe on the rights of third parties, in the jurisdiction(s) where use by the Laboratory is intended, and cease using the Mark if instructed to do so by CALA in that jurisdiction.

2. RESERVATION OF RIGHTS

1. The Laboratory acknowledges and agrees that its license herein is not exclusive and that CALA retains the right to grant non-exclusive rights and licenses to an unlimited number of laboratories, which are accredited by CALA from time to time.
2. The Laboratory acknowledges and agrees that CALA retains the right to change, amend, alter, or add to the Accreditation Symbol in its absolute discretion from time to time and the terms of this Agreement shall apply to such Accreditation Symbols as changed, amended, altered, or added to, as if such revised Accreditation Symbol appears in Schedule “A” to this Agreement.
3. The Laboratory acknowledges and agrees that International Laboratory Accreditation Cooperation (ILAC) retains the right to change, amend, alter, or add to the Accredited Lab Combined ILAC MRA Mark (the “Mark”) in its absolute discretion from time to time and the terms of this Agreement shall apply to such Mark as changed, amended, altered, or added to, as if such revised Mark appears in Schedule “B” to this Agreement.
4. The Laboratory acknowledges that it has no ownership interest whatsoever in or to the Symbols, that the Laboratory’s right to use the Symbols is derived solely from this Agreement and is limited to use in strict compliance with the Terms and Conditions of the Use of the Symbols. Any unauthorized use of the Symbols by the Laboratory shall constitute an infringement of the rights of CALA and ILAC, and the Laboratory acknowledges and agrees that any such unauthorized use would cause irreparable harm to CALA and ILAC.

3. TERM AND TERMINATION OR EXPIRY OF LICENSE

1. This Agreement and all rights and licenses set out herein shall be for a term of three (3) years from _____ until _____ and shall expire automatically at the end of such term unless terminated earlier in accordance with the provisions of this Agreement or otherwise.
2. This Agreement and all rights and licenses set out herein shall terminate immediately, without the need for prior notification, upon the occurrence of any one or more of the following events:
 - (a). the Laboratory fails to comply with or breaches any of the provisions of this Agreement;
 - (b). the Laboratory ceases to be accredited by CALA, whether due to voluntary withdrawal by the Laboratory, suspension or withdrawal of accreditation by CALA, or by expiration of the Laboratory's Certificate of Accreditation;
 - (c). the Laboratory or CALA becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors or makes any proposal, an assignment or arrangement with its creditors, or any steps are taken or proceedings commenced by any person for the dissolution, winding-up or other termination of the party's existence or the liquidation of its assets;
 - (d). CALA is suspended from the ILAC MRA, CALA's ILAC membership is terminated, or the ILAC's trademark registration number TMA762426 is refused, cancelled or not renewed.
3. The Laboratory agrees that upon the termination or expiry of this Agreement:
 - (a). it shall immediately cease all use and display of the Symbols in any manner;
 - (b). it will not directly or indirectly identify itself as a CALA accredited Laboratory or as otherwise associated with CALA;
 - (c). it shall not use the Symbols, or any colorable imitation thereof, in any manner or for any purpose, or utilize for any purpose any trade name, trade mark, or other symbol that suggests or indicates a connection or association with CALA;
 - (d). the Laboratory shall promptly remove and discontinue using for any purpose, any and all signs, posters, advertising materials, stationery supplies, forms, reports, and other articles whatsoever which display the Symbols and return to CALA all materials to which the Symbols are applied or which displays or is used to reproduce the Symbols including without limitation: stationery, advertising materials, proof sheets, documents and computer media.
 - (e). In the event that computer media are not susceptible to return, the Laboratory shall erase or otherwise delete all representation of the Symbols therefrom and verify such deletion in writing to CALA.

- (f). CALA shall be entitled to publish on its website any violation or infringement by the Laboratory of this Agreement.
- (g). CALA shall not be responsible to the Laboratory for any consequences whatsoever, whether direct or indirect, resulting from the termination of this Agreement.

4. TERMS AND CONDITIONS OF USE

- (1). The right and license to the use of the Symbols is conditional upon the Laboratory's continued accreditation and to that end the Laboratory agrees to comply with all obligations of the Laboratory as described in the CALA Program Description, and particularly as set out in the Terms and Conditions of Accreditation (http://www.cala.ca/P04-01-Terms_and_Conditions.pdf), as such Program Description and Terms and Conditions may be amended from time to time in the absolute discretion of CALA.
- (2). The Laboratory shall comply with the CALA Policy on the Use of the CALA Accreditation Symbol which is attached hereto as Schedule "A", and as such CALA Policy may be amended from time to time in the absolute discretion of CALA. This CALA policy must be complied with for use of the Accreditation Symbol and for use of the Accredited Lab Combined ILAC MRA Mark.
- (3). If using the Accredited Lab Combined ILAC MRA Mark, the Laboratory shall also comply with the ILAC Policy on the Use of the Accredited Lab Combined ILAC MRA Mark which is attached hereto as Schedule "B", and as such ILAC Policy may be amended from time to time in the absolute discretion of ILAC.
- (4). The Laboratory shall not use the Symbols as part of any corporate or trade name or design trade-mark, or in any modified form, nor with any prefix, suffix or other modifying words, terms, designs or symbols other than its Accreditation Number, as contemplated in the CALA Policy on the Use of the Accreditation Symbol.
- (5). The Laboratory shall not use the Symbols in connection with any unauthorized activity, product or service or in any other manner not expressly authorized in writing by CALA.

5. INDEMNITY BY LABORATORY

- (1). Subject to section 8(2) of this Agreement, the Laboratory agrees to indemnify and hold CALA and its directors, officers, employees, agents and assignees harmless against, and to reimburse them for, any loss, liability, taxes or damages (actual or consequential) and all reasonable costs and expenses of defending any claim brought against any of them or any action in which any of them is named as a party (including, without limitation, reasonable accounting, legal and expert witness fees, costs of investigation and proof of facts, court

costs, other litigation expenses and travel and living expenses) which any of them may suffer, sustain or incur by reason of, arising from, or in connection with the Laboratory's use of the Symbols.

- (2). The indemnities and obligations herein shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

6. INSURANCE

The Laboratory shall maintain (at its own expense) in full force and effect at all times during the term of this Agreement and for three (3) years thereafter the following insurance coverage, naming CALA as additionally insured with a cross liability clause, with limits no less than the following:

- (1). Commercial general liability insurance including but not limited to the contractual liability, personal injury liability, advertising injury liability and products/completed operations liability coverage in respect of its accredited activity in the minimum amount of two million dollars (\$2,000,000) combined single limit for bodily injury and property damage per occurrence; and
- (2). Professional liability insurance ("Errors and Omissions") in the minimum amount of one million dollars (\$1,000,000) per claim limit.

The Laboratory shall provide written confirmation to CALA of such policy at the time of application to use the Symbols and shall provide at least ten (10) days prior written notice of the cancellation or any substantial modification to the policy that would affect CALA. This insurance may be obtained by the Laboratory in conjunction with an existing policy. The Laboratory shall from time to time upon reasonable request by CALA furnish evidence in a form and substance satisfactory to CALA of the maintenance of the insurance required by the above, including but not limited to, original or copies of policies, certificates of insurance with applicable riders and endorsements, and proof of premium payments.

7. ASSIGNMENT

The Laboratory understands and acknowledges that the rights and duties created by this Agreement are personal to the Laboratory and that CALA has granted the License based on the accreditation of the Laboratory by CALA. Therefore, neither the license nor any interest therein may be voluntarily, involuntarily, directly or indirectly, assigned, sold, subdivided, sub franchised, pledged as security or otherwise transferred by the Laboratory, (including, without limiting the foregoing, in the event of the death of the owner of the Laboratory, any transfer of interest by will, declaration of or transfer in trust or under the laws of intestate succession)

without the prior written approval of CALA. Any such assignment, transfer or pledge without the prior written approval of CALA shall constitute a breach hereof and shall convey no rights to or interests in the License granted hereunder to such assignees, transferees or security holders.

8. INFRINGEMENT AND CLAIMS

- (1). The Laboratory shall immediately notify CALA of any apparent infringement of or challenge to CALA's use of any Symbols, or claim by any person of any rights in any Symbols or any variation or imitation thereof, and the Laboratory shall not communicate with any person other than CALA, and its respective counsel in connection with any such infringement, challenge or claim. CALA shall have sole discretion to take such action as it deems appropriate and the right to exclusively control any litigation or Trade-Marks Office or other proceeding arising out of any such infringement, challenge or claim or otherwise relating to any Symbols and the Laboratory agrees to execute any and all instruments and documents, and to do such acts and things as may, in the opinion of CALA's counsel, be necessary or advisable to protect and maintain the interests of CALA in any such litigation or Trade-Marks Office or other proceeding, and in the event of any such action, the Laboratory shall execute any documents, and to do such acts and things as, in the opinion of CALA, but at the expense of CALA, may be necessary to carry out such action.
- (2). CALA shall not be liable to the Laboratory for any damages for which the Laboratory is held liable in any proceeding arising out of its use of the Symbols. However, provided that:
 - the Laboratory's use of the Symbols was pursuant to and in compliance with this Agreement,
 - the Laboratory's use of the Symbols was within Canada, and
 - the Laboratory has notified CALA in a timely manner of the infringement challenge, claim or proceeding and has otherwise complied with this Agreement,CALA shall be responsible for costs reasonably incurred by the Laboratory in taking such actions as may be directed by CALA in the defense of the Laboratory's and CALA's rights to the use of the Symbols, in any such infringement challenge, claim or proceeding brought against the Laboratory or in which the Laboratory is named as a party.
- (3). If it becomes advisable at any time in CALA's sole discretion to modify or discontinue use of any Symbols, and/or use one or more additional or substitute trade-names or trade-marks, the Laboratory agrees to comply, without any recourse to CALA, with any directions which may be given by CALA with respect to the use of the Symbols within a reasonable time after notice thereof by CALA.

9. NOTICE

- (1). Any notice required or contemplated by this Agreement including, without limitation notification of a modification of the Symbols, a change in the Terms and Conditions of the Use of the Accreditation Symbols or components thereof, or of a modification of the insurance coverage shall be adequately given by prepaid registered post and shall be effective ten (10) days after mailing to the addresses set out below.
- (2). Notice to CALA shall be sent to:

CANADIAN ASSOCIATION FOR LABORATORY ACCREDITATION INC.

102-2934 Baseline Road

Ottawa, ON K2H 1B2

Attention: CALA Chief Financial Officer

Notice to Laboratory shall be sent to:

Attention:

10. GENERAL TERMS AND CONDITIONS

- (1) The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision of this Agreement and any such provision which is adjudicated to be invalid or unenforceable shall be severed from this Agreement, provided, however, that such severance is to apply only with respect to the operation of such provision in the particular jurisdiction in which such adjudication is made.
- (2) CALA and the Laboratory shall not be deemed to have waived or impaired any right, power or option reserved by this Agreement (including, without limitation, the right to demand exact compliance with every term, condition and covenant herein, or to declare any breach

thereof to be a default and to terminate this Agreement prior to the expiration of its term), by virtue of any custom or practice of the parties at variance with the terms hereof; by virtue of any failure, refusal or neglect of CALA or the Laboratory to exercise any right under this Agreement or to insist upon exact compliance by limitation, any mandatory specification, standard or policy; by virtue of any waiver, forbearance, delay, failure or omission by same, similar or indifferent nature, with respect to other licenses.

(3) Nothing herein contained shall bar CALA's right to obtain specific performance of the provisions of this Agreement and injunctive relief against conduct or threatened conduct that will cause it loss or damage.

(4) The rights of CALA and the Laboratory hereunder are cumulative and no exercise or enforcement by CALA or the Laboratory of any right or remedy hereunder shall preclude the exercise or enforcement by CALA or the Laboratory of any right or remedy hereunder or which CALA or the Laboratory is entitled by law to enforce.

(5) This Agreement shall be governed by the laws of the Province of Ontario (without reference to its choice of laws and conflict of law rules). In the event either party shall institute any action or proceeding against the other, arising out or relating to this License Agreement, such action or proceeding shall be commenced and heard in the City of Ottawa, Ontario, Canada, and each party irrevocably submits to the jurisdiction of such courts and waives any objection they may have to either the jurisdiction of or venue in such courts.

(6) This Agreement is binding upon the parties hereto and their respective executors, administrators, heirs, assigns and successors in interest, and shall not be modified except by written agreement signed by both the Laboratory and CALA.

(7) This Agreement, including the recitals to this Agreement and the Schedules "A" and "B" attached hereto, and all related CALA policies, program description, and terms and conditions of accreditation, and ILAC policy R7, together constitute the entire agreement of the parties, and there are no other oral or written understandings or agreements, whether implied or collateral, between CALA and the Laboratory relating to the subject matter of this Agreement.

(8) Except as otherwise expressly provided herein, nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto.

(9) The headings of the several sections and paragraphs hereof are for convenience only and do not define, limit or construe the contents of such section or paragraphs.

(10) The term "the Laboratory" as used herein is applicable to one or more persons, a corporation or a partnership, as the case may be, and the singular usage includes the plural

and the masculine and neuter usages include the other and the feminine. If two or more persons are at any time the "Laboratory" hereunder, their obligations and liabilities to CALA shall be joint and several.

(11) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall be deemed to constitute one and the same instrument. This Agreement may be delivered by post, fax machine or by e-mail and signatures on a faxed copy or an e-mailed copy shall constitute a valid and binding document.

(12) Time is of the essence under this Agreement.

11. QUEBEC LANGUAGE CLAUSE

**AT THE REQUEST OF THE PARTIES HERETO, THIS AGREEMENT HAS BEEN
DRAFTED IN THE ENGLISH LANGUAGE; À LA DEMANDE DES PARTIES AUX
PRÉSENTES, CETTE CONVENTION A ÉTÉ RÉDIGÉE EN LANGUE ANGLAISE.**

IN WITNESS WHEREOF the parties hereto have executed, sealed and delivered this Agreement on the day and year first above written.

SIGNED, SEALED AND DELIVERED
in the presence of:

**CANADIAN ASSOCIATION FOR LABORATORY
ACCREDITATION INC. (CALA)**

I have authority to bind the corporation.

Per:

Title/Position

Laboratory Name_____

I have authority to bind the corporation.

Per:

Title/Position

SCHEDULE "A"

Policy Regarding the use of the CALA Accreditation Symbol

CALA's registered certification mark, known as the "CALA Accreditation Symbol", is available for use by accredited laboratories (the Licensee). Only those Licensees that have provided CALA with a duly signed License Agreement regarding the use of the Accreditation Symbol and/or the use of the Accredited Lab Combined ILAC MRA Mark, may use the CALA Accreditation Symbol. The CALA Accreditation Symbol is set out below:



The CALA Accreditation Symbol may not be used in any manner that may be considered to adversely affect the integrity or credibility of the CALA Accreditation Program, or create any impression of CALA or its programs that is not in keeping with its vision and values. Further, the Licensee shall issue no reports, certificates, any other attachments, or other material that implies, or may lead a reader or other party to believe that the work is accredited when in fact it is not.

The CALA Accreditation Symbol shall:

- Be accompanied by a reference to the Licensee's Scope of Accreditation. Contain the Licensee's accreditation number, printed directly below the CALA Accreditation Symbol, after the words "Accreditation No.", and will be, at the minimum, the same font and size text as the words "Accreditation No." on the CALA Accreditation Symbol.
- Shall be reproduced using an authorized repro proof from the artwork supplied with the License Agreement Regarding the Use of the CALA Accreditation Symbol.
- Always be used in its original designed proportions. The Symbol shall not be distorted, compressed or stretched in any way.
- Shall only be reproduced in colour if the approved colours are used, or in black and white.
- Not appear in a size the renders the CALA name unreadable.

- Not be reproduced smaller than 20 mm across. In all cases the CALA Accreditation Mark must be legible.
- Only be used in its normal horizontal orientation and not be rotated.
- Not be used on a background that will impede readability.
- Be based on the original artwork to ensure high-quality reproduction. Photocopies of the mark from other documents shall not be used.

Examples of Use of the Accreditation Symbol

A non-exclusive list of permissible use of the CALA Accreditation Symbol by accredited laboratories (who have signed the License Agreement), in accordance with the rules listed above is given below as examples to help Accredited Laboratories see the opportunities for promoting accreditation through the use of the CALA Accreditation Symbol:

Letterhead

Fax Cover Sheet

Envelopes

Brochures

Pop-up Banners

Posters

Newsletters and Annual Reports

Power-point Presentations

Press Releases

Advertisements

Websites

Quotations

Emails (Template Signature)

Reports - The Licensee may use the CALA Accreditation Symbol on reports

that contain tests covered by the scope of accreditation. The Licensee may also use the CALA Accreditation Symbol that contain tests outside the scope of accreditation, if and only if they are clearly identified as such and a clear disclaimer is included in the report, even if the actual test results are produced by a subcontracting laboratory (e.g., “This laboratory is not accredited for the tests, calibrations or inspections marked *”).

The Licensee shall not use the CALA Accreditation Symbol on reports or certificates if none of the results reported are from accredited tests within the Licensee’s scope of accreditation. The Licensee may not use the CALA Accreditation Symbol on any letters or other stationary enclosed with a report, if none of the results reported are from accredited tests within the Licensee’s scope of accreditation. No documents associated with these reports can include any reference to accreditation.

The Licensee shall not use the CALA Accreditation Symbol on any other document unless:

The Licensee has received authority, in writing, from the President & CEO (hereinafter referred to in this document as the CEO), AND

The Licensee’s name or logo is included on the same sheet of paper as the predominant name or logo, AND

It is clearly indicated that the Licensee is the accredited laboratory

This policy is consistent with the publicity guidelines found in P03 – Publicity Guidelines and may be repeated therein.

SCHEDULE "B"

Policy Regarding the use of the Accredited Lab Combined ILAC MRA Mark

The Accredited Lab Combined ILAC MRA Mark Symbol is available for use by accredited laboratories (the Licensee). Only those Licensees that have provided CALA with a duly signed License Agreement regarding the use of the Accredited Lab Combined ILAC MRA Mark may use the Accredited Lab Combined ILAC MRA Mark. The Accredited Lab Combined ILAC MRA Mark is set out below:



In addition to the policy on the use of the Accreditation Symbol (Schedule "A", above), the Licensee must adhere to the following ILAC requirements as per ILAC R7:05/2015, as may be amended by ILAC from time to time:

The Accredited Lab Combined ILAC MRA Mark shall:

- i. Always be used in the format provided and approved by CALA (i.e., the Accreditation Symbol is to the right of the ILAC MRA Mark, as shown above).
- ii. Always be used in its original, designed proportions.
- iii. Not be distorted, compressed or stretched in any way.
- iv. Not appear in a size that renders the ILAC MRA words unreadable.
- v. Maintain similar proportions to the accreditation body's logo (within the Combined ILAC MRA Mark) or the accreditation symbol (within the Accredited Lab Combined ILAC MRA Mark). As a general guideline, one dimension of the accreditation body logo/symbol, preferably the height, should be within approximately 5% of the size of the ILAC MRA Mark.
- vi. Only be used in its normal horizontal orientation and not be rotated.

- vii. Not have a “similar” typeface substituted for the letters within the ILAC MRA Mark, as the typeface is custom-designed artwork. The ILAC MRA Mark shall always be used as a complete ILAC MRA Mark as shown in this document for all application requirements.
- viii. Be used on a background that will not impede readability.
- ix. Be reproduced only in black and white, or in colour provided the approved colours are used (refer to ILAC R7:05/2015, as may be amended by ILAC from time to time).
- x. Be based upon the original artwork to ensure high-quality reproduction. Photocopies of logos from other documents shall not be used.