

Agreement No. 89-06654V

UNIVERSITY OF CALIFORNIA, DAVIS
A G R E E M E N T F O R S E R V I C E S :

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THIS AGREEMENT is made this 12th day of July, 1989 by and between THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a California corporation (hereinafter called "University"), acting for and on behalf of the Crocker Nuclear Laboratory (hereinafter called "Facility") of its Davis campus (hereinafter called "UCD"), and the User identified on the form entitled "Application, Work Description and Estimate," attached hereto as Exhibit A and by this reference incorporated into this agreement.

R E C I T A L S :

WHEREAS, the Facility has been established and is maintained to support the University's pursuit of its constitutional objectives of instruction, research, and public service; and

WHEREAS, the services of the Facility may be extended to non-University users (including, when permitted by University policy, University students, faculty and staff requesting such services for their personal use) only when, in the sole judgment of the University, such action will serve purposes consistent with the University's objectives and will not adversely affect the conduct of University activities; and

WHEREAS, the services requested by User have been determined to serve purposes consistent with University objectives and their provision to User not to adversely affect the conduct of University activities; and

WHEREAS, User has determined that the services in question cannot be adequately performed by other agencies or commercial firms;

NOW, THEREFORE, University agrees to furnish to User certain services of the Facility, subject to the following terms and conditions. User agrees that no other terms and conditions, including those of any purchase order issued by User, shall apply unless explicitly incorporated herein.

T E R M S A N D C O N D I T I O N S

1. DEFINITION OF SERVICE. Services of the Facility will be furnished to User only for the purposes stated in the Exhibit A, attached. Additional work will be performed only if authorized in advance by written amendment to this agreement executed by both parties.

2. PRIORITY OF UNIVERSITY WORK. University work always has priority over work to be performed for non-University users.
3. TERM. The term of this agreement shall be from 2-1-89 to 12-31-89.
4. TERMINATION. This agreement shall be subject to termination by either party at any time, upon ten (10) days' written notice to the other party.
5. ALTERATION. AMENDMENT. No alteration of the terms of this agreement shall be valid or binding upon either party unless made in writing and signed by both parties. This agreement may be amended at any time by mutual agreement of the parties, expressed in writing and signed by both parties.
6. RATES. Charges for services rendered under this agreement shall be in accordance with the most recent rate schedule of the Facility.
7. PAYMENT OF CHARGES. User shall pay for services rendered by the Facility within thirty (30) days following receipt of University's invoices.
 - a. University shall have the right to terminate this agreement without notice if User fails to pay charges for services rendered hereunder within sixty (60) days follow User's receipt of University's invoice.
 - b. User shall pay University for all services rendered up to the date of termination of this agreement, regardless of the reason for termination, except that if paragraph 8-b, below, is marked, User's obligation to pay charges shall be limited to the amount stipulated in that paragraph.
8. ESTIMATED COST; LIMITATION OF CHARGES. User understands and agrees that the estimated cost, if any, stated in Exhibit A does not constitute a firm cost proposal and shall not be binding upon the University. Depending upon the Facility's cost-monitoring capabilities and User's preference, one of the following paragraphs shall be marked to indicate the parties' agreement with respect to limitation of costs under this agreement:
 - a. User agrees to pay actual cost of services rendered by Facility at User's request, understanding that User may always limit its costs by terminating its request for service.
 - b. University and User agree that costs of services rendered under this agreement shall not exceed \$75,840 and that University shall furnish no services that would result in charges to User exceeding that amount until such time as User agrees, in writing, to pay such additional charge as may be associated with completion of work requested by User.

9. DISCLAIMER OF WARRANTY. UNIVERSITY MAKES NO WARRANTY AS TO RESULTS TO BE OBTAINED BY THE USER FROM THE USE OF ANY SERVICES AND/OR FACILITIES PROVIDED BY UNIVERSITY UNDER THIS AGREEMENT, AND THERE ARE NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10. NON-LIABILITY OF UNIVERSITY. *Except as set forth in paragraph 11.d. below:*

a. University shall not be liable, by reason of its performance under this agreement, for any loss of profits, claims against the User by any third party, or consequential damages even if University is advised of the possibility of such loss, claims, or damages. The User agrees that University's liability hereunder for damages, regardless of the form of action, shall not exceed the total of all charges paid by User for the particular services rendered.

b. The foregoing to the contrary notwithstanding, User agrees that University shall incur no liability to User or to any third party for any loss, cost, claim or damage, either direct or consequential, arising from University's delay in performance or failure to perform services pursuant to this agreement.

c. University shall incur no liability to User or to any third party for loss or destruction of or damage to any data, equipment, or other property brought upon University premises by User or delivered to University by User in connection with this agreement. User accepts all liability for risk of loss to any and all such property.

11. INDEMNIFICATION AND INSURANCE OF USER. User hereby agrees to indemnify and hold harmless University, its officers, employees and agents, from and against any and all liability, loss, expense, attorneys' fees or claims for injury or damages arising out of or in connection with this agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of User, its officers, agents or employees.

a. Without limiting the generality of the foregoing, User explicitly agrees to indemnify the University, and any persons acting on its behalf, against liability of any kind (including costs and expenses incurred) for use of any invention or discovery and for the infringement of any Letter Patent (not including liability arising pursuant to U.S. Code Section 183, Title 35 (1952) prior to the issuance of Letters Patent) occurring during the performance of this agreement and resulting from the User's request or instruction that Facility, in providing services under this agreement, utilize any device, method, or technique not normally utilized by the Facility.

b. User agrees that its employees and agents, while on University premises, shall comply with all applicable laws and regulations of

governmental entities having jurisdiction and shall abide by all applicable University rules and requirements, particularly those governing matters of health, safety and fire protection.

- c. User agrees to provide University, upon request, written evidence of User's insurance coverage relevant to the presence or activity of User, its officers, agents and employees while in, on or about University property. In the event User's coverage is not acceptable to University, User agrees that University shall have the right to immediately suspend its provisions of services under this agreement and to terminate this agreement on ten (10) days' written notice to User unless User procures insurance acceptable to University in form and amount within that period.
- d. University shall defend, indemnify and hold User harmless from and against any and all liability, loss, expense, attorneys' fees, or claims for injury or damages arising out of or in connection with this agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of University, its officers, agents or employees.

- 12. PROTECTION OF USERCODE/PASSWORD. If performance of the work described in Exhibit A should require User's direct access to the UCD central computer, User will be assigned a unique Usercode/Password combination or combinations to provide User such access. In that event, User shall be solely and completely responsible for remembering and protecting such Usercode/Password combination or combinations and shall accept full liability for any cost or loss incurred by University or by any third party as a result of any use, whether or not explicitly authorized by User, of its assigned Usercode/Password combination or combinations. (This paragraph may be stricken if not applicable to User's work.)
- 13. CONFIDENTIALITY OF INFORMATION. University shall use its best efforts, consistent with its established policies and procedures, to protect the confidentiality of any information furnished to it by User in connection with agreement and designated by User, in writing, as confidential. User agrees to reimburse University in full for any costs it may incur in order to protect information, in accordance with User's request, by means not normally employed by the University for that purpose; User understands and agrees, however, that University shall have no obligation to comply with any such request of User.
- 14. UNIVERSITY'S RIGHT TO USE DATA. The University shall have the unrestricted right to use for its own purposes, including publication, any data or information which it may develop in connection with or as a result of performing the services described in Exhibit A.
- 15. USE OF UNIVERSITY'S NAME. User shall not use the name of University in any form or manner in advertisements, reports or other information

released to the public without the prior written approval of the University.

16. RELATIONSHIP OF THE PARTIES. The parties to this agreement shall be and remain at all times independent contractors, neither being the employee, agent, representative, or sponsor of the other in their relationship under this agreement.
17. TIME LIMIT FOR ACTION. No action, regardless of form, arising from transactions under this agreement may be brought by either party more than one year after the cause of action has accrued.
18. NOTICE. Any notice, request, or inquiry regarding the provisions of this agreement, its termination, or similar matters shall be directed by User to University at the following address:

Office of Business and Finance
University of California
Davis, California 95616

User's correspondence or inquiries regarding the substance and progress of work to be performed under this agreement or bills for services rendered should be directed to the Facility.

19. WHOLE AGREEMENT. This agreement constitutes the entire understanding of the parties respecting the subject matter hereof and supersedes any prior understanding or agreement between them, written or oral, regarding the same subject matter.
20. GOVERNING LAW. This agreement shall be construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first written above.

THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA

BY: *Janet C. Hamilton*

TITLE: Janet C. Hamilton
Associate Vice Chancellor
— Business Affairs

USER

BY: *[Signature]*

TITLE: Executive Director

ANNEX 1
EXHIBIT A
AGREEMENT N° 89-06654V

PURPOSE OF WORK (SHOULD READ)

TO PERFORM ROUTINE MEASUREMENTS OF CHEMICAL RESIDUES IN GRAPES (SULFITE, SULFATE) BY RADIOTRACER AND ION CHROMATOGRAPHY METHODS, TECHNICAL ASSISTANCE, LABOR, AND REPORTS.

PREPARED BY M. LAGUNAS SOLAR

DATE JULY 6, 1989

APPROVED BY

M. L. Solar

DATE

July 12, 1989

AMENDMENT TO AGREEMENT

THIS AMENDMENT is made as of the 11th day of November, 1989, by and between THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (hereinafter called "University") and the ASOCIACION DE EXPORTADORES DE CHILE (hereinafter called "User").

R E C I T A L S ;

WHEREAS, the parties have entered into that certain Agreement for Services dated July 12, 1989 (hereinafter called "Agreement") attached hereto as Exhibit A and by this reference incorporated herein; and,

WHEREAS, the parties understand and agree that Agreement was established by User for the benefit of User's members; and

WHEREAS, the parties now desire to amend Agreement in order to allow User's members to order University's services directly and to pay University directly for such services;

NOW, THEREFORE, the parties agree to amend Agreement as follows:

1. Authorized representatives of the companies listed below may order from University the services listed in Exhibit A of Agreement. Such services shall be provided by University in accordance with the terms and conditions of Agreement.
2. Each company listed below shall abide by all of the terms and conditions of Agreement and pay University for services provided to it pursuant to the Agreement. In the event of default by any of the said companies, User agrees to pay for the services rendered by University and damages incurred by University, if any.
3. All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, the parties have executed this amendment as of the date first set forth above.

THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA

By

Title

Jane C. Harrison
Jane C. Harrison
Associate Vice Chancellor
-- Business Affairs

ASOCIACION DE
EXPORTADORES DE CHILE

By

Title

P. J. W.
Franchise Director

Agreed:

PRODUCTORA Y COMERCIALIZADORA
DE ELEMENTOS PARA LABORALES
LIMITADA

Billing Address:

By *[Signature]*
ALEJANDRO GARCIA HUINOHRO
TITULO GERENTE GENERAL

BARROS ERRAZURIZ 1968, PISO 8
SANTIAGO DE CHILE

Authorized Representative(s):

INDUSTRIA DE MATERIALES DE
LHPAQUE LIMITADA

Billing Address:

By *[Signature]*
PEDRO JUX
TITULO GERENTE GENERAL

AVDA. BULNES 98
SANTIAGO DE CHILE

Authorized Representative(s):

PRODUCTOS QUIMICOS Y
ALIMENTICIOS OERU S.A.

Billing Address:

By *[Signature]*
TITULO GERENTE DE DESARROLLO
GASPAR KUSAR C.
Authorized Representative(s):

AGUSTINAS 853 OP. 031
SANTIAGO DE CHILE

AMENDMENT TO AGREEMENT

THIS AMENDMENT is made as of the _____ day of _____, 1990, by and between The Regents of the University of California (hereinafter called "University") and Asociacion de Exportadores de Chile (hereinafter called "User").

R E C I T A L S :

WHEREAS, the parties have entered into that certain Agreement dated July 12, 1989, which was earlier amended on November 11, 1989 and February 16, 1990 (hereinafter called "Agreement"); and,

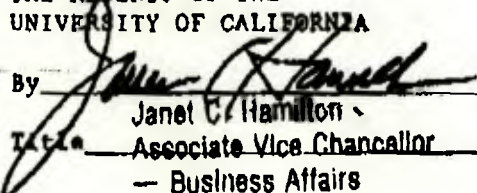
WHEREAS, the parties now desire to amend Agreement in order to extend its term;

NOW, THEREFORE, the parties agree to amend Agreement as follows:

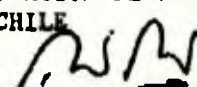
1. The sum specified in paragraph 8.b. shall be increased by \$22,500, from \$113,840 to \$136,340.
2. The term shall be extended to July 31, 1990.
3. All other terms and conditions, as previously amended, shall remain the same.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA

By 
Title Janet C. Hamilton
Associate Vice Chancellor
— Business Affairs

ASOCIACION DE EXPORTADORES
DE CHILE

By 
Title President