DRAFT Franchisee agreement

AGREEMENT

This Agreement (“Agreement”) is made at Mumbai, Mh. India on 19th day of Nov 2021

**BY AND BETWEEN:**

**Ranbaxy Medical Services Pvt Limited**, a company incorporated under Companies Act, 2013 (18 of 2013) and rule 18 of the Companies (Incorporation) Rules, 2014] laws of India and having its Corp. Office at: Times Square, 7th& 8th Floor, Andheri East, Maharashtra India – 400 069 through its Authorized Signatory Mr.Sudeep Chakrabarty Director – Business Solutions, (hereinafter referred to as the “Licensor” which includes its successor, assignees, Legal Representative) of ONE PART;

# AND

**Accutest Solutions (Partnered by Mr. Pitamber Lal & Mrs. Sharda Dewangan)** situated at Pushp Gublab Plaza, 86, Commercial Complex, Infront of SBI & Gold Gym, Nehru Nagar, East , Bhilai Distt. Durg -490020 (CG) through its Authorized Signatory/Directors Mr.**Pitamber Lal S/o Shri Kirtan Lal** R/o B-4, Walfort Allancia, Sarona , Raipur (CG) 492001 and Mrs. Sharda Dewangan D/o Shri Manohar Lal R/O 99, Bajrang Para, Near Limha Talab, Kohka, Bhilai, Distt. Durg - 490023 CG. (Hereinafter referred to as the “Licensee” which include its Legal heirs, successors, assignees, and Legal Representative) of the OTHER PART)

Licensor and Licensee are hereinafter collectively referred to as “Parties” and individually as “Party”

**WHEREAS:**

1. The Licensor is engaged in providing large range of clinical tests services throughout India from multi specialty franchise laboratories situated in various parts of the country. The Licensor has helped to obtained accreditations and certifications for its lab with various national and international medical bodies.
2. The Licensee is desirous of obtaining License rights from the Licensor to operate and run a modern pathological laboratory under the name and style of the Licensor in order to leverage from the valuable advancements made by the Licensor and the Licensor’s intellectual properties, processes, software etc.
3. The Licensee has approached the Licensor to upgrade &set up a modern pathological laboratory at Premises and to carry out pathological tests in the name and style of the Licensor, by using and implementing the intellectual properties of the Licensor.
4. Based on the representations and warranties of the Licensee, the Licensor has agreed to grant License rights to the Licensee to set up and operate a pathological laboratory in the name and style of the Licensor on the terms and conditions mentioned hereinafter:

Now therefore, in consideration of the promises and mutual agreement, covenants and contentions set forth herein, it is hereby agreed by and between the Parties as follows:

1. **DEFINITION AND INTERPRETATION**
	1. In this Agreement, unless the context otherwise requires, the following words and expression shall have the following meaning:
	2. **Agreement:** This agreement between the Licensor and the Licensee, including the attached schedules.
	3. **Commencement date:** means the date mentioned and specified in clause 4 of this Agreement.
	4. **Center- Laboratory:** mean Pathological testing laboratory, to be established and operated in the Premises by Licensee pursuant to the terms of this Agreement.
	5. **Network Laboratory**: means the network of laboratory of the Licensor situated at various locations in India or at such other locations as may be intimated by Licensor from time to time.
	6. **Premises**: All or any other part of the property situated at address mentioned as per the layout attached herewith as Annexure – I.
	7. **Phlebotomy Center**: Client appointed by Licensor for collecting sample for conducting tests on its behalf.
	8. **Sales Value:** The value of all the tests conducted at the center determined by the number of tests multiplied by the test value.
	9. **Net Sales:** Shall means the Gross sales value less discounts as notified by the Licensor from time to time.
		1. **Discount:** the percentage of list price, which licensor gives to its collectioncenter/Licensee for collecting the sample. This discount percentage may vary from phlebotomy center to phlebotomy center and test to test. The percentage of discount offered to the Licensee shall be informed prior to testing the sample.

j. **Routine Tests:** Tests to be conducted at the laboratory which includes Microbiology,Hematology, Biochemistry, Clinical Pathology, Histopathology, serology, hormone tests, Panel & Profile.

k.**Specialized Tests:** Tests which shall be conducted at the Laboratory or any other Laboratory designated by the Licensor.

l. **Test Value:** The value of a test at list price issued by the Licensor from time to time.

m.**Collections:** shall mean as under:

i) **Collection from CC/DC/Walk in Patients:** All collections (routine tests and specialized tests) shall be received by the Licensee from CC/DC/walk in patients. Licensee shall be entitled to get the discounts as notified by the Licensor from time to time.

n. **Force Majeure**: Any event or circumstances beyond the control of the Party affected including (without limitation) acts of God, fire, explosion, earthquake, flood, acts of terrorism, war, riot, acts of government, sabotage, official strike or other labor disputes or disturbance and except as specifically detailed above shortage of labor, materials or other resources shall not constitute Force Majeure unless caused by circumstances, which themselves are Force Majeure. For avoidance of doubt lack of funds shall not constitute Force Majeure.

o. **Tenure of Agreement**: A period of ***Three years beginning from Commencement Date. The term for the said Agreement can be extended during the tenure of the said Agreement with the written consent of both the parties subject to timely payment of annual fee.***

p.  **Licensed Property**: means all or any of the following:

* + 1. the permitted name
		2. the technology, Assays, tests, trade secrets, know-how and other intellectual property relating to carrying out of the tests that Licensor may disclose to Licensee during the term of this Agreement. This will also include the LMS/CLIMS/Online Software etc.
		3. trademarks of which the Licensor is the proprietor whether or not the marks are registered, including but not limited to “Specialty Ranbaxy Labs”, “Ranbaxy Medical Services”.
		4. Copyrights and design rights held by the Licensor in any written material, the manuals, plans, reporting formats, design or other works relating to the business, business stationary or the method in whatever format or medium and however recorded or stored.
		5. Any software used in the course of conducting the business, developed by or upon the instructions or commission of the Licensor, including but not limited to software used for instruction or accounting purposes and for office functions.
		6. Any other matter including slogans, advertising material, brands and rights and interests related to the above.

q. **LMS**: LABORATORY MANAGEMENT SOFTWARE, (LMS) the proprietary rights of which, including its source code, vests entirely with the Licensor. The LMS is being used by the Licensor to carry out quality assurances, for protocols, to carry out new tests and for various other pathological activities, which are generally performed in a pathological laboratory, and also to generate various pathological information from it. The LMS shall always include any updates, patches, versions, etc. of the LMS that may be introduced by the Licensor from time to time. In addition the term LMS shall also include all reports, data, files. etc. that shall be generated consequent to its (LMS’s) use.

r. **Notice Period**: Notice period shall mean the period of notice given by either the Licensor or Licensee in terms of the agreement.

s. **Permitted Name**: Means the name and style under which the Licensee shall operate the laboratory, in conjunction with the Trademark of the Licensor, intimated by the Licensor from time to time, in writing.

t. **Standard Operating Procedure (“SOP”)** : the guidelines and procedure issued by the Licensor in relation to running the Laboratory and conducting the test as maintained by the Licensor for conduct of the business.

u. **Trade Marks**: means the trademarks of which the Licensor is proprietor, whether or not the marks are registered, including but not limited to “Specialty Ranbaxy Labs”, “Specialty Rainbaxy Labs”, “Ranbaxy Medical Services”. Baxy Labs, Labaxy, Rnbaxy, Rbaxy, RanbaxyMSPLor any other Trade mark specified by the Licensor from time to time and the device and such other trade marks(s) owned from time to time by the Licensor whether registered or not.

v. **SET UP FEE**: means the expenses of traveling, boarding and lodging expenses of Licensor’s staff for market survey, research, branding & setting up the lab at the Premises in advance.

1.2 In this Agreement, unless the context require otherwise:

1. references to “this Agreement” means this Agreement and any and all Schedules to it as may be varied from time to time in accordance with its provisions;
2. references to clauses and Annexure are to clauses of and Schedules to this Agreement;
3. references to the singular shall include the plural and vice versa;
4. headings are inserted for convenience only and shall not affect its construction;
5. the words “include” or “including” are to be construed without limitation to the generality of the preceding words; and
6. any reference to “writing” includes a reference to any communication effected by facsimile transmission, e-mail, or similar means.
7. **CONDITION PRECEDENT TO GRANT OF LICENSE**
8. The Licensee acknowledges and agrees that the grant of rights hereunder and the effectiveness of this Agreement is conditional upon the following:
	1. The grant of all necessary approvals, licenses, permission etc. to the Licensee required to be obtained from the Government (Central/State/local), from time to time for the setting up and / or operation of the laboratory& copies thereof made available to the licensor.
	2. The Licensee shall procure absolute clear and undisputed legal title to or a valid and enforceable lease of the premises for the full term of this Agreement and shall furnish evidence of such title or lease to the Licensor as the Licensor may reasonably require, within 21 days of execution of this Agreement for operation and running the laboratory center.
	3. The Licensee shall obtain and maintain at all times all permissions, registrations, consents, approvals etc. from the concerned government authorities, departments etc. that may be require to give effect to any/all clauses of this Agreement and will procure, renew and keep the same valid at all times during the term of this Agreement. The Licensee shall take the adequate insurance policy for the Premises, equipments, manpower and shall remain it in full force during the tenure of the Agreement at all time. The copies of the licenses, approvals, permissions, insurance cover note same shall be made available to the Licensor.
	4. The licensee shall comply with all the laws and rules related to test of the samples of human body which included but not limited to Drugs and Cosmetics Act 1940, Drugs and Magic Remedies Act 1954 the Drugs (Control) Act 1950 and Bio medical waste (Management and handling) Rules 1998, Environment (Protection) Act 1986 and other applicable laws implemented from time to time by the Central/State Government or any other authorities.
	5. The licensee acknowledges the sufficiency & adequacy of the proprietary information for the purpose of this Agreement.
	6. The Licensee furnishing to the Licensor the necessary guarantee / security deposit in the form prescribed by the Licensor.
9. **GRANT OF LICENSEE ‘S RIGHTS**
10. Subject to the terms and conditions contained in clause 2 above, the Licensor hereby grants to the Licensee and the Licensee hereby accepts from the Licensor a non-exclusive license to operate the Laboratory Centre from the Premises, in strict accordance with this Agreement and various Standard Operating Procedures (SOPs), that may be issued by the Licensor for the setting up and conduct the test at the laboratory Centre.
11. Licensor hereby grants Licensee a non-transferable, non-exclusive right and license to use the Licensed Property to conduct the tests at the premises of Licensee and Licensee accepts such right and license with express conditions that nothing contained in this clause shall give or confer any rights or interests in the Licensee other than the license granted herein to it and that all benefits arising from the use of Licensed Property shall insure to the benefit of Licensor.
12. Licensee acknowledges the authority of the Licensor to grant the license under the terms of this Agreement and that Licensee shall only have the right to use the same for the purposes for which such Licensed Property is made available to the Licensee under the terms of this Agreement. The Licensee confirms that it shall not grant, sub-license transfer or assign or purport to grant, sub-license transfer or assign this Agreement or the Licensed Property and/or other rights attached thereto in whole or in part to any Third Party without prior written consent of Licensor.
13. The Licensor is granting to the Licensee the License for the following limited purposes only:
	1. To conduct the tests at the Center for which the License has been granted by Licensor using LMS and with the Licensed Property, SOP and other Intellectual Property provided by Licensor.
	2. To develop & promote the business of the Licensor and the laboratory Center in the area by undertaking marketing and sales activities through professionals hired for this purpose.
	3. To act as Phlebotomy Centre for those samples for which it does not possess the license (specialized test) and the technology and to send the samples to network Laboratory or other facilities& tie ups of the Licensor in accordance with the SOP issued by Licensor.
	4. To generate and provide the Reports of Pathological tests for (a) and (c) to the customers under the name and aegis of the Licensor and to be printed only on the report stationery belonging to the Licensor’s format.
14. It is clearly understood by the Licensee and the Licensee hereby undertakes and assures that it shall not carry out any tests from the laboratory Center or otherwise in its name, unless otherwise permitted by the Licensor in writing.
15. The Licensor grants no other rights and/or license to the Licensee other than those stated herein.
16. It is hereby confirm and acknowledged by the Licensee that the Licensor is giving a **non-exclusive License to the Licensee to run a pathology Lab. It is pertinent to mentioned here that all routine samples of all appointed Phlebotomy Centers atserviceable towns shall also be including.**
17. **COMMENCEMENT DATE**

This Agreement shall come into force and effective from the date of execution of the Agreement or the date on which the Licensee has completed the conditions precedent as mentioned in clause 2 above and the Center becomes fully operational and functional, whichever is later. Licensee shall inform in writing the date of commencement of commercial operations to Licensor to enable to determine the “Commencement Date”;

1. **TENURE**
2. **This Agreement shall come into effect from the Commencement Date and shall continue during its Tenure (03 years), subject to timely payment of annual fee, unless terminated earlier in accordance with the provisions of this Agreement.**
3. **Preterm (Before agreement term as specified) exit from agreement by franchisee will attract penalty of Rs. 5.00 Lacs.**
4. **This Agreement may be extended for such further period and on such terms and conditions, as shall be mutually agreed to between the Parties hereto during the tenure of the said Agreement.**
5. **LOCATION**

The Licensee shall set up and operate the laboratory Center only from the Premises, unless otherwise agreed to by the Licensor and the Licensee in writing.

1. **OBLIGATIONS AND RIGHTS OF THE LICENSOR**
2. Licensor shall provide guidance to the Licensee in procuring and setting up the equipment (s), at the laboratory Center whenever required, provided all costs associated with the procuring, installation and commissioning of the equipment shall be borne by the Licensee. The Licensor reserves the sole right to decide, direct, implement the designs, patterns, interiors of the Center as per its standards, policies etc and the Licensee shall have no right whatsoever to object to the same.
3. The Licensor shall advise the Licensee for procuring the supplies, consumables, etc. that shall be required at the Centre for its operation and running by means of list of recommended manufacturer /brands and approved prices wherever required. All cost of these supplies and consumables shall be borne solely by the Licensee.
4. The Licensor hereby grants to the Licensee a non-exclusive and limited license to use the LMS for the limited purpose of operation and running of the Center.

7.4 The Licensor shall commission the LMS on the computer hardware provided by the licensee at the Center. The Licensor shall also provide a constant support (preventive as well as breakdown) for the LMS during the Tenure of this Agreement.

7.5 Licensor shall, during the subsistence of the Agreement, provide the design & style to the Licensee, for signage and other publicity material to be placed in and / or on the laboratory Center. The ownership of signage shall always vest in Licensor and Licensee shall hold the said signage in trust for Licensor but Licensee shall bear the cost of all such signages &other publicity materials.

7.6 The Licensor shall from time to time provide to the Licensee in writing the SOP’s for operation and running of the Center, and the Licensee shall be obliged and responsible to implement all such SOP’s in the true letter and spirit.

7.7The Licensor may from time to time impart such technical know-how and on job training to the Licensee, its employees, etc. as may be felt necessary by the Licensor to enable the Licensee to perform its obligations under this Agreement. All information, data, know how, imparted shared by the Licensor with the Licensee, its directors, partners, employees, etc. shall be considered as Confidential Information under this Agreement.

7.8 It is specifically agreed and understood between the Parties that the Licensor shall have a right of effective consultation in the appointment of personnel in the Center. The responsibility for identifying, recruiting Pathologist/doctor, Accounts / Information Technology personnel with requisite qualification to carry out various tests and generate reports in the laboratory Center, would lie solely with the Licensor in consultation with licensee.

7.9 The Licensor reserves the right to guide / direct the Licensee to increase / decrease / vary the number and also the quality of the workforce as the Licensor may deem fit from time to time .

7.10 Both the Parties shall be responsible for collection of the “Test Send Out” from the Phlebotomy Centers and Center, and the Licensee shall be responsible for the collection of the routine tests from the phlebotomy centers and Center etc., in furtherance of the terms and conditions of the said Agreement& the licensor shall also arrange association with licensor’s associated labs for all outsource tests samples as per regional preferences and TAT.

**7.11 The Licensor shall only provide marketing support as specified in attached presentation & already shared to franchisee to the said lab and will guide Franchise time to time for business development activity, Online training to Lab staff, Sales Staff of Franchise Lab whenever necessary. If licensee request Licensor to send someone to visit franchisee location, in such case all travelling, lodging, boarding and other expenses shall be borne by franchisee in advance after confirmation from licensor.**

7.12 The Licensor shall be entitled to conduct, audits, tests, inspections, etc, of the Center, the books of accounts and all other document of the Licensee at such intervals, with or without prior intimation to Licensee as may be desired and felt necessary by the Licensor in its sole discretion. Licensor shall be entitled to monitor, supervise and advise with respect to any/all matters connected with the activities of the Center, The Licensor may perform any of such acts directly or indirectly through its authorized employees, representatives, agents, etc.

7.13 All amounts, damages, interest, penalties etc., as may be due and recoverable by Licensor from the Licensee under and in terms of this Agreement, shall be claimed by the Licensor along with all such payments that may be due from the Licensee to the Licensor.

7.14 The Licensor reserves the right to rectify/reject/amend any head/item against which the Invoice is generated by the Licensee as mentioned in Clause 8.5 .

7.15 Licensor shall provide all information, advice and assistance relating to establishment of the facilities and to facilitate the transfer and implementation of testing procedures and protocols and to provide training to the Licensee’s designated technical staff in the establishment for the purpose of implementation and operation of the testing facilities. The services will be made available without any consideration, however all expenses, travel and accommodation etc. so incurred shall be borne exclusively by Licensee.

7.16 Nothing contained herein nor the execution of this Agreement, would in any manner restrict or prohibit the Licensor from granting right(s) to any person(s) to set up, operate, etc. any pathological laboratory or to set up and operate pathological laboratories on its own or in any other manner or under any arrangement as may be deemed fit by the Licensor in any place.

1. **LICENSEE’S OBLIGATIONS AND RIGHTS**
	1. The Licensee agrees with the Licensor that it shall within 60 days of the execution of this Agreement, develop and be ready to operate / use the Premises, which and measuring as per layout set out by the Licensor in the approved premises.

8.2 Licensee shall procure all equipment which shall be procured as per the approval / recommendation of the Licensor and would always be available for use during the tenure of the Agreement and extension thereof.

8.3 The Licensee shall strictly use only such materials/equipments of the specified quality and from such manufacturers / brands as are recommended/ approved by the Licensor for the test purposes.

8.4 The Licensee shall conduct its business under this Agreement in the name and style of the Permitted Name or such other format of Permitted Name as shall be determined and conveyed by the Licensor in writing. In no event shall the Licensee use any other name and style, nor shall it change the arrangement, pattern, format of the above stated name and style. The Licensee shall use only such signage to display its name at the Center, as is provided by the Licensor however the Licensee shall be responsible and liable for the safety, maintenance and operation of such signage. The ownership of such signage shall always remain with Licensor and Licensee shall immediately upon request of Licensor return such signage to the Licensor.

8.5 The Licensor shall at the end of every month (as calculated in accordance with the Commencement Date) generate an invoice upon the towards conducting tests at the laboratory Center as specified in the said Agreement. All Invoices so generated, in terms of this Agreement, shall be in writing and shall be given or sent by online, or by registered posted or recorded courier delivery to the address of the Licensee, as given above.

8.6 In order to provide modern facilities to the customers and also to ensure absolute safety and hygiene the Licensee shall in accordance with the recommendations and advise of the Licensor, procure totally at its cost and effort the necessary equipments including the hardware, software, gadgets, equipments, etc., consumables, supplies required to establish and run the Center. The Licensee shall ensure a strict compliance of the standards of such equipment, consumables, etc, and shall always without fail ensure that the same are of such make, quality, features, etc. as approved by the Licensor from time to time.

8.7 The Licensee shall always during the tenure of this Agreement, ensure that infrastructure items including communication equipment, computer hardware and software, etc, are always available and deployed in proper working condition at the Center. The Licensee understands and agrees that these infrastructure items are a pre-requisite for the operation of the Center. The Licensor reserves the right to recommend the addition / deletion, replacement of any infrastructure item and the Licensee shall immediately comply with the same.

8.8 The Licensee and/or its employees, representatives, shall at all times during the tenure of this Agreement, operate the Center in accordance with the method, SOP’s and the manner prescribed by the Licensor, from time to time. The Licensee shall ensure that the Center conforms with the quality and cleanliness as prescribed in the SOPs issued by the Licensor from time to time.

8.9 The Licensee shall always keep the Center operational for such minimum working hours as agreed in writing with the Licensor from time to time on six days of the week, unless otherwise prevented by any local law, in which case the Licensee shall operate the Center for such number of maximum hours as are permissible under such law. However in case the number of hours prescribed by the Licensor exceeds the prescribed working hours under the laws, the Licensee shall also endeavor to obtain necessary permission from the concerned authority to operate the Center based on the recommended hours by the Licensor and shall present it to the Licensor forthwith, on procuring the same.

8.10 To advise and send a list of all tests received at the Center to the Licensor along with the Test Value. For the specialized tests which cannot be conducted at the Center, send the Tests to the Central Laboratory/ Tied up Laboratory or other facilities of the licensor, duly packed as per SOP provided by the Licensor.

8.11 The Licensee shall not charge any sum in excess of the listed rates for tests notified by the Licensor and in force on the date on which the customer gets the test done at the Center. The Licensee shall also provide adequate support and help to collect the outstanding from the clients

8.12 The Licensee shall only use such of the intellectual property as the Licensor may from time to time permit and only in the manner and for purposes provided for under this Agreement. The Licensee shall take all reasonable steps to preserve the integrity and value of as well as the Licensor’s title to the intellectual property, including:

1. Not causing or permitting any act or event from taking place which may damage or endanger the Intellectual Property or other intellectual property of the Licensor, or the Licensor’s title to such property;
2. Notifying the Licensor of any suspected infringement of the Intellectual Property or other intellectual property of the Licensor;
3. Taking such reasonable action as the Licensor shall direct in relation to such infringement;
4. Affixing such signage at the Premises and notices to any material, or packaging used in the course of conducting the Business, or including in advertising associated with the Business such matter, as the Licensor may direct;
5. Not applying for registration of any Trade Mark or the Permitted Name as a trade mark and not to interfere with in any manner nor to attempt to prohibit the use or registration of the Permitted Name or any similar name or designation by any other Licensee of the Licensor, and giving the Licensor any assistance it may require in connection with the registration of the Trade Mark(s) or Permitted Name as a trade mark in any part of the world;
6. Not tampering with any markings or name plates or other indication of source of origin which may be placed on any material used or provided to third parties in the conduct of the Business by or with the approval of the Licensor; and
7. Not using any mark similar or capable of being confused with the Trademarks or Permitted Name.
	1. Save as strictly necessary for the efficient conduct of the Business or otherwise expressly permitted under this Agreement, the Licensee shall not disclose any Proprietary Information or the terms or manner of negotiation of this Agreement to any third party without the prior express consent in writing of the Licensor. The Licensee agrees that any unauthorized disclosure of Proprietary information shall cause irreparable damage to the Licensor and in the event of such unauthorized disclosure the Licensee shall allow the Licensor to obtain an order for an injunction or any other interim relief against it to prevent further prejudice to the Licensor.
	2. The Licensee shall reimburse/arrange the cost of traveling, lodging, and boarding of the Licensor’s project team to set up the centre/lab till commercial launch of the center/lab.
	3. The Licensee shall also bear the cost of traveling, boarding and lodging of its employees/staff for conducting training etc at the convenient place or laboratory during the entire tenure of the said Agreement.
	4. It is also understood between the parties that whatsoever activities for promotion of the business which include but not limited to referrals, marketing material etc. provided to the doctors/paramedical staff etc. by the Licensee will be at its own cost. The Licensor shall not be responsible to reimburse the said expenses to the Licensee.
	5. The Licensee shall take prior approval from the Licensor for all marketing activities which include Continues Medical Education (CME), Special discount etc.
	6. The Licensee shall reimburse the amount of consumables, logistic materials etc which is transferred from Licensor to Licensee and Phlebotomy Center on monthly basis within 15 days from the date of invoice, wherever required.
	7. The Licensee shall appoint requisite manpower to establish and operate the laboratory Center as per instructions and guidelines provided by Specialty Ranbaxy Labs from time to time. The Licensee shall be sole responsible for the salaries, wages, and statutory payment and like of to the employees, contractors, contract Labour, consultants or agents. Licensee shall liable and responsible for all compliance under relevant labor legislation including but not limited to The Provident Fund Act, Payment of Gratuity Act, The Payment of Bonus Act, The Contract Labour Act, The payment of Wages Act, Minimum Wages Act, Employee State Insurance Act, Maternity Benefit Act and other relevant Acts and Notifications issued by the Govt./local bodies from time to time in this regard.
	8. ***The Licensee agrees to pay one time franchise on boarding fee of Rs. 4.99 Lakh, & initial material cost of Rs 0.22 Lakhs .***

9. **USE OF LMS**

* 1. The Licensee hereby represents to the Licensor that it has clearly understood that the LMS is a proprietary software of the Licensor, and the Licensor is the holder of all the intellectual property and other rights and title in the LMS. It is further understood by the Licensee that the Licensor is providing to it the right of access and use of the LMS only for the limited and sole purpose of carrying out the Licensee’s obligations under this Agreement.
	2. The Licensee hereby represents and warrants to the Licensor that it shall use the LMS for the sole purpose of performing its obligations under this Agreement and for no other purpose
	3. The Licensee hereby undertakes that all provisions of Confidential Information of this Agreement, as stated in clause 27 herein below shall also apply to the LMS.
	4. The Licensee or its employees/staff shall not perform any such act either itself or through any one else nor shall it let any one to perform any such act in respect to or on the LMS, which act shall have any direct or indirect effect of misuse, decoding, tampering, alteration, etc. of the LMS.

10. **Maintenance of the Center:**

The Licensee shall:

1. ensure that adequate electricity load and connections for running the Center is provided and installed therein. It will also ensure that there is an adequate provision for backup;
2. Maintain high level of cleanliness which is essential for effectively and properly running the Center;
3. Ensure round the clock security at the Center.
4. Provide essential services like potable and other water supply, plumbing, etc., in the Center.
5. Keep the Center and the furnishing in good state of repair and decoration and to replace and renew the equipments installed therein as mutually agreed with the Licensor
6. To pay all expenses, related to, and which are incidental to the setting up and running of the Center.
7. Ensure compliance with the quality standards specified in sop’s from time to time
8. At all times to work diligently to protect and promote the interests of the Center and the Licensor.

11. **Audit, Inspection, Reports:**

The Licensee shall:

1. Keep accurate, separate records and accounts in respect of the services rendered at the Center in a format to be provided by the Licensor.
2. The Licensee shall submit copies certified by the Auditor to the Licensor within forty-five (45) days from the end of the half year (April - Sept;) and grant inspection of the accounts to the Licensor, as and when desired by the Licensor. Further the annual accounts, duly certified by the Auditors shall be submitted by the Licensee to the Licensor within 60 (sixty) days of closure of the annual accounts, each year.
3. The Licensee shall pay promptly all Suppliers of the Center in accordance with the terms and conditions agreed with them.
4. The Licensee shall allow and facilitate the Licensor and/or his authorized employees, representatives, agents, etc, to conduct inspections, audits, etc. of the Center, the books of accounts and /or such other record, document, etc.and to take copies of such documents/records of Licensee as may be felt necessary by the Licensor. The Licensee hereby irrevocably grants to the Licensor, its authorized employees, representatives, agents, etc. the rights of ingress and egress in the Center as and when the Licensor may deem necessary to carry out the above-mentioned audits, inspections. No act of the Licensor, its authorized employees, representatives, agents, etc. pursuant to this clause shall tantamount to any trespassing or any other criminal offence. A copy of the audit inspection report shall be made available by the Licensor to the Licensee within 30 days of inspection.

**12. No Authorization:**

The Licensee agrees that it shall not be concerned or interested either directly or indirectly in the establishment or operation of any other testing Center similar to the facilities created by it through use of resources and the Licensed Property provided by Licensor which would have the effect of interference with the operation / management running of the Centre under the present Agreement or otherwise.

**13. No other Activity:**

The Licensee shall not carry out from the Center directly or indirectly or permit to be carried out from the Center any other activity (commercial or otherwise) excluding medical care at the Center or to extend the scope without prior written consent of the Licensor.

**14. Cost and Expense:**

Unless other wise specified herein, all Expenses and other costs and expenses in relation to the performance of the obligations of the Licensee shall be borne by the Licensee and the Licensor shall not be liable for the same in any manner. However, the same shall stand recoverable from the Licensor upon the generation of the Invoice upon the Licensor as specified in Clause 8.5 and 16.3 read with Clause 7.15.

**15. Performance:**

During the continuance of this Agreement, Licensee shall

1. Use its best endeavors to promote the services and will make available all necessary facilities to meet all reasonable demands of the customers.
2. Ensure that facilities meet all specifications as Licensor may prescribe from time to time
3. Not give any warranty on behalf of Licensor which is otherwise not authorized by the Licensor in writing.

**16. CONSIDERATION AND PAYMENTS:**

16.1 In consideration of the Licensor granting rights under the said Agreement, to the Licensee to run the Center and to use the Resources of the Licensor and also to make use of the Trade Mark of the Licensor in furtherance of the terms of the said Agreement, the Licensor and the Licensee shall be entitled to the following consideration (hereinafter referred to as “Consideration”)

16.2 ***For performing the tests at the Centre and on behalf of the Licensor the Licensor shall raise invoice on monthly basis. The said invoice shall be raised at 06 % of the Gross Sales Value. Remaining 94 % of Gross Sales value shall be retained by the Licensee or minimum Rs. 150000/- Lakhs per Year (Rs.12500/- per Month) or whichever is higher as brand fee commission (To be paid on monthly basis as advance & shall be reconciled every 03 months and & adjustments shall be done as per actual Gross Sales Value)***

16.3 The Licensee hereby agrees and undertakes to pay the Consideration to the Licensor as mentioned above in 16.2.

16.4 All payments shall be subject to deduction of applicable Tax at source from time to time, if any.

16.5 The liability to pay any tax, levies, cess, or any other statutory charge leviable on this transaction, as specified in terms of the present Agreement, under any law in force for the time being or any future amendments/change to the same, shall be on the Licensee and will be borne and paid by the Licensee.

16.6 It is understood that the testing services provided by the Licensee are exempt from the preview of service tax / GST or any other value added tax however if any tax/liability is levied by the Govt. or statutory authority in future the same shall be borne by the Licensor

**17. INDEMNITY:**

* 1. The Licensee undertakes to keep Licensor and their respective Directors, Officers and employees fully indemnified against any claims and liabilities including Medico Legal cases, Court costs and reasonable attorney’s fees on a full indemnity basis which Licensor and their respective Directors, Officers and employees may incur or suffer or have lodged against it and such liability or claim arise out of or are in relation to:
1. a breach by Licensee of any term, condition, representation, warranty or covenant in this Agreement or in the course of its operation with the customers
2. negligence, breach, act or omission on the part of Licensee and/or its employees/agents in fulfilling its obligations under this Agreement or in the conduct of business
3. any claim from Third Party relating to conduct of the tests which is not in accordance with the protocols and SOPs prescribed by Licensor.

17.2 The Licensor will indemnify Licensee for any infringement claim by third party by reason of its use of the Licensed Property in accordance with the terms of this Agreement and shall hold Licensee harmless against costs, losses and expenses directly incurred by Licensee in relation to such claims or actions and against any damages and costs which may be awarded to such third party. In the event of any infringement claim, Licensee shall forthwith give notice of relevant fact immediately and shall not take any steps to defend such claim without prior written consent of Licensor and shall not at any time admit liability or otherwise attempt to settle or compromise the claim without prior written consent or authorization of Licensor. Licensor shall have no liability to Licensee in respect of any infringement claim if the same results from any breach of Licensees obligation under this Agreement while making use of the Licensed Property or LMS inconsistent with the prescribed guidelines, protocol and procedures provided by Licensor.

17.3 The provisions of this clause of this Agreement shall survive the expiry or termination of this Agreement for any reason, whatsoever.

**18. TERMINATION:**

18.1 The Licensor shall be entitled to forthwith terminate this Agreement, by giving 30 days prior written notice to Licensee, if:

1. The Licensee is in breach of any of the provisions of this Agreement, and the said breach is not remedied by the Licensee within 30 days (or such extended period as may be mutually agreed) of Licensor giving a notice to the Licensee to rectify such breach.
2. **Notwithstanding anything contained in sub clause (i) clause (18.1) above, Licensor may terminate this Agreement immediately if**
	1. The Licensee uses the Confidential Information in a manner other than as provided in this Agreement.
	2. The Licensee is in breach of clause 32 (Non-Compete clause) of this Agreement.
	3. An encumbrance takes possession or a receiver is appointed over the whole or any part of the assets of the Licensee; or
	4. The Licensee makes any voluntary arrangement with its creditors, or has a petition for an administration order presented against it; or
	5. The Licensee goes into liquidation (otherwise than in furtherance of a scheme for amalgamation or reconstruction); or
	6. The Licensee ceases, or threatens to cease to carry on business;
	7. The Licensee by reason of Force Majeure circumstances is prevented from the performance of its obligations hereunder for a period exceeding three months.
	8. The licensee is unable to operate or carry on business from the premises under occupation due to any notice of attachment issued by any authority

18.2 Termination of this Agreement for any reason shall be without prejudice to any other right or remedy of either Party accrued prior to such termination.

18.3 ***The Agreement may be terminated mutually or only after completion of 03 years by mutual consent, in writing, between the Parties or non payment of Brand fee.***

 ***Pre-Term Dissolution of agreement by Franchisee will attract penalty of Rs. 5. Lakhs.***

19 **CONSEQUENCES OF TERMINATION:**

19.1 On termination of this Agreement for any reason or upon its expiry, the Licensee shall pay to the Licensor all sums due under the Agreement up to the date of termination or expiry as the case may be.

19.2 Following termination of this Agreement, the Licensor shall have the right to enter the Center in order to remove such equipment, gadgets and machinery, if any, installed by the Licensor including the LMS and other software and the Licensee shall have no claim, right or interest upon the said equipment, machinery, gadgets, etc., which belongs to the Licensor.

19.3 Immediately upon termination of this Agreement, the Licensee shall cease to do any business in the Permitted Name.

19.4 The Licensee shall hand over to the Licensor all the samples collected upto the last day of the termination/expiry of this Agreement and shall also be liable and responsible to hand over to all the customers from whom the samples have been collected the reports of the tests conducted on such samples.

19.5 In addition to the above, all such other consequences of termination and/or expiry of this Agreement shall have effect as stated elsewhere in this Agreement.

19.6 Upon termination of this Agreement Licensor shall have the right of first refusal to take over / purchase the entire business of the Licensee at depreciated value as per the Income Tax Rules.

20.**GENERAL LIABILITY & INDEMNITY**

The Licensee shall be liable for and indemnify the Licensor fully against any loss, damage, cost (including legal costs on an indemnity basis), expense, any claim in death, injury or other liability, whether direct or indirect and whether or not the Licensor has been advised of the possibility of its occurrence, arising from any act or omission of the Licensee or that of its employees, agents, servants and invitees in respect of breach of any clause of this agreement

21. **FORCE MAJEURE:**

 In the event that either Party (the "Affected Party") hereto is prevented from carrying out its obligations under this Agreement (other than an obligation for the payment of money) by events beyond its reasonable control, the Affected Party’s performance of its obligations hereunder shall be excused during the period of such event(s) and for a reasonable period of recovery thereafter, and the time for performance of such obligations shall be automatically extended for a period of time equal to the duration of such event(s) Provided that if such Force Majeure circumstance shall prevent the proper performance by such party of its obligations hereunder for a period exceeding three months the other party may terminate this Agreement by giving to the other party a 30 days prior written notice. Neither party shall be liable for any breach of this Agreement caused by Force Majeure.

## 22. SEVERANCE

In the event that any provision or part thereof of this Agreement is declared by any judicial or other competent authority to be voidable, illegal or otherwise unenforceable the remaining provisions of or portion thereof the Agreement shall remain in full force and effect unless the Licensor in the Licensor’s discretion decides that the effect of such declaration is to defeat the original intention of the Parties.

23. **INSURANCE:**

The Licensee shall at its own cost and expense effect and maintain full comprehensive insurance in respect of the equipment, staff/personnel employed by the Licensee, at the Center as well as for professional indemnity. The Licensee shall provide the Licensor with the insurance certificate from time to time during the subsistence of this Agreement.

The Licensor shall at its own cost and expense effect and maintain full comprehensive insurance in respect of the staff/personnel employed by the Licensor, at the Center as well as for professional indemnity.

24. **WAIVER:**

Any delay on the part of either Party in enforcing any term or condition, right or remedy in respect of this Agreement shall not be deemed to be a waiver of any right or remedy, whatever, of that Party.

25. **NON-ASSIGNMENT:**

The Licensee shall not assign any of its rights or obligations to any third party without the prior written consent of Licensor.

26. **ENTIRE AGREEMENT:**

This Agreement shall constitute the entire agreement between the parties with respect to its subject matter and supersede all previous arrangement/agreement and understanding, if any, between the parties in that respect. No amendment, modification or substitution of this agreement shall be effective unless executed in writing by both Parties.

No terms shall survive on expiry or termination of this Agreement unless expressly provided herein. However, the expiration or termination of this Agreement shall not relieve either of the Party of their prior respective obligations or impair or prejudice their respective rights under the other.

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This Agreement supersedes any other Agreement or Arrangement between the Parties and there is no conflict of the present Agreement with any other Agreement amongst the Parties.

27. **CONFIDENTIALITY:**

27.1 For the purposes of this Agreement, “Confidential Information” shall mean all non-public, confidential and proprietary information relating to the know how, standard operating procedures, protocols, trade secrets, computer software, LMS, on job training, presentations, any other proprietary information of the Licensor, documents and other technical information provided by or through the Licensor which is communicated to the Licensee that is set forth in writing, or contained in some other tangible form,, which is proprietary in nature including any information shared by Licensor during discussions with the Licensee or any inference made by Licensee from the discussions with the Licensor. The confidential information shall further include the results, etc. which would emanate there from.

27.2 The Licensee hereby agrees and irrevocably undertakes to hold in strict confidence and to use all efforts to maintain the secrecy of any and all Confidential Information disclosed to it by Licensor under the terms of this Agreement and shall not disclose Confidential Information without prior written consent of Licensor.

27.3 The Licensee shall not use the Confidential Information for any purpose other than in connection with the purpose for which the same is granted to it and only in connection for the purpose of fulfilling its obligations and duties under this Agreement.

27.4 Licensee may disclose Confidential Information if compelled to do so by a Court or other authority of competent jurisdiction, provided however, that in such case a Licensee shall immediately upon receiving notice that disclosure may be required, shall give written notice by facsimile and overnight mail to the Licensor so that the Licensor may seek a protective order or other remedy from said court or tribunal. In any event, Licensee shall disclose only that portion of Confidential Information that, in the opinion of its legal counsel, is legally required to be disclosed and will exercise reasonable efforts to ensure that any such information so disclosed will be accorded confidential treatment by said court or tribunal through protective orders, filings under seal and other appropriate means.

27.5 Licensee shall not disclose any such Confidential Information to any person other than to its directors, partners, officers or employees and then only if they have clear need to know such Confidential Information in connection with the performance of their professional responsibilities.

27.6 Licensee shall take all reasonable steps, including but not limited to, those steps taken to protect its own information, data or other tangible or intangible property that it regards as proprietary or confidential, to insure that the Confidential Information is not disclosed or duplicated for the use of any third party, and shall take all reasonable steps to prevent its directors, officers and employees, having access to the Confidential Information, from disclosing or making unauthorized use of any Confidential Information, or from committing any acts or omissions that may result in a violation of this Agreement.

27.7 Upon written request of Licensor, Licensee shall return promptly to Licensor all written materials and documents, as well as any computer software or other material, made available or supplied by Licensor to Licensee that contains Confidential Information, together with any copies thereof, or destroy the same, and upon request of Licensor provide a certificate of destruction.

27.8 All obligations established hereunder shall survive for a period of 3 (three) years from the date of termination/expiry of this Agreement.

27.9 Title to, and all rights emanating from the ownership of all confidential information disclosed under this Agreement shall always remain vested in Licensor. Nothing herein shall be construed as granting any license or other right to use the Confidential Information other than as specifically agreed upon by the Parties.

27.10 Licensee acknowledges that any breach by it of the provisions of this Agreement could result in significant economic losses by or damages to Licensor. Licensee agrees to indemnify Licensor in respect of all claims, demands, actions, causes of action, losses and damages which Licensor may suffer or incur, or which may be brought against Licensor, as a result or in any way arising out of any breach by Licensee of the provisions of this Agreement.

27.11 Licensee acknowledges that, in the event of any breach of the provisions of the Confidentiality clause of this Agreement, Licensor might not be fully or adequately compensated by recovery of damages alone. Accordingly, Licensee agrees that, in addition to any other relief to which Licensor may become entitled, Licensor shall be entitled to temporary and permanent injunctive and other equitable relief, in addition to any other legal remedies available to it, in any court of competent jurisdiction.

27.12 Each party shall at all times during the continuance of this Agreement and after its termination keep all information supplied to it by other part (or any of its representatives or employees) and all information which it may otherwise become possessed of or otherwise with respect to the other Party from the business or financial affairs of the other Party shall be strictly confidential.

28. **NOTICES:**

All notices to be given under this Agreement shall be in writing and shall be given or sent by hand, or by registered posted or recorded courier delivery to the address of the concerned as given bellow. The Parties shall inform the other Party immediately within 30 days of change in its address, through registered post.

In case of Licensor: Mr. Sudeep Chakrabarty

 Designation:Director – Business Solutions

 Ranbaxy Medical Services Pvt Limited

 Times Sqaure, 7th & 8th Floor, Andheri East,

 Mumbai, Maharashtra, India 400069

In Case of Licensee: Mr. Pitamber Lal

 Designation: Partner

 Accutest Solutions

 Pushp Gulab Plaza, 86, Commercial Complex, in front

 of SBi & Gold Gym, Nehru Nagar East, Bhiali,

 Distt. Durg – 490020

29. **SEVEREABILITY:**

If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in full or any part thereof, all other provisions of this Agreement and the remainder of that provision shall remain in force and effect.

30. **GOVERNING LAW:**

This Agreement shall be governed by and construed in accordance with law of India and the parties submit to the exclusive jurisdiction of court in Delhi.

Nothing in this Agreement shall prejudice or affect the rights or powers of either party under any statute, statutory instrument, regulations, bye laws, order or license for the time being in force.

31. **ARBITRATION:**

If any dispute, difference or claim arises between the parties in connection with this Agreement or the validity, interpretation, implementation or alleged breach of this Agreement or anything done, omitted to be done pursuant to this Agreement, the Parties shall first endeavor to resolve the same through conciliation and negotiation. However, if the dispute is not resolved through conciliation and negotiation within 30 days after commencement of such conciliation or within such period thereafter as mutually agreed in writing, then the Parties may refer the dispute for resolution to a Sole Arbitrator, to be appointed by the Parties. In the event the Parties are unable to agree to a common name, for appointment of a Sole Arbitrator, the each Party shall appoint one Arbitrator each and the said two arbitrators so appointed by the Parties shall appoint a third Arbitrator. Such arbitration shall be in accordance with the provisions of the Arbitration and Conciliation Act, 1996, or any statutory modification of reenactment for the time being in force. The arbitration shall be held in Mumbai in English language.

32. **NON-COMPETE:**

The Licensee acknowledged that pursuant to the execution of this Agreement, the Licensor shall make the Licensee privy to considerable proprietary information of the Licensor in the form of technology, specialized software, material, processes, standard operating processes, training, information on latest advancements, expert guidance, etc. (hereinafter collectively referred to as “Resources”) in the field of pathology, lab tests, operation, management of pathological labs, etc. which will add to the knowledge and expertise of the Licensee and which shall be helpful in running and conduct of pathological labs. The Licensee further acknowledges and accepts that the Licensor has expended and invested considerable amount of capital, time and resources to develop the said Resources.

The Licensee hereby undertakes that in consideration of the Licensor sharing its Resources with the Licensee pursuant to this Agreement, the Licensee shall not directly or indirectly, during the term of this Agreement and also for a period of 5 yearsthis Agreement, set up and/or operate, manage any pathological lab either by using the Resources or otherwise compete with the Licensor except with the written consent of Licensor.

The restriction above applies to the Licensee, including its heirs, Legal representatives, Partners, joint ventures, shareholders, relatives etc.

IN WITNESS WHEROF the parties have through their respectively duly authorized representatives, executed this Agreement the day month and year first herein above written.

For and on behalf of For and on behalf of

M/s RANBAXY MEDICAL SERVICES PVT LIMITED ACCUTEST SOLUTION

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Name: Mr.Sudeep Chakrabarty Name : Mr. Pitamber Lal

Title: Director Business Solutions, . Title : Partner

Ranbaxy Medical Services Accutest Solution, Bhilai Distt. Durg

 For and on behalf of

 ACCUTEST SOLUTION

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 Name: Mrs. Sharda Dewangan Title : Partner

 Accutest Solution, Bhilai (Distt. Durg)

In the presence of In the presence of

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Name: Name:

Title: Title:

Place: - Place: -