NOTICE OF PROPOSED PRETREATMENT SETTLEMENT AGREEMENT

In accordance with the policy of the City of Phoenix contained in City Code Section 28-46(h), and the public participation requirements of Arizona Revised Statutes Section 49-391, notice is hereby given that the City of Phoenix proposes to enter into a Pretreatment Settlement Agreement (PSA) with BioTech Research Labs, Inc., previously doing business at 3809 East Watkins Street, Phoenix, AZ 85034. This PSA settles the claims alleged in a Notice to Show Cause proceeding held on April 4, 2016 for violations of Class A Wastewater Discharge Permit No. 1212-22483 and Chapter 28 of the Phoenix City Code.

Under the terms of the proposed PSA, BioTech Research Labs has agreed to pay a civil penalty of $6,225.00.

The City of Phoenix will receive for a period of thirty (30) days from the date of this publication, comments relative to the proposed PSA. Comments should be addressed to:

Stephen Wetherell, Assistant City Attorney
City of Phoenix Law Department
200 W. Washington, 13th Floor
Phoenix, AZ 85003
Telephone: 602-262-6761

The proposed PSA may be examined at the following City of Phoenix Office:

Phoenix City Clerk
200 W. Washington, 15th Floor
Phoenix, AZ 85003
Telephone: 602-262-6811

The proposed PSA is also posted on the Environmental Services Division website at https://www.phoenix.gov/waterservices/envservices/indpretreatmentprog/pretreatment-settlement-agreements.

After the close of the thirty (30) day public comment period, and after review of all comments received, the City of Phoenix will execute the PSA or take whatever action it deems appropriate.

PRETREATMENT SETTLEMENT AGREEMENT
(BioTech Research Labs, Inc.)

AGREEMENT NO._____

This Agreement is dated April 4, 2016, and is between the City of Phoenix (the "City"), a municipal corporation, and BioTech Research Labs, Inc. ("BioTech Labs"), previously doing business at 3809 E. Watkins Street, Phoenix, Arizona, 85034.

WHEREAS, pursuant to Arizona Revised Statutes, Sections 9-276 and 49-391, City of Phoenix Charter, Chapter II, Section 2 and Chapter IV, Sections 2(26) and 2(45), and Chapter 28 of the Phoenix City Code, the City has authority to build, repair and regulate sewer use and enforce the ordinances related thereto;

WHEREAS, pursuant to Section 28-45(a) of the Phoenix City Code, the City requires each significant industrial user who releases industrial discharge into the sewer system to obtain a Class "A" Wastewater Discharge Permit from the Director of the Water Services Department;

WHEREAS, BioTech Labs was a significant industrial user that released industrial process discharge into the sewer system and was issued a Class "A" Wastewater Discharge Permit Number 1212-22483 (hereinafter referred to as "Permit") on November 19, 2012;

WHEREAS, BioTech Labs ceased production operations on January 31, 2016, and the City terminated the Permit at BioTech Labs' request effective March 7, 2016;

WHEREAS, the City issued to BioTech Labs the following compliance and enforcement notices, all of which are attached hereto as Exhibit A and referred to collectively as the "Notices":

1) June 5, 2015 Notice of Violation for failing to comply with the Permit condition requiring BioTech Labs to notify the City within 24 hours of becoming aware of a discharge that is known or suspected to be in violation of any effluent limitation or provision of the Permit (24 Hour Notification Report for the 4/30/15 pH discharge violation due on 5/1/2015 was received twenty-six (26) days late);

2) June 29, 2015 Notice of Violation for discharging in violation of the facility's instantaneous effluent limitation for pH of 5.0 to 10.5 S.U. (instantaneous discharge concentration of 4.70 S.U. on 4/30/15);

3) June 29, 2015 Notice of Violation for discharging in violation of the facility's instantaneous effluent limitation for pH of 5.0 to 10.5 S.U. (instantaneous discharge concentration of 3.14 S.U. on 5/29/15);

4) December 21, 2015 Notice of Violation for failing to comply with permit conditions requiring timely reporting (October Self Monitoring Report due on November 28, 2015, was received two (2) days late);

5) February 5, 2016 Notice of Violation for discharging in violation of the facility's instantaneous effluent limitation for pH of 5.0 to 10.5 S.U. (instantaneous discharge concentration of 3.63 S.U. on 10/16/15);

6) March 23, 2016 Notice to Show Cause for violations that occurred during the time period of April 1, 2015 through October 31, 2015 as set forth in a portion of the above Notices;

7) March 25, 2016 Notice to Show Cause (Date Revision) for violations that occurred during the time period of April 1, 2015 through October 31, 2015 as set forth in a portion of the above Notices

WHEREAS, the City and BioTech Labs met on April 4, 2016;

WHEREAS, it is the desire of the City and BioTech Labs to resolve all disputes between them arising out of the allegations of the Notice without litigation; and

WHEREAS, to that end, the City and BioTech Labs have entered into this Agreement in order to resolve all disputes between them according to the terms, conditions and provisions hereof.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

In consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. At the time of its signing of this Agreement, BioTech Labs shall pay to the City a Civil Penalty in the amount of SIX THOUSAND TWO HUNDRED AND TWENTY FIVE DOLLARS ($6,225.00). In addition to this amount, BioTech Labs agrees to pay a public notice newspaper publication fee in an amount not to exceed One Thousand Dollars ($1,000.00) which shall be paid within ten (10) days of a receipt of a billing statement sent by the City. Payments shall be made by check, payable to the City of Phoenix, and delivered to the City of Phoenix Law Department, 200 West Washington Street, 13th Floor, Phoenix, Arizona 85003, Attn: Alicia Bray.

2 Timely and complete performance of all elements contained in Paragraph 1 constitutes complete satisfaction of all claims against, and all amounts owing by, BioTech Labs and its affiliates, and their partners, stockholders, directors, officers, employees, agents, assigns or successors in interest, to the City arising as a result of or in connection with the events described in the Notice. The City hereby releases BioTech Labs and its affiliates, and their partners, stockholders, directors, officers, employees, agents, assigns and successors in interest, from all claims, demands, penalties, liabilities and actions, arising as a result of or in connection with the events described in the Notice.

3. The money paid by BioTech Labs to the City as required by this Agreement shall be used by the City in connection with its Water Services Department Industrial Pretreatment Program.

4. Both City and BioTech Labs reserve any and all legal and equitable remedies available to enforce the provisions of this Agreement. The City acknowledges that BioTech Labs has entered into this Agreement as an accord to and resolution of a dispute with City, and that this Agreement does not constitute an admission of culpability or liability by BioTech Labs.

5. BioTech Labs acknowledges that this Agreement is not and shall not be interpreted to be a permit issued under Chapter 28 of the Phoenix City Code.

6. The provisions of this Agreement shall be severable, and should any provision be declared by a court of competent jurisdiction to be unenforceable, the remaining provisions shall remain in full force and effect.

7. The persons executing this Agreement expressly represent and warrant that they are authorized to execute the same. Further, the parties expressly acknowledge that they, and each of them, have been, or had the opportunity to be represented by their respective attorneys in connection with the preparation and execution of this Agreement.

8. The parties agree that each of them shall undertake such further actions and execute such further documents, if any, which may be necessary or appropriate to implement this Agreement according to its terms.

9. This Agreement sets forth the complete and exclusive understanding between the parties relating to the subject matter hereof and supersedes all prior oral and written understandings, representations, proposals and communications.

10. No waiver, modification or amendment of any provision of this Agreement shall be binding upon either party unless agreed to in writing and executed by the parties.

11. This Agreement shall be governed by the laws of the State of Arizona.

12. Nothing in this Agreement shall create any private cause of action or other right or interest in favor of any person not a party to this Agreement.

13. In the event any party hereto finds it necessary to employ legal counsel to bring an action at law or other proceeding against any other party to enforce any of the terms, covenants or conditions hereof, the party prevailing in such action or proceeding shall be paid all reasonable attorneys' fees by the other party, unless otherwise determined by the court or by agreement of the parties, and in the event any judgment is secured by such prevailing party, all such attorneys' fees shall be included in any such judgment in such action or proceeding. The amount of reasonable attorneys' fees shall be determined by the court and not by a jury.

14. The parties acknowledge that this Agreement is subject to cancellation by the City pursuant to the provisions of A.R.S. Section 38-511.

15. **THIRTY DAY PUBLIC COMMENT PERIOD**

a. BioTech Labs acknowledges that before this Agreement can become final the City must provide a thirty (30) day public comment period. At a minimum, a public notification will appear in the Arizona Republic newspaper and will, among other things, inform the public of the name and address of BioTech Labs, the amount of penalty to be paid and the locations where this Agreement may be examined. This Agreement will also be posted on the Environmental Services Division Website. After the close of the thirty day (30) public comment period the City will execute this Agreement or take whatever action it deems appropriate based upon the public comments received.

b. A copy of the Affidavit of Newspaper Publication will be attached as Exhibit B to this Agreement.

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The parties have caused this Agreement to be duly executed by their authorized representatives.

CITY OF PHOENIX

ED ZUERCHER
City Manager

By:_____

Title:_____

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

_____
Public Comment Start Date

BIOTECH RESEARCH LABS, INC.

By:_____

Title:_____

_____
Public Comment End Date

SLW/ab:1227691v1

Exhibit A

7014 1200 0000 8444 7958

City of Phoenix
WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Quality Reliability Value

June 5, 2015

Mr. Jack Kapps
Facilities/Engineering
BioTech Research Labs, Inc.
3809 East Watkins Street
Phoenix, Arizona 85034-7264

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: Late Reporting – 24-Hour Notification

Permit Standard Conditions, Section G.1
Phoenix City Code Chapter 28 – Sewers, Section 28-44 (L) (1)
Title 40 Code of Federal Regulations Part 403.12 (g) (2)

BioTech Research Labs, Inc. (BioTech) is required to notify the City of Phoenix Industrial Pretreatment Program within 24-hours of becoming aware of a known or suspected violation as specified in Wastewater Discharge Permit № 1212-22483 Permit Standard Conditions, Section G.1.–*Notification of Noncompliance*. During a self-monitoring event on April 30, 2015, BioTech exceeded the allowable limit for pH.

Because BioTech continually monitors the pH of their wastestream, the pH limit exceedance should have been reported by May 1, 2015. This exceedance was not reported until May 27, 2015, twenty-six (26) days late. Therefore, BioTech is in violation for late reporting - 24-hour notification of a permit violation.

Requirement

BioTech is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report **no later than June 22, 2015,** outlining the reason(s) the late reporting occurred and the corrective action(s) taken to prevent future violations. At a minimum, this report must address the following:

A. Names and positions of all people involved with the investigation into why the violation(s) occurred.

B. A summary of the events of the investigation, including dates and the amount of time expended on the investigation.

C. The conclusions reached.

D. The corrective actions taken or to be taken and dates, including completion dates.

E. How this action, or actions, will prevent future violations from occurring.

Exhibit A

Failure to comply with the requirements of this letter will subject BioTech to further enforcement actions(s). This Notice does not preclude the City from taking additional enforcement action(s) under Chapter 28 of the Phoenix City Code.

Should you require additional time to complete the report, a written request for an extension must be submitted to the City of Phoenix Industrial Pretreatment Program prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone № (602) 534-1362, or e-mail at stephanie.long@phoenix.gov. My office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday.

Sincerely,

Stephanie Long
Senior Water Quality Inspector

e-copy: Susan Kinkade, PE
Marji Dukowitz

7014 2000 0000 8444 9570

City of Phoenix
WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Quality Reliability Value

June 29, 2015

Mr. Jack Kapps
Facilities/Engineering
BioTech Research Labs, Inc.
3809 East Watkins Street
Phoenix, Arizona 85034-7264

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: Effluent Limits (Self-Monitoring)

Wastewater Discharge Permit № 1212-22483
Phoenix City Code Section 28-45
40 CFR 403.5 (d) Local Limit

Wastewater discharged to sewer from BioTech Research Labs, Inc. (BioTech) exceeded the minimum allowable concentration for the following parameter as established in Wastewater Discharge Permit № 1212-22483. The violation was reported by BioTech on May 27, 2015, and the analytical results were received by BioTech on April 30, 2015.

DATE	PARAMETER	DISCHARGE CONCENTRATION	DISCHARGE LIMITATION
04/30/2015	pH	4.70 S.U. For 56 minutes	5.0 S.U.

* D = Daily Maximum MAV = Monthly Average I = Instantaneous Limit P = Prohibited

Requirements

BioTech is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report no later than July 13, 2015, outlining the reason(s) the exceedance occurred, along with the corrective action(s) taken to prevent future violations. At a minimum, this report must address the following:

A. Names and positions of all people involved with the investigation into why the violation occurred.

B. A summary of the events of the investigation, including dates and amount of time expended on the investigation.

C. The conclusions reached.

D. The corrective action(s) taken or to be taken and date(s), including completion date(s).

E. How this action(s) will prevent future violations from occurring.

Failure to comply with the requirements of this letter will subject BioTech to further enforcement action(s). This Notice does not preclude the City from taking additional enforcement action(s) under Chapter 28 of the Phoenix City Code.

Should you require additional time to complete the report, a written request for an extension must be submitted to the City of Phoenix Industrial Pretreatment Program prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone № (602) 534-1362, or e-mail at stephanie.long@phoenix.gov. My office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday.

Sincerely,

Stephanie Long
Senior Water Quality Inspector

e-copy: Susan Kinkade, PE
Marji Dukowitz
Andrea Cooper

7014 1700 0000 8444 9587

City of Phoenix

WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Quality Reliability Value

June 29, 2015

Mr. Jack Kapps
Facilities/Engineering
BioTech Research Labs, Inc.
3809 East Watkins Street
Phoenix, Arizona 85034-7264

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: Effluent Limits (Self-Monitoring)

Wastewater Discharge Permit № 1212-22483
Phoenix City Code Section 28-45
40 CFR 403.5 (d) Local Limit

Wastewater discharged to sewer from BioTech Research Labs, Inc. (BioTech) exceeded the minimum allowable concentration for the following parameter as established in Wastewater Discharge Permit № 1212-22483. The violation was reported by BioTech on May 27, 2015, and the analytical results were received by BioTech on April 30, 2015.

DATE	PARAMETER	DISCHARGE CONCENTRATION	DISCHARGE LIMITATION
05/29/2015	pH	3.14 S.U. For 40 minutes	5.0 S.U.

* D = Daily Maximum MAV = Monthly Average I = Instantaneous Limit P = Prohibited

Requirements

BioTech is required to submit to the City of Phoenix Industrial Pretreatment Program a detailed written report no later than July 13, 2015, outlining the reason(s) the exceedance occurred, along with the corrective action(s) taken to prevent future violations. At a minimum, this report must address the following:

A. Names and positions of all people involved with the investigation into why the violation occurred.

B. A summary of the events of the investigation, including dates and amount of time expended on the investigation.

C. The conclusions reached.

D. The corrective action(s) taken or to be taken and date(s), including completion date(s).

E. How this action(s) will prevent future violations from occurring.

Failure to comply with the requirements of this letter will subject BioTech to further enforcement action(s). This Notice does not preclude the City from taking additional enforcement action(s) under Chapter 28 of the Phoenix City Code.

Should you require additional time to complete the report, a written request for an extension must be submitted to the City of Phoenix Industrial Pretreatment Program prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone № (602) 534-1362, or e-mail at stephanie.long@phoenix.gov. My office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday.

Sincerely,

Stephanie Long
Senior Water Quality Inspector

e-copy: Susan Kinkade, PE
Marji Dukowitz
Andrea Cooper

-1014120000008444
4988

City of Phoenix
WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Quality Reliability Value

December 21, 2015

Certified Mail

Return Receipt Requested

Mr. Jack Kapps
Engineering Technician
BioTech Research Labs, Inc.
3809 East Watkins Street
Phoenix, Arizona 85034-7264

NOTICE OF VIOLATION

RE: Late Reporting – Self-Monitoring Report (SMR)

Permit Reporting Requirements – Self-Monitoring Report
Phoenix City Code Chapter 28 – Sewers, Section 28-45 (d) (3)
Title 40 Code of Federal Regulations Part 403.12 (e) and / or (h)

BioTech Research Labs, Inc. (BioTech) is required to submit monthly Self-Monitoring Reports as specified in Wastewater Discharge Permit № 1201-22483. The October 2015 SMR submitted by BioTech was due in our office by November 28, 2015 and was received on November 30, 2015, two (2) days late. Therefore, BioTech is in violation of permit reporting requirements.

Requirement

BioTech is required to submit to the City of Phoenix Industrial Pretreatment Program (IPP) a detailed written report **no later than January 7, 2015,** outlining the reason(s) the late reporting occurred and the corrective action(s) taken to prevent future violations. At a minimum, this report must address the following:

A. Names and positions of all people involved with the investigation into why the violation(s) occurred.

B. A summary of the events of the investigation, including dates and the amount of time expended on the investigation.

C. The conclusions reached.

D. The corrective action(s) taken or to be taken and dates, including completion dates.

E. How this action, or actions, will prevent future violations from occurring.

Failure to comply with the requirements of this letter will subject BioTech to further enforcement action(s). This Notice does not preclude the City from taking additional enforcement action(s) under Chapter 28 of the Phoenix City Code.

Should you require additional time to complete the report, a written request for an extension must be submitted to IPP prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone № (602) 534-1362, or e-mail at stephanie.long@phoenix.gov. My office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday.

Sincerely,

Stephanie Long
Senior Water Quality Inspector

e-copy: Susan Kinkade, PE
Marji Dukowitz

City of Phoenix
WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Quality Reliability Value

February 5, 2015

Mr. Jack Kapps
Engineering/Facilities Manager
BioTech Research Labs, Inc.
3809 East Watkins Street
Phoenix, Arizona 85034-7264

Certified Mail

Return Receipt Requested

NOTICE OF VIOLATION

RE: pH Effluent Limits (Continuous Self-Monitoring)

Permit Standard Conditions A.7.
Phoenix City Code Section 28-8(e)
40 CFR 403.5 (b) (2)

The discharge to sewer from BioTech Research Labs, Inc. (BioTech) was below the minimum allowable limit for pH as established in Wastewater Discharge Permit № 1212-22483. These violations were reported by BioTech on December 2, 2015.

Date of Violation	Parameter	Minimum Exceedance	Exceedance Duration	Discharge Limit
10/16/2015	pH	3.63 S.U.	1 minute	5.0-10.5 S.U.

Requirements

1. BioTech must submit a written report **to the City of Phoenix Industrial Pretreatment Program no later than February 22, 2016** outlining the reason(s) the exceedances occurred along with the corrective action(s) taken to prevent future violations. At a minimum, this report must address the following:

   A. Names and positions of all people involved with the investigation into why the violation occurred.
   B. A summary of the events of the investigation, including dates and amount of time expended on the investigation.
   C. The conclusions reached.
   D. The corrective action(s) taken or to be taken and date(s), including completion date(s).
   E. How this action, or actions, will prevent future violations from occurring.

2. Section 10.3.7 of the City of Phoenix Industrial Pretreatment Program Enforcement Response Plan, December 5, 1991, states that when an industrial user has a violation of an effluent limit, the industrial user is required to sample the parameter for four consecutive weeks (Temporary Increase in Self-Monitoring).

Additionally, under Standard Conditions Section (G) of the Permit, BioTech is required to automatically resample for pH, and submit in writing, the results of analysis within 30-days of becoming aware of the violation unless the City obtained a sample between the time BioTech performed its sampling and the time BioTech receives the results of the sampling.

Since BioTech performs continuous monitoring for pH, it is not possible to increase the frequency of self-monitoring. Section 10.3.7 of the City of Phoenix Industrial Pretreatment Program Enforcement Response Plan, December 5, 1991, states that an unannounced inspection will be allowed in lieu of additional sampling. The unannounced inspection will be performed to meet the requirement.

Therefore, BioTech is not required to collect the Temporary Increase in Self-Monitoring samples or the 30 day resample.

Failure to comply with the requirements of this letter will subject BioTech to further enforcement actions(s). This Notice does not preclude the City from taking additional enforcement action(s) under Chapter 28 of the Phoenix City Code.

If additional time is required to complete the report, a written request for an extension must be submitted to the Environmental Services Division prior to the above due date.

Should you have any questions regarding this notice, please contact me at phone № 602-534-2909, or e-mail at Stephanie.long@phoenix.gov. My office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday.

Sincerely,

Stephanie Long
Senior Water Quality Inspector

e-copy: Susan Kinkade, PE
Marji Dukowitz
Andrea Cooper

City of Phoenix
WATER SERVICES DEPARTMENT
ENVIRONMENTAL SERVICES DIVISION
Quality Reliability Value

March 23, 2016

HAND DELIVERED:

Date: 3/24/2016
Received by: Jack Kapps
Printed Name
Signature:
Signed Name

Mr. Jack Kapps
Facilities/Engineering
BioTech Research Laboratory
3809 East Watkins Street
Phoenix, Arizona 85034-7264

NOTICE TO SHOW CAUSE

BioTech Research Laboratory (BioTech) has been previously notified of Effluent and Reporting violations. In light of the pretreatment violations identified in the attached Notices, and in this Notice to Show Cause, the City of Phoenix, acting as the Control Authority pursuant to the legal authority established by Title 40, Code of Federal Regulations, Part 439.17, and in accordance with Chapter 28 of the Phoenix City Code, hereby notifies BioTech of its intent to utilize all appropriate remedies to address these pretreatment violations. These remedies include monetary penalties.

Representatives from Biotech are required to attend a Hearing to Show Cause to be held in the Water Services Building Conference Room at:

Place:	**Environmental Services Division** **2474 South 22nd Avenue, Building 31** **Phoenix, Arizona 85009**
Date:	**March 29, 2016**
Time:	**1:00 P.M.**

During the Show Cause Hearing, BioTech will be given the opportunity to respond to the allegations stated below, and will be asked to show cause why the City should not seek monetary and/or other penalties in response to the following:

During the time period of April 1, 2015 to October 31, 2015:

- Discharged in violation of applicable limitations on at least 3 occasions.
- Failed to notify the Environmental Services Division within 24 hours of becoming aware of a discharge that is known or suspected to be in violation with any effluent limitation or provision of the permit as listed in Permit Conditions.
- Failed to submit the Self-Monitoring Report to ESD by the due date listed in Permit 1212-22483

IT IS HEREBY REQUIRED that BioTech have in attendance at this hearing, persons knowledgeable about the matters alleged in this Notice, as well as persons having financial decision making authority. Your representatives may be accompanied by legal counsel, if you so desire. A representative from the City Attorney's office will be present at the hearing.

In order for us to consider any written response to this Notice, it must be received by the Environmental Services Division on or before March 28, 2016

A copy of the latest edition of the City's Civil Penalty Policy, together with the Civil Penalty Calculation Worksheet, is enclosed.

Your failure to appear will mean that the City of Phoenix will take all appropriate enforcement action it deems necessary, based on the facts as outlined in this Notice and attachments.

Should you have any questions regarding this Notice, please contact the Environmental Services Division at 602-262-1859. Our office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

Sincerely,

Susan Kinkade

Susan Kinkade
Engineer III

Enclosures: List of Violations
Penalty Calculations
NOV dated June 5, 2015- 24 Hour Violation Notification
NOV dated June 29, 2015-pH
NOV dated June 29, 2016-pH
NOV dated December 21, 2015- Reporting- Late SMR
NOV dated February 5, 2016-pH
Civil Penalty Policy

c: Stephen Wetherell
Marji Dukowitz
Stephanie Long

LIST OF VIOLATIONS

March 29, 2016
Permit Number: 1212-22483
BioTech Research Laboratory
3809 East Watkins Street
Phoenix, Arizona 85034-7264

Regulated Under 40 CFR 439.47 and
City of Phoenix Local Limits

Penalty Period: April 1, 2015 through October 31, 2015= 6 months

CITY MONITORING VIOLATIONS

Date	Parameter	Discharge Concentration	Discharge Limitation*
N/A	N/A	N/A	N/A

SELF MONITORING VIOLATIONS

Date	Parameter	Discharge Concentration	Discharge Limitation*
04/30/2015	pH	4.7 S.U.	5.0-10.5 S.U
05/29/2015	pH	3.14 S.U.	5.0-10.5 S.U
10/16/2015	pH	3.63 S.U.	5.0-10.5 S.U

REPORTING VIOLATIONS

Report	Due Date	Received Date	Days Late
24 Hour Violation Notification	05/01/2015	05/27/2015	26
Late SMR- 2 Days	11/28/2105	11/30/2015	2

PERMIT CONDITIONS VIOLATIONS

Date	Violation
N/A	

* D = Daily Maximum MAV = Monthly Average I = Instantaneous Limit P = Prohibited

PENALTY CALCULATIONS WORKSHEET

March 29, 2016
Permit Number: 1212-22483
BioTech Research Laboratory
3809 East Watkins Street
Phoenix, Arizona 85034-7264

Penalty Period: April 1, 2015 through October 31, 2015= 6 months

Effluent Violations

DATE	04/30/2015	05/29/2015	10/16/2015	N/A	N/A	N/A
PARAMETER	pH	pH	pH			
VALUE	4.7 S.U	3.14 S.U.	3.63 SU			
LIMIT	5.0 SU	5.0 SU	5.0 SU			
% OVER LIMIT	6.0	37.2	27.4			
TYPE VIOLATION	Effluent	Effluent	Effluent			
CITY/SELF MONITORING	Self	Self	Self			
DISCHARGE (GPD)	832	1057	6.3			
№ DAILY MEASUREMENTS	30	31	31			
№ AVERAGE MEASUREMENTS	N/A	N/A	N/A			
A SIGNIFICANCE	0	6	3			
B HEALTH	0.2	0.2	0.2			
B AQUATIC	0	0	0			
C FREQUENCY, DAILY	0.083	0.081	0.081			
C FREQUENCY, AVERAGE	N/A	N/A	N/A			
D DURATION	2.5	2.5	2.5			
UNIT FACTOR	1	1	1			
TOTAL FACTOR	3.78	9.78	6.78			
MONETARY MULTIPLIER*	$300	$300	$300			
PENALTY AMOUNT	**$1,134.00**	**$2,934.00**	**$2,034.00**	**$0**	**$0**	**$0**
SUBTOTAL PENALTIES (THIS PAGE)						**$6,102.00**

PENALTY CALCULATIONS WORKSHEET

March 29, 2016
Permit Number: 1212-22483
BioTech Research Laboratory
3809 East Watkins Street
Phoenix, Arizona 85034-7264

Penalty Period: April 1, 2015 through October 31, 2015= 6 months

Reporting Violations – Missed or Late Reports

TYPE OF REPORT	24 Hour Report	SMR		
DATE DUE	05/01/2015	11/28/2015		
DATE SUBMITTED	05/27/2015	11/30/2015		
DAYS LATE	26	2		
EFFLUENT VIOLATION SHOWN?	Yes	Yes		
$ PENALTY PER DAY LATE	$60.00	$60.00		
PENALTY AMOUNT	**$1,560.00**	**$120.00**		
SUBTOTAL PENALTIES (THIS PAGE)				**$ 1,680.00**

PENALTY CALCULATIONS WORKSHEET

March 29, 2016
Permit Number: 1212-22483
BioTech Research Laboratory
3809 East Watkins Street
Phoenix, Arizona 85034-7264

Penalty Period: April 1, 2015 through October 31, 2015= 6 months

Permit Conditions – Missed Analyses

PARAMETER	N/A	N/A	N/A	N/A
PERIOD COVERED				
NUMBER REQUIRED				
NUMBER PERFORMED				
NUMBER MISSING				
$ PENALTY PER				
PENALTY AMOUNT				
SUBTOTAL PERMIT CONDITIONS PENALTIES FROM THIS TABLE				$0.00

PENALTY CALCULATIONS WORKSHEET

March 29, 2016
Permit Number: 1212-22483
BioTech Research Laboratory
3809 East Watkins Street
Phoenix, Arizona 85034-7264

Penalty Period: April 1, 2015 through October 31, 2015= 6 months

Effluent Violations

Parameter	№ from City Monitoring	№ from Self Monitoring	Total Violations	Total Penalty
pH	0	3	3	$6,102.00
			Subtotal of Effluent Violations	$6,102.00

Reporting Violations

Type of Report	Total Penalty
24- Hour Report- 26 Days late	$1,560.00
SMR 2 Days Late	$120.00
Subtotal of Reporting Violations	$1,680.00

Permit Condition Violations

Type of Violation	Total Violations	Total Penalty
Subtotal of Permit Condition Violations		$0

Penalty Totals

Total Penalties	$7,782.00
Public Notification Publication Fee	$1,000
Total of Penalties and Publication Fee	$8,782.00

City of Phoenix
WATER SERVICES DEPARTMENT
Quality Reliability Value

March 25, 2016

HAND DELIVERED:

Mr. Jack Kapps
Facilities/Engineering
BioTech Research Laboratory
3809 East Watkins Street
Phoenix, Arizona 85034-7264

Date: 3/28/2016
Received by: JACK KAPPS
Printed Name
Signature:
Signed Name

NOTICE TO SHOW CAUSE – DATE REVISION

BioTech Research Laboratory (BioTech) has been previously notified of Effluent and Reporting violations. In light of the pretreatment violations identified in the attached Notices, and in this Notice to Show Cause, the City of Phoenix, acting as the Control Authority pursuant to the legal authority established by Title 40, Code of Federal Regulations, Part 439.17, and in accordance with Chapter 28 of the Phoenix City Code, hereby notifies BioTech of its intent to utilize all appropriate remedies to address these pretreatment violations. These remedies include monetary penalties.

Representatives from Biotech are required to attend a Hearing to Show Cause to be held in the Water Services Building Conference Room at:

Place:	**Environmental Services Division** **2474 South 22nd Avenue, Building 31** **Phoenix, Arizona 85009**
Date:	**April 4, 2016**
Time:	**10:00 A.M.**

During the Show Cause Hearing, BioTech will be given the opportunity to respond to the allegations stated below, and will be asked to show cause why the City should not seek monetary and/or other penalties in response to the following:

During the time period of April 1, 2015 to October 31, 2015:

- Discharged in violation of applicable limitations on at least 3 occasions.
- Failed to notify the Environmental Services Division within 24 hours of becoming aware of a discharge that is known or suspected to be in violation with any effluent limitation or provision of the permit as listed in Permit Conditions.
- Failed to submit the Self-Monitoring Report to ESD by the due date listed in Permit 1212-22483

IT IS HEREBY REQUIRED that BioTech have in attendance at this hearing, persons knowledgeable about the matters alleged in this Notice, as well as persons having financial decision making authority. Your representatives may be accompanied by legal counsel, if you so desire. A representative from the City Attorney's office will be present at the hearing.

In order for us to consider any written response to this Notice, it must be received by the Environmental Services Division on or before April 1, 2016

A copy of the latest edition of the City's Civil Penalty Policy, together with the Civil Penalty Calculation Worksheet, is enclosed.

Your failure to appear will mean that the City of Phoenix will take all appropriate enforcement action it deems necessary, based on the facts as outlined in this Notice and attachments.

Should you have any questions regarding this Notice, please contact the Environmental Services Division at 602-262-1859. Our office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

Sincerely,

Susan Kinkade
Engineer III

Enclosures (Previously Provided):
- List of Violations
- Penalty Calculations
- NOV dated June 5, 2015- 24 Hour Violation Notification
- NOV dated June 29, 2015-pH
- NOV dated June 29, 2016-pH
- NOV dated December 21, 2015- Reporting- Late SMR
- NOV dated February 5, 2016-pH
- Civil Penalty Policy

ecopy: Stephen Wetherell
Susan Kinkade, PE
Marji Dukowitz
Stephanie Long