



Standard Terms and Conditions for Services and Products Offered.

Cryogenetics provides services, expertise and products implementing its proprietary technology and methodology for storage and management of fish sperm/milt and increased fish hatchery output.

1. SERVICES

1.1 Work Orders. The specific details of each Project shall be separately specified in a Work Order. Each Work Order shall incorporate all of the terms and conditions, in addition to the specific details set forth in the Work Order, and shall form a separate and distinct agreement between the Parties thereto. Cryogenetics will not begin work on any Services without an executed Work Order authorizing such Services.

1.2 Services and Performance. The Services shall include such of those services listed at the company website. Cryogenetics will engage personnel with the proper skill, training and experience, and in sufficient numbers, to provide the Services. Cryogenetics will perform the Services (i) in a professional manner and in accordance with the prevailing standards of care and diligence consistent with industry practices, (ii) and in compliance with all Applicable Law. Cryogenetics will use commercially recognized practices to perform the Services described in any Work Order in accordance with the Cryogenetics Services Protocol. Client enters into each Work Order in reliance upon Cryogenetics' expertise and capacity to perform the Services in compliance with the terms of the the Cryogenetics Services Protocol.

1.3 Shipping of Client Material. Client shall ship the Client Material for which Cryogenetics is to perform the Services DDP (Incoterms 2010) to Cryogenetics' Facility by a common carrier selected by Client. At Client's instruction or upon termination of the Services Cryogenetics shall make the relevant Client Material available for collection by Client's designated common carrier EXW (Incoterms 2010) Cryogenetics' Facility. Client shall procure, at its cost, insurance covering damage or loss of Client Material during both inbound and outbound shipping.

1.4 International Shipments. If Client requires any Client Material to be shipped to Cryogenetics in another country, Client shall be the exporter of record for such shipment(s). Client warrants that any shipments of Client Material exported will be made in compliance with all applicable export laws and regulations and all applicable import laws and regulations in the country of deportation. Client shall be responsible for obtaining and paying for any necessary licenses, clearances or other governmental authorizations. Client shall select and pay the freight forwarder, which shall solely be Client's agent, and they shall together be solely responsible for preparing and filing the shipper's export declaration and any other documentation required for the export.

2. INVOICING AND PAYMENT

2.1 Payment. Client will pay the Fees and the Purchase Prices specified in the relevant Work Orders. Cryogenetics will invoice Client upon completion of work. Client shall pay each invoice in full within fifteen (15) days from the date of the invoice. Cryogenetics may require Client to pay in advance, see Section 5.1 (b).

2.2 Price Modifications. Cryogenetics may increase the Fees quoted for the Services and the Product Prices for Products upon written notice to Client in the event of increases in costs which are outside

the control of Cryogenetics, including, but not limited to, materials, utilities, project specific consumables, transportation and other third party costs. Where commercially reasonable to do so, Cryogenetics shall provide Client with thirty (30) days written notice of any such Fees or Product Prices increases.

2.3 Overdue Payments. Overdue amounts will accrue interest at the rate of 1,5%, or decided by law in the operating region, per month from the due date for payment. In addition to all other remedies available to Cryogenetics, in the event that any undisputed amount is overdue for a period in excess of sixty (60) days, Cryogenetics may also (i) suspend the Services until such overdue amount is received and (ii) in the event of continued nonpayment of undisputed amounts after such 60-day period and for thirty (30) days after written notice to Client of scheduled destruction, the relevant Client Materials will be destroyed.

3. PROPRIETARY RIGHTS

3.1 Ownership of Client Intellectual Property. All Client Intellectual Property and all Inventions which are Improvements of Client's Intellectual Property shall be the sole and exclusive property of Client.

3.2 Ownership of Cryogenetics Intellectual Property. All Cryogenetics Intellectual Property and Inventions which are Improvements of Cryogenetics' Intellectual Property shall be the sole and exclusive property of Cryogenetics. Client acknowledges and agrees that Cryogenetics may utilize its proprietary methods, processes and know-how during the performance of Services hereunder and that the ownership of any such proprietary methods, processes and know-how are and will remain solely with Cryogenetics. No license to Cryogenetics Intellectual Property or to Inventions which may occur during Cryogenetics' performance of the Services is hereby granted.

3.3 No Third Party Intellectual Property. Without having made any investigation or search expressly for the purposes of this representation, to Cryogenetics' actual knowledge, the use by Cryogenetics of Cryogenetics Intellectual Property in accordance with performance of the Services hereunder, does not and will not infringe any intellectual property rights or industrial property rights of any third party and does not involve the wrongful use of any trade secret or confidential information.

4. CONFIDENTIALITY

4.1 Confidential Information. Cryogenetics will keep all relevant information in connection with the Work Order, whether in oral, written, graphic, electronic, fish line or other form, that is either designated as confidential or, by the nature of the circumstances surrounding disclosure, should in reasonably be regarded as confidential, regardless of the novelty of such information. Without limiting the generality of the foregoing, all Inventions and Intellectual Property of a Client are Confidential Information of the Client.

4.2 Limitations. Cryogenetics shall not be obligated to treat information as Confidential Information of the Client if Cryogenetics can show by competent written evidence that such information: (a) was already known to Cryogenetics without any obligations of confidentiality prior to receipt from the Client; (b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to Cryogenetics.

4.3 Duration of Confidentiality. The obligations of confidentiality set forth in Section 4.1 shall not expire.

5. TERM AND TERMINATION

5.1 Termination. The commercial relationship may be terminated at any time upon the occurrence of any of the following events:

(a) **Termination for Breach.** Either Party may terminate all Work Orders that are still being performed without Cancellation Fees upon the material breach (which shall include any breach of payment terms) of any provision of this Agreement by the other Party if such breach is capable of being cured and is not cured by the breaching Party within 30 days (or such additional time reasonably necessary to cure such breach, *provided*, the breaching Party has commenced a cure within the 30-day period and is diligently pursuing completion of such cure) after receipt by the breaching Party of written notice of such breach and termination. If such breach is not capable of being cured, then the termination shall be effective upon receipt of notice of such breach and termination.

(b) **Liquidation, Insolvency, Receivership or Bankruptcy.** Work Orders that are still being performed may be terminated immediately by Cryogenetics by giving Client written notice thereof if Client enters into liquidation, becomes insolvent, or enters into receivership or bankruptcy. In this case Cryogenetics will continue to store Client Material for thirty (30) days. If no payment is received and no collection scheduled within such period, the Client Material will be destroyed. In lieu of termination, in its sole discretion, Cryogenetics may require Client to pay for all Services and Products in advance. Work Orders that are still being performed may be terminated immediately by Client by giving Cryogenetics written notice thereof if Cryogenetics enters into liquidation, becomes insolvent, or enters into receivership or bankruptcy.

(c) **Termination by Client.** Client shall have the right to terminate the Work Order without cause (a "Cancellation"), subject to Section 5.3 below, by ninety (90) days written notice to Cryogenetics.

5.2 Payment on Termination. In the event of a Cancellation by Client, Client shall reimburse Cryogenetics, to the extent directly related to such Cancellation, for:

(a) Cryogenetics' documented, reasonable out-of-pocket third party costs for services, materials and/or products ordered by Cryogenetics prior to Cancellation in order to perform its obligations pursuant to the Work Order to the extent that they are not cancelable or (re)usable without cost to Cryogenetics,

(b) Cryogenetics' documented, reasonable out-of-pocket costs for all work-in-process with respect to the Client Material commenced by Cryogenetics, and

(c) All Products ordered by Client (at the Purchase Price) that are delivered to Client.

5.3 Cancellation Fees. In the event of a Cancellation by Client with less than 90 days written notice to Cryogenetics, Client shall pay Cryogenetics, in addition to the reimbursements above, a cancellation fee ("Cancellation Fee") as follows:

<u>Days Prior Notice to Cryogenetics</u>	<u>Fee as Percent of Cancelled Work Order Amounts</u>
60 to 89	25%
30 to 59	50%
15 to 29	75%
< 15	100%

The Cancellation Fee shall be calculated as a percentage of the Fees for cancelled Services contracted to be performed by Cryogenetics and not yet performed as of the date of the Cancellation notice.

5.4 Effect of Termination. In the event of a Cancellation or a termination of this Work Order, (i) the Parties will cooperate to effect an orderly, efficient and expeditious termination of all Services affected by the Cancellation or termination; (ii) Cryogenetics shall use commercially reasonable efforts to mitigate and cancel, to the extent possible, all obligations that would incur expense, and shall not, without Client's prior approval, perform any additional Services pursuant to any Work Order affected by the Cancellation or termination, incur any other expenses, or enter into any other obligations related to any Work Order affected by the Cancellation or termination; and (iii) except in the case of a termination by reason of Client's breach, Cryogenetics shall at, Client's written request, promptly make any remaining inventory of Client Material available for collection by client's designated carrier.

5.5 Survival. Termination, expiration or Cancellation of any Work Order for any reason shall be without prejudice to any accrued obligations or the rights and remedies of either Party.

6. LIMITED SERVICES AND PRODUCT WARRANTY; REMEDIES

6.1 Limited Warranty; Exclusions. Cryogenetics warrants, for the benefit solely of Client, that all Services and Products shall conform to the applicable Specifications. Multiple factors can influence the success of fertilization procedures, and Cryogenetics makes no representation or warranty as to the results that may be obtained by Client with Client Material delivered by Cryogenetics after performance of Services.

6.2 Notice of Nonconforming Services or Products. If Client believes any Services or Product does not conform with the applicable Specifications ("Defective Services" or "Defective Products"), it shall notify Cryogenetics by telephone or email within seven (7) days of (i) becoming aware of any such nonconformity in Services or (ii) receipt of such Product, including a detailed explanation of the nonconformity, and shall send such notice in writing to Cryogenetics accompanied by any Defective Product via overnight delivery. If Client does not so notify Cryogenetics within the applicable time period that any Services or Product do not conform to the applicable Specifications, then Client shall be deemed to have accepted the Service or Product and waived its right to revoke acceptance.

6.3 Investigation. Upon receipt of such notice, Cryogenetics will investigate such alleged nonconformity. Within 30 days after receipt of Client's written notice of nonconformity (or such additional time as is reasonably required if such investigation or plan requires inputs from sources other than Client or Cryogenetics), Cryogenetics shall (i) if Cryogenetics agrees such Services or Product are nonconforming, deliver to Client a corrective action plan, or (ii) if Cryogenetics disagrees with Client's determination that the Services or Product are nonconforming, Cryogenetics shall so notify Client in writing.

6.4 Dispute. If the Parties dispute whether Services or Product are conforming or nonconforming and are unable to resolve the disagreement within thirty (30) days of the date of the notice of nonconformity, samples of the Client Product, when applicable, and/or documentation of the circumstances surrounding the alleged non-conformance will be submitted to a mutually acceptable independent third-party laboratory or consultant for resolution, whose determination of conformity or nonconformity shall be binding upon the Parties. Client and Cryogenetics shall share the costs of such laboratory or consultant.

6.5 Exclusive Remedies.

(a) If any Services are finally agreed or determined not to conform with the applicable Specifications, Client's sole remedy shall be that (i) Cryogenetics will correct or re-perform any such Defective Services, subject to re-supply by Client of any Client Material, and (ii) if it is not possible for Cryogenetics to correct or re-perform the Services for substantially the same cost, Cryogenetics will refund to Client the portion of the Fees attributable to the Defective Services.

(b) If any Products are finally agreed or determined not to conform with the applicable Specifications, Client's sole remedy shall be that (i) Cryogenetics will replace such Defective Products with

conforming Products, and (ii) if it is not possible for Cryogenetics to replace the Defective Products for substantially the same cost, Cryogenetics will refund to Client the Purchase Price for the Defective Products.

6.6 Disclaimer of Warranties. CRYOGENETICS EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. GENERAL REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties. Cryogenetics hereby represents and warrants to the Client that Cryogenetics is duly organized, validly existing, and in good standing under the laws of the place of its incorporation.

8. LIMITATION OF LIABILITY

8.1 Limitation of Liability. The total liability of Cryogenetics for Claims arising under or in connection with any Work Order shall not exceed the total amounts payable under such Work Order over the twelve (12) months preceding the Claim. NEITHER CRYOGENETICS NOR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND REPRESENTATIVES WILL BE LIABLE FOR, INCIDENTAL, SPECIAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION AMOUNTS FOR LOSS OF INCOME OR PROFITS, INCREASED COSTS, LOSS OF CONTRACTS OR OPPORTUNITIES, COST OF CAPITAL OR COST OF SUBSTITUTE SERVICES) ARISING OUT OF OR RELATING TO ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, REGARDLESS OF THE BASIS ON WHICH DAMAGES ARE CLAIMED (I.E., WHETHER IN CONTRACT OR TORT (INCLUDING BREACH OF WARRANTY, NEGLIGENCE AND STRICT LIABILITY), EVEN IF CRYOGENETICS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

9. INSURANCE

Cryogenetics Insurance. At all times Cryogenetics will carry insurance coverage with financially sound and reputable insurers with respect to the conduct of its business due to the liability described in section 8.1

10. GENERAL PROVISIONS

10.1 Force Majeure. Failure of Cryogenetics to perform shall not subject Cryogenetics to any liability if such failure is caused by any cause beyond its reasonable control, including without limitation acts of God, acts of terrorism, fire, explosion, flood, hurricane, lightning, drought, civil insurrection, war, riot, sabotage, embargo, strikes or other labor trouble, compliance with any new order or regulation of any government entity that could not reasonably be anticipated, *provided*, that written notice of such cause is promptly given to Client and that Cryogenetics uses all commercially reasonable efforts to resume performance hereunder as soon as possible.

10.2 Notices. Any notice must be in writing to Cryogenetics.

10.3 Publicity. Cryogenetics will not use the Client's name, trademarks, logos or other identifiers for any purpose, including without limitation in any form of advertising, publication, promotion, publicity, including press releases, without the other Client's prior written consent. This Section does not restrict a

Cryogenetics' ability to use the Clients' name in filings with any other governmental or regulatory agency, when required by Applicable Law to do so.

10.4 Dispute Resolution. Prior to initiating any court, administrative or other action on a claim, dispute, demand or assertion, the claimant shall give notice to the other Party, detailing the nature of the Claim and the facts relevant thereto and the Parties shall in good faith attempt to resolve such Claim. No court, administrative or other action shall be initiated until the Parties have exhausted good faith settlement attempts.

11. DEFINITIONS

11.1 "Affiliate" of a Party hereto shall mean any entity that controls or is controlled by, or is under common control with, such Party. For purposes of this definition, an entity shall be deemed to control another entity if it owns or controls, directly or indirectly, at least 50% of the voting power of such entity.

11.2 "Applicable Law" shall mean all laws, rules, regulations and ordinances, and all legally binding guidance, guidelines and standards of any international, national, state, or local governmental authority which are applicable to the Services or to other activities or obligations to be performed by Cryogenetics under this Agreement, including without limitation all laws and regulations requiring permits, filings or certifications with respect to Cryogenetics, the Facility or the Services.

11.3 "Cancellation Fees" shall have the meaning set forth in Section 5.3.

11.4 "Claim" shall mean any third party claim, demand, action, suit, arbitration, proceeding, hearing, investigation, inquiry, complaint, charge, allegation or the like.

11.5 "Client Intellectual Property" means all Intellectual Property and embodiments thereof in the Client Material owned by or licensed to Client.

11.6 "Client Material" shall mean the milt, egg or fish sent by Client to Cryogenetics

11.7 "Confidential Information" shall have the meaning set forth in Section 4.1.

11.8 "Cryogenetics Intellectual Property" means all Intellectual Property and embodiments thereof owned by or licensed to Cryogenetics as of the date hereof or developed by Cryogenetics.

11.9 "Cryogenetics Services Protocol" means Cryogenetics' protocol setting forth the specifications, criteria, metrics and guidelines for performance of the Services, as amended from time to time.

11.10 "Facility" shall mean Cryogenetics' facilities in multiple countries.

11.11 "Fees" shall mean the amount to be paid by Client for the Services to be performed by Cryogenetics hereunder, as specified in the applicable Work Order.

11.12 "Intellectual Property" shall mean all rights, privileges and priorities provided under applicable supranational, national, federal, state or local law, rule, regulation, statute, ordinance, order, judgment, decree, permit, franchise, license, or other government restriction or requirement of any kind relating to intellectual property, whether registered or unregistered, in any country, including without limitation: (a) all (i) patents and patent applications (including any patent that in the future may issue in connection therewith and all divisions, continuations, continuations-in-part, extensions, additions, registrations, confirmations, reexaminations, supplementary protection certificates, renewals or reissues thereto or thereof), (ii) trade secrets, (iii) copyrights and copyrightable works, including reports, software, databases and related items, and (iv) trademarks, service marks, trade names, brand names, product names, corporate

names, logos and trade dress, the goodwill of any business symbolized thereby, and all common-law rights relating thereto; and (b) all registrations, applications, recordings, rights of enforcement, rights of recovery based on past infringement and any and all claims of action related thereto and licenses or other similar agreements related to the foregoing.

11.13 “**Party**” shall mean Client or Cryogenetics; “**Parties**” shall mean Client and Cryogenetics.

11.14 “**Product(s)**” shall mean the products described in www.cryogenetics.com

11.15 “**Purchase Price**” shall mean the amount to be paid by Client for Products purchased by Client hereunder, as specified in the applicable Work Order.

11.16 “**Service(s)**” shall mean the services described in the Work Order that Cryogenetics agrees to perform for Client.

11.17 “**Specifications**” shall mean (i) with respect to Services, the written specifications, criteria, metrics and guidelines set forth in the Cryogenetics Services Protocol, or (ii) with respect to Products, the written specifications set forth in the Product [Data Sheet].

11.18 “**Work Order**” shall mean a completed Work Order. A Work Order shall include (i) a description of the Services to be performed and/or Products to be purchased; (ii) the Fees for the Services and/or Purchase Prices for the Products; and (iii) any additional terms and conditions.

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