

Exhibit D– FROZEN SORT
COLLABORATOR STALLION CUSTOMER AGREEMENT FOR FROZEN SEX SORTED
SEMEN FOR ICSI

This **COLLABORATOR STALLION CUSTOMER AGREEMENT** (the “**Agreement**”) is made and entered as of the last date of signature (“**Effective Date**”), by and between **Genetic Reflections, LLC d/b/a ViaGen Equine**, a Texas limited liability company, having its principal place of business at 116 E. Main St., Whitesboro, Texas 76273 (“**ViaGen**”), and **Genetech Animal Reproduction, LLC** an Oklahoma limited liability company, having a principle place of business at 22123 Bryant Ave, Purcell, OK 73080 (**Genetech**) (ViaGen and Genetech, may collectively be referred to as “**Collaborator**”) AND the person or entity signed herein below (the “**Customer/Payee**”), with Collaborator and Customer also herein referable, each as a “**Party**,” and collectively as the “**Parties**” to the Agreement.

RECITALS

WHEREAS, Collaborator is in the business of receiving semen from stallion owners for the purposes of sex sorting sperm to artificially inseminate mares owned by it, and owned by its customers, specifically and exclusively pursuant to, and in accordance with, the reproductive process known as “**ICSI**” - or intracytoplasmic sperm injection.

WHEREAS, Customer owns, or has the requisite authority to act on behalf of the owner, of certain stallions; and

WHEREAS Customer desires to submit certain stallion(s) semen to Collaborator for the purposes as set forth herein this Agreement, and Collaborator wishes to accept such submissions of stallion semen for the purposes as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants in the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to be bound to the following:

AGREEMENT

1. PRICING AND PAYMENT.

- 1.1. **Stallion Set-Up Fee.** All semen collections and/or semen samples submitted to Collaborator pursuant hereunder shall be referred to as the “**Sample**”. For any new Sample received by Collaborator for a new stallion, Customer/ or other identified party shall pay to Collaborator a fee in the amount of **\$750.00 USD** representing the costs and fees associated with setting up the stallion in Collaborators system for use (the “**Stallion Set- Up Fee**”).
- 1.2. **Semen Processing Fee.** As part of the Services, defined below in Section 2, Customer (as defined by Stallion station/manager) shall be responsible for the payment of a semen processing fee in the amount of \$200.00 per straw (the “**SPF**”), with a 5-straw minimum, to Collaborator, plus the Stallion Set up Fee. Such SPF is only due and payable by Customer upon Collaborator determining the Sample submitted is viable for the performance of ICSI. Any Sample submitted that Collaborator determines is not viable for the performance of ICSI, as outlined in Section 3 herein, shall not incur the SPF or Stallion Set Up Fee.

2. **SERVICE.**

2.1. **Services Defined.** Pursuant to the Quality Control Standards as defined by Section 4 herein, and in accordance with Section 2.3 below, for every Sample donated hereunder this Agreement, Collaborator shall be responsible for performing any of the following “**Services**” on behalf of Customer:

2.1.1. sorting and thereafter providing fresh and/or frozen raw equine sperm into X (female) chromosome bearing and Y (male) chromosome bearing populations; and

2.1.2. perform the process known as “**ICSI**” - or intracytoplasmic sperm injection, based upon, and in accordance with Customer’s intent and/or agreement with any mare owner under any Mare Agreement (defined below).

2.2. **Mare Terms and Fees Excluded.** For all payments or fees associated with insemination using a stallion Sample (collectively the “**Mare Fees**”), Customer shall be responsible for contracting directly with the mare owners. This Agreement does not cover, and shall not be construed to cover, any rights, warranties, promises, terms, conditions, or payments, including Mare Fees (collectively the “**Mare Agreement**”), and Customer hereby acknowledges and agrees that any Mare Agreement is not included hereunder this Agreement unless otherwise specifically agreed to by the Parties in writing.

2.3. **Maximum Output Intended.** Pursuant to this Agreement, and to the extent the Sample is viable, Collaborator shall perform the Services hereunder in a manner which promotes the best outcomes for both Customer and the mare owner.

2.4. **Custody of Sample With Collaborator.** Upon customer submitting any Sample to Collaborator pursuant hereunder, Customer acknowledges, warrants, and agrees that the custodial rights to the Sample are being transferred indefinitely to Collaborator for the performance of the Services as outlined and/or requested by Customer pursuant to Customer’s agreement with a mare owner, or as determined by any Mare Agreement. Only upon written consent of Collaborator, and *only* if Services are in fact, ***not performed*** on a Sample, shall Collaborator consider releasing a Sample back into Customer’s care and control. For the avoidance of doubt, and Customer hereby acknowledges and agrees, IN NO EVENT SHALL A SAMPLE BE RETURNED TO CUSTOMER IF SERVICES HAVE BEEN PERFORMED ON SUCH SAMPLE. Once Services have been performed on a Sample, such Sample has been forever released to Collaborator’s custody to either be used in the performance of Services or otherwise be destroyed.

2.5. **Stallion Listing and Advertising.** Collaborator may list the Customer’s stallion(s) on its website or use stallion(s) name in advertising materials to indicate that the stallion is available for semen sorting and/or ICSI services. However, for any stallion designated by the Customer as private, such listing shall include a clear notice stating that sorted semen is “private” and not publicly available. In these cases, mare owners must contact the Customer directly to request permission to use the sorted semen. Collaborator shall not proceed with any services involving sorted semen from a private (or otherwise) sorted stallion unless a signed authorization form from the Customer confirming such permission has been granted. Collaborator shall have no responsibility for managing or verifying such permissions beyond receipt of the signed authorization/and ICSI permissions from Customer.

3. **QUALITY CONTROL.**

3.1. **Quality Control Standards.** The standards outlined in the attached “**Exhibit 1**” (collectively the “**QCS**”), including the QCP Standard outlined below in Section 3.2, shall control what Samples are acceptable to Collaborator for the performance of Services upon, and to what extent. Regardless of whether a Sample is used in the performance of Services, or not, the Sample, once submitted by Customer to Collaborator, belongs entirely to Collaborator to own and Customer acknowledges, agrees, and consents to that effect. Furthermore, the Customer acknowledges, warrants, and agrees that Customer has no rights to any Sample submitted pursuant to Section 2.4 of this Agreement.

3.2. **Collaborator Quality G Purity Standards.** The standards outlined in Exhibit 1 labeled

3.2.1. “Quality and Purity Standards”, or the “**QGP Standard**”, to be determined by Collaborator, shall dictate what Samples, if any, are viable and appropriate to proceed to the next stage of the performance of ICSI, and only those Samples that are determined to meet the requirements for ICSI shall incur the SPF payable by Customer to Collaborator.

3.2.2. It is important to note, depending on the quality of the original sample, the purity of the sample might not meet the 95% established. However, the customer can elect to keep those frozen straws that may not have met the 95% upon request and will be billed for them as such.

4. **REPRESENTATIONS, WARRANTIES AND LIMITATION OF LIABILITY.**

4.1. **Customer.**

4.1.1. **Samples.** Customer hereby represents and warrants that any Samples submitted hereunder, are Samples that Customer has the requisite authority to have the Services performed. Furthermore, all Samples submitted hereunder meet the QCS as described in Exhibit 1, to the extent such standards can be met and/or known by Customer.

4.1.2. **Indemnification.** Customer shall indemnify, defend, protect and hold Collaborator, together with Collaborator’s officers, directors, managers, shareholders, employees, partners, members, agents, contractors, distributors, franchisees, representatives and their Affiliates (collectively, the “**Indemnified Parties**”) harmless against and from any and all losses, costs, damages, liabilities, cause of action or claims of third parties (including for reasonable attorney fees and expenses) (“**Claims**”) occurring, suffered or incurred as a result of, relating to or based upon Customer’s provision of Samples, or upon the use or transfer of such Samples by Collaborator as described herein as part of the Services.

4.1.3. **No Guarantee.** Because each stallion and each Sample are different, and because each Sample shipment is subject to different handling conditions, Collaborator hereby waives and disclaims any guarantee in being able to produce outcomes of any nature to Customer. Collaborator represents and warrants, however, that Collaborator shall perform the Services in a good and workmanlike manner, and consistent with industry standards. COLLABORATOR MAKES NO WARRANTY AS TO THE VIABILITY OF ANY SAMPLE, THE SUCCESS RATE WITH RESPECT TO ICSI OR WITH RESPECT TO SEX AT BIRTH. EXCEPT AS SET FORTH IN THIS AGREEMENT, COLLABORATOR MAKES NO

OTHER REPRESENTATIONS AND EXTENDS NO OTHER WARRANTIES OF ANY KIND (ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED), EITHER EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES OF TITLE OR NON-INFRINGEMENT.

4.1.4. **Limitation of Liability.** IN NO EVENT SHALL COLLABORATOR, OR ANY OF ITS SUBSIDIARIES, AFFILIATES, DIRECTORS, ASSIGNS, REPRESENTATIVES, AND/OR EMPLOYEES BE LIABLE FOR CLAIMS FOR ANY OTHER DAMAGES, WHETHER DIRECT, INCIDENTAL, FORESEEABLE, CONSEQUENTIAL, OR SPECIAL (INCLUDING BUT NOT LIMITED TO LOSS OF USE, REVENUE OR PROFIT), WHETHER BASED UPON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), CONTRACTUAL OR EXTRA-CONTRACTUAL LIABILITY, OR STRICT LIABILITY ARISING IN CONNECTION WITH THE TRANSACTION, OR THE FAILURE OF THE SERVICES TO PRODUCE THE RESULTS AS ANTICIPATED, EVEN IF COLLABORATOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

5. **GENERAL PROVISIONS.**

- 5.1. **Governing Law.** The Agreement shall be construed, interpreted, and enforced according to the laws of the State of Texas, United States, and any other choice of law or conflict of law provision or rule that would cause the application of the laws of any other jurisdiction.
- 5.2. **Amendment.** This Agreement may be amended only by a written agreement embodying the full terms of the amendment signed by authorized representatives of both Parties.
- 5.3. **Arbitration.** In the event that the Parties fail to resolve a dispute relating to the terms of this Agreement, the Parties shall submit to a confidential and binding arbitration in accordance with the Rules of the American Arbitration Association (“AAA”). Within (10) days after an arbitration request, the Parties shall confer to select a single arbitrator mutually acceptable to the Parties. The arbitration proceedings shall be held in Brazos County, Texas, USA (or Harris County, Texas if Federal Courts have exclusive jurisdiction). The decision of the arbitrator shall be final and binding on the Parties. The prevailing Party shall be entitled to an award of its reasonable and necessary attorney fees and expenses, and its portion of the arbitration cost.
- 5.4. **Jurisdiction and Venue.** Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against the other in any way arising from or relating to this Agreement and all contemplated transactions, in any forum other than the courts of Brazos County, Texas, USA and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation, or proceeding for the courts sitting in Brazos County, Texas, USA. Each Party agrees that a final judgement in any such action litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgement or on any other manner provided by law.
- 5.5. **Entire Agreement.** This Agreement, including the Exhibits, embodies the entire understanding of the Parties with respect to the subject matter hereof, and revokes, supersedes and replaces all prior agreements, arrangements, and

understandings, either verbal or written, arrived at between the Parties with respect thereto.

5.6. **Independent Contractor.** Nothing in the Agreement shall be construed as creating a partnership, joint venture, license relationship, agency, or an association of any kind between the Parties. Neither Party shall have authority to bind or commit the other Party to any liability or other obligation.

5.7. **Severability.** Should any provision of this Agreement be held illegal, invalid or unenforceable, by any court of competent jurisdiction, such provision shall be modified by such court in compliance with the law and enforced as modified. Remaining provisions shall be construed in accordance with the modified provision and as if such an illegal, invalid, or unenforceable provision had not been contained herein.

ORDER: *Please note: both sexes can be sorted from the same collection with a minimum of 5 straws of one sex*

Number of ICSI Doses	
☐ Female # of ICSI doses	☐ Male # of ICSI doses

**A frozen ICSI dose will have 1M sperm per straw. **

<u>For “Collaborator”:</u> {Genetic Reflections, LLC d/b/a ViaGen Equine} or GENETECH ANIMAL REPRODUCTION, LLC By: _____	<u>For “Customer”:</u> [name of Customer Entity] By: _____ <u>Authorized TO Sort/Sex Stallion</u>
Name: Title:	Name: Title: Email: Address:

Exhibit 1
Quality Control Standards
for Frozen Sorting

General considerations

- All semen shipments should be accompanied by the appropriate Equine Sexed Semen Processing form (the “**Order**”) included below as Schedule A.
- Semen should be processed using BotuGold extender.
- An Equitainer, Equine Express, BotuFlex or BotuBox should be used for semen transport.
- Extended semen should be shipped first or priority overnight courier and received by the ST Lab or Viagen Lab as early as possible, but no later than 10 AM CST. Alternatively, semen can be shipped to College Station Easterwood Airport on the same day of collection for delivery to the ST Lab, or to DFW or Love Field Airports for delivery to the ViaGen Lab. *Please note ViaGen must be made aware of which route the semen will be delivered so courier services can be arranged.*

Extender preparation

BotuGold extender could be prepared prior to use but no sooner than 1 hrs prior to extending the semen. Extender to be used the next day should be cooled and rewarmed prior to use.

Ejaculate Concentration*

Million/ml	Vol Raw semen	Volume BotuGold	Total Vol 1 billion
125	16	24	40
150	14	26	40
250	8	27	35
400	5	30	35

- **Ejaculates of 100 or less should be centrifuged with cushion prior to extending in BotuGold. Prompt extension will contribute to better sorting performance and improved semen quality.
 - Evaluate semen quality as per usual methods. Only semen samples containing equal to or more than 50-60% progressively motile sperm should be shipped for sorting.
 - Mix well and place the extended semen in the shipping container with the appropriate cooling pack.
 - Ship semen by courier ship next day “early delivery.”
 - If shipping to ST Genetics: ship to 22575 Hwy 6 S, Navasota, TX 77868. If possible, ship on American Airlines same day Counter to Counter to College Station Easterwood Airport.
 - If shipping to ViaGen Equine: located at 116 East Main, Whitesboro, TX 76273 Dallas Airports are best-Call, and we can help.

Handling and Transport

- Extended semen must be removed from incubator as soon it is extended.
- Load extended semen in 50 ml conical tubes and place in transport container.
- Transport extended semen at 8-10°C in the appropriate semen container.
- Fill out the Equine Sexed Semen Processing form and include it with the shipment.
There should be one form for each stallion included in the shipment.

**SHIPPING GOOD/EXCELLENT QUALITY SEMEN DOES NOT GUARANTEE
SUCCESSFUL SORTING FROM ALL STALLIONS OR THE PRODUCTION OF
ICSI STRAWS.**

Quality and Purity Standards

For Customer to be charged the \$200.00/straw semen processing fee (“**SPF**”) as set forth in Section 3.2 herein this Agreement, the below quality and purity standards shall be met (the “**Q&P Standard**”) – otherwise the SPF shall not be charged to Customer:

Purity τ 95%
Motility τ 5%
Concentration τ 900,000 per 0.5 ml straw
Viability τ 25%
Bacteria τ xx CFU

The above Q&P Standard is the industry excepted, and Collaborator approved standard for most favorable ICSI outcomes. Collaborators retain the right to refuse to continue to accept semen from Customer after 3 repetitive attempts are made to sort stallion and they fail.

Schedule A
Equine Sexed Semen Processing Collection Information

Customer/Payee Responsible for Payment of Frozen Straws:

Stallion

Name:	Registration:
Date of birth:	Breed:
Owner:	Phone Number:

Semen processing and shipment

Collection date:	Collection time:
Volume raw semen shipped (mL):	Concentration (x 10 ⁶ /mL): Type of Counter:
Extender added (mL):	Total Volume Shipped
Sperm Motility (%) *:	Sperm Viability %:
Transport device:	

***Ejaculates should be extended with BotuGold for shipment.**

***Ejaculates of less than 100 million/ml should be centrifuged with a cushion**

Collector Name:

Date and time:

Comments

Name:

Date:

For ST laboratory use only

Date Received:	Time Received:
Semen temperature (°C):	