

VIA GEN PETS & EQUINE

GENETIC PRESERVATION CELL STORAGE AGREEMENT

Parties:

“ViaGen Equine”

Genetic Reflections, LLC DBA ViaGen Equine
715 Discovery Blvd., Suite 410
Cedar Park, TX 78613

“Client”

Name: _____

Address: _____

Email: _____

Effective Date:

Species of Animal:

Identity of Animal:

Name: _____

Breed: _____

Sex: _____

Age: _____

Fees:

\$1600 Initiation Fee per animal
\$150 Storage Fee per animal per year
beginning on the anniversary of the Effective Date.

In consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Services. ViaGen Equine will provide instructions, materials and supplies to Client for the collection of tissue from Client’s animals (“Tissue Samples”). Client will provide the tissue to ViaGen Equine, and ViaGen Equine will store one

set of cultured cells from each animal (“Cultured Cells”) at cryogenic temperatures for the Term of this Agreement (“Services”).

1.1 If Client already has Tissue Samples stored with an entity other than ViaGen Equine and desires to transfer such material to ViaGen Equine, Client will arrange and pay for shipment of the such material to ViaGen Equine, under shipping methods and conditions agreed to in advance by ViaGen Equine.

2. Term. This Agreement is effective from the Effective Date until terminated by either party as set forth herein.

3. Fees. The Initiation Fee is due at the inception of this Agreement, and at the time this Agreement is amended to add any animals. ViaGen Equine will not perform any of the Services described in Section 1 hereof with respect to any animal until the Initiation Fee for such animal is received. ViaGen Equine will invoice Storage Fees on the anniversary of the Effective Date. Client agrees that ViaGen Equine may change the Fees for Services at any time in its sole discretion, without notice to Client. Client will pay ViaGen Equine \$300 for each Biopsy Kit that is not used. If Client fails to pay any amount due herein by its due date, Client agrees to pay ViaGen Equine a finance charge equal to the lesser of the maximum interest rate allowed by law or 18% per annum of the entire unpaid balance due.

4. Payment. Client will pay ViaGen Equine the Initiation Fee via credit card. If the Client fails to return the Biopsy Kit to ViaGen Equine, ViaGen Equine will refund \$1,300 to the Client (retaining \$300 for the unused Biopsy Kit). Client will pay Storage Fees within 30 days of the date of ViaGen Equine’s invoice.

5. Return Delivery. Subject to Section 8, at the written request of Client, ViaGen Equine will deliver to the location directed by Client, any or all Cultured Cells within 10 days of receipt of such request.

All expenses for packaging and shipment, including all charges for any third party agents and insurance during transport, will be the sole responsibility of Client. ViaGen Equine will invoice Client for these costs, and Client will pay the full amount within 10 days of the invoice date.

6. Representations of Client. Client represents and warrants that (a) it is the empowered representative or the lawful owner of the Animals and the Tissue Samples, (b) it has sufficient rights to use, and to permit ViaGen Equine and its subcontractors to use, the Animals and Tissue Samples as contemplated by this Agreement,

(c) has the full capacity and authority to enter this Agreement, (d) the Tissue Samples originated in the United States, or such Tissue Samples are lawfully within the United States or will be shipped to ViaGen Equine in the United States in accordance with applicable United States law, (e) client agrees to immediately inform ViaGen Equine of any change in ownership of the Cultured Cells by signing a Transfer Agreement and (f) it will identify in this contract if cell lines for cloning efforts have been genetically manipulated (i.e. transgenic or gene edited) prior to shipment to lab and nuclear transfer.

7. Property Rights.

7.1 Cultured Cells. Client shall be the sole and exclusive owner of Cultured Cells at all times during the term of this Agreement and, subject to Section 8, following termination or expiration of this Agreement. Within 30 days from the expiration or termination of this Agreement, Client must provide written direction to ViaGen Equine stating the location to which Client desires to have Cultured Cells delivered at Client’s expense. Where no such written direction is received within 30 days of termination of this Agreement, ViaGen Equine shall dispose of the Cultured Cells and any other tissue provided by Client.

72 Security Interest. Client hereby grants to ViaGen Equine a security interest in and agrees that ViaGen Equine has and will continue to have a security interest in the Cultured Cells (to the extent Client has any ownership interest in such property) to secure payment of all amounts due under this agreement.

8. Termination.

81 Termination by ViaGen Equine. ViaGen Equine may terminate this Agreement at any time without cause upon providing Client written notice of termination. Upon receipt of notification of termination under this Section 8.1, Client must provide ViaGen Equine with written direction as to the location Client wishes to have Cultured Cells delivered or otherwise direct ViaGen Equine as to the disposal of Cultured Cells. Where no such written direction is received within 30 days of termination of this Agreement, ViaGen Equine may dispose of Cultured Cells. ViaGen Equine will have no right to use, sell or reproduce, or allow others to use, sell or reproduce, Cultured Cells.

82 Termination by Client. Client may terminate this Agreement without cause by providing 30 days written notice to ViaGen Equine prior to such termination, provided, however, that in such event Client agrees to pay ViaGen Equine for the cost of labor, materials and expenses incurred by ViaGen Equine in performance of this Agreement through the date of termination to the extent that such expenses are in excess of the previous payments made by Client. Client shall pay ViaGen Equine all amounts due within 30 days of the date of ViaGen Equine's invoice. If payment is not received within 30 days of invoice, ViaGen Equine may destroy the Cultured Cells. In the event of termination pursuant to this Section 8.2, Client will not be entitled to a refund of any amounts paid to ViaGen Equine under this Agreement.

83 Termination for Breach. In the event that either Party hereto fails to perform any of its obligations hereunder, or to comply with the terms and conditions of this Agreement, and (if such breach is capable of remedy) fails to remedy the same within 30 days after service of a notice by the other Party, or within 5 days in the event of a failure to pay any amount due hereunder, or any Party shall become insolvent, the other Party hereto shall have the right to terminate this Agreement by giving 7 days notice in writing to the defaulting Party. In the event of termination due to a breach by Client, ViaGen Equine may destroy all Cultured Cells.

84 Effect of Termination. The termination of this Agreement from any cause shall not release any Party from any liability which has already accrued at the time of termination or which thereafter may accrue in respect of any act or omission occurring prior to such termination. . Sections 6, 7, 9, 10, 11, 12 and applicable subparts of Section 13 will survive termination of this Agreement.

85 If Client and ViaGen Equine enter into an agreement for cloning services whereby ViaGen Equine will attempt to develop a cell line from the Cultured Cells, and ViaGen Equine is unable to develop such a cell line, such failure will not constitute a breach of this Agreement. In such event, Client may (i) immediately terminate this Agreement and receive a \$1000 refund, which will be Client's sole and exclusive remedy, or (ii) the Client may elect to repeat the process at no additional cost using a new set of Cultured Cells. If Client elects to repeat the process, and ViaGen Equine is still unable to develop a cell line, such failure will not constitute a breach of this Agreement, and this Agreement will terminate and ViaGen Equine will refund to Client \$750.

9. No Warranty. VIAGEN EQUINE MAKES NO EXPRESS OR IMPLIED WARRANTY, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Additionally, ViaGen Equine disclaims any warranty that the Cultured Cells will be usable to produce animal clones. ViaGen Equine is not

responsible for any loss associated with the storage of cells, including but not limited to, LN2 refrigerator failure, cell line contamination or senescence. Client acknowledges that Tissue Samples or Cultured Cells may be contaminated or infected with disease prior to their shipment to ViaGen Equine, and that ViaGen Equine makes no representation or warranty with respect to the contamination or infection of Tissue Samples or Cultured Cells.

10. Insurance. Client will maintain any and all insurance as Client deems appropriate on Client's property in ViaGen Equine's possession. Client acknowledges and agrees that ViaGen Equine will use reasonable care in preserving Client's property, but that ViaGen Equine does not insure the safety of or provide insurance coverage on any of Client's property.

11. Indemnification. Client shall indemnify and hold harmless ViaGen Equine, its parent, subsidiaries, affiliates, successors, assignees, employees, officers, directors, agents, or subcontractors from and against any and all suits, claims, losses, forfeitures, demands, fees, damages, liabilities, costs, expenses, obligations, proceedings, or injuries, of any kind or nature, including reasonable attorney's fees which ViaGen Equine may hereafter incur, become responsible for, or pay out as a result of the Client's breach of any term or provision of this Agreement, or a claim of lien or encumbrances made by third parties.

12. LIMITATION OF LIABILITY. IN NO EVENT SHALL VIAGEN EQUINE BE LIABLE IN CONTRACT, TORT OR OTHERWISE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ECONOMIC DAMAGE OR LOST PROFITS, REGARDLESS OF WHETHER VIAGEN EQUINE SHALL BE ADVISED, SHALL HAVE OTHER REASON TO KNOW, OR IN FACT SHALL KNOW OF THE POSSIBILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL VIAGEN EQUINE'S LIABILITY ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE AMOUNT PAYABLE TO VIAGEN EQUINE UNDER THIS AGREEMENT.

13. Miscellaneous

131 Assignment. Client may not assign or otherwise transfer this Agreement without the prior written consent of ViaGen Equine, such consent to not be unreasonably withheld.

132 Forum and Legal Fees. The Parties agree that prior to initiating any legal proceedings against the other, the Parties will engage a neutral mediator who will be charged with assisting the parties to reach a mutually agreeable resolution of all contested matters. The mediation shall take place in Texas, USA and will be conducted in the English language. The mediator shall be chosen by mutual agreement of the Parties and the mediator's fees shall be borne equally by the Parties. In the event that a mediator cannot be agreed upon by the Parties, each Party shall choose a mediator and the two mediators shall together choose a third mediator who will conduct the mediation. The costs of the two mediators chosen to choose the third mediator shall be borne equally by the Parties. The Parties agree to participate in the mediation in good faith.

133 Severability. If any provision of this Agreement is held by a court of law to be illegal, invalid or unenforceable, that provision shall be deemed amended to achieve as nearly as possible the same economic effect as the original provision, and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired.

134 Waiver. No term or provision hereof will be considered waived and no breach of this Agreement excused unless such waiver or consent is in writing. The waiver or consent to a breach of any

provision of this Agreement shall not operate or be construed as a waiver of, consent to, or excuse of any other or subsequent breach.

135 Force Majeure. Neither Party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by fire, flood, explosion, terrorism, war, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond its control and without the fault or negligence of the delayed or non-performing Party. The Party so affected shall notify the non-affected Party in writing within ten (10) days after the beginning of any such cause that would affect the Party’s performance.

136 Headings. The section and paragraph headings contained in this Agreement are for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

137 Successors and Assigns. The Parties intend this Agreement to bind any and all of the Parties’ successors, heirs, and assigns.

138 Survival. All provisions that logically ought to survive termination of this Agreement shall survive.

139 Entire Agreement. This Agreement supersedes, terminates, and otherwise renders null and void any and all prior written or oral agreements or understandings between the Parties relating to the subject matter of this Agreement. Except as otherwise provided in this Agreement, only a written instrument signed by both Parties may modify this Agreement.

13.10 Governing Law. This Agreement shall be governed by the laws of the State of Texas.

Subject to the terms and conditions set forth in this Agreement and in witness whereof, the Parties have executed this Agreement.

VIAGEN EQUINE

CLIENT

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Date: _____

Date: _____