



Genidaqs – a lab of Cramer Fish Sciences

Terms and Conditions



These Terms and Conditions (these “Terms”) are the terms and conditions pursuant to which S.P. Cramer & Associates, Inc. d/b/a Cramer Fish Sciences (“CFS”), through its Genidaqs™ Lab, will provide the services described in the applicable services agreement, quote, proposal, estimate or other document (the “Services Agreement”, and such services described therein, the “Services”) issued by CFS to a person or entity ordering such Services (“Client”). These Terms shall apply to all Services Agreements and all Services ordered by Client and are hereby incorporated into and made a part of every Service Quote, proposal, purchase order or other ordering document issued or accepted by CFS to or from the Client, except that, if CFS and the Client have entered into a negotiated agreement governing CFS’s provision of Services for the Client, such negotiated agreement shall apply to any Services Agreement instead of these Terms. Except with respect to a negotiated agreement between the parties governing CFS’s provision of Services for the Client, these Terms supersede all previous communications, representations, or agreements, either verbal or written, between the parties. No terms or conditions contained in any order acknowledgment, order form acceptance or in any other document that has been or may in the future be submitted, delivered or supplied by or on behalf of Client, which are in addition to, different from, inconsistent with, or attempt to vary any of the terms or conditions of these Terms, or which are intended to supersede, replace, modify, supplement or add to any of the terms of these Terms, are accepted and all such terms are hereby expressly rejected by CFS. If any provision in the Services Agreement is inconsistent with or differs from the terms of these Terms, the terms of the Services Agreement will govern.

By submitting any Samples (as defined below) to CFS or otherwise by agreeing in writing to any Services Agreement, Client agrees to be bound by these Terms.

1. **SERVICES.** CFS agrees to perform the Services as further detailed in an applicable Services Agreement. CFS shall provide Client with a report containing the results of the Services in a format and to include content determined by CFS in its sole discretion or other agreed-upon deliverables, i.e., training materials (each, a “Deliverable”). (The generation of a Deliverable and the Deliverable itself are deemed part of the Services for purposes of these Terms.) The Deliverables provided by CFS are intended for use by persons having professional skill and training in the

Genidaqs – a lab of Cramer Fish Sciences



Terms and Conditions



applicable industry. Any Deliverable furnished by CFS to Client is solely for the benefit of Client and is meant strictly for Client's research purposes only. Client acknowledges and agrees that CFS does not warrant or guarantee, and that CFS expressly disclaims any and all liability related to, any results or interpretations that Client may derive from any Deliverable. Client agrees not to reproduce any Deliverable or other data furnished by CFS except in full and agrees not to misrepresent the content of any Deliverable or other information received from CFS relating to CFS, these Terms, or the Services. Unless otherwise agreed to by the parties, CFS may disclose or reproduce any Deliverable or other data to any third party without Client's prior written consent. CFS may choose not to provide Services to any person or entity or with respect to any Sample in its sole discretion.

2. PAYMENT.

- a. Pricing. Pricing for Services shall be as stated by CFS to Client in the Services Agreement (or, if not stated in the Services Agreement, the price shall be as stated on CFS's standard price list) and do not include any applicable sales, use, or other taxes, which will be added to invoice prices when required. CFS's pricing is periodically adjusted and CFS reserves the right to update prices in its sole discretion at any time by providing notice. All prices contained in a Services Agreement are valid for the duration stated therein.
- b. Payment. Payment of fees for the Services are due within thirty (30) calendar days from the date of CFS's invoice. CFS may impose an interest charge of 1.5% per month or, if lower, the maximum amount permitted under applicable law on all unpaid balances. If Client cancels all or part of any Services after the Services commence, Client will be responsible for all fees and expenses for such Services.

3. SAMPLES.

- a. Submissions. Client will submit samples, specimens, or other material (a "Sample") for analysis in accordance with CFS's instructions. It is Client's

Genidaqs – a lab of Cramer Fish Sciences



Terms and Conditions



responsibility to ensure that Samples are properly labeled, packaged, and shipped in accordance with all applicable laws and regulations. The Client must submit a Sample Submission Form along with the Sample to CFS in order for CFS to provide the Services. If the Client does not submit a Sample Submission Form CFS will stop working on the Service until a Sample Submission Form which aligns with the Services is submitted to CFS. Samples classified as hazardous or any other classification or status that requires special precautions when handling must be properly identified, pre-approved in writing by CFS for submittal, and CFS reserves the right to charge additional fees for handling and disposal. CFS may refuse or return Samples submitted for analysis that are unsuitable due to damage, leakage, improper temperature, incorrect or insufficient labeling, or that may be considered hazardous to CFS's personnel or facility.

- b. **Sampling Responsibility.** It is Client's responsibility to ensure that Samples are collected according to CFS's instructions. Client, as the user of a sampling device, agrees that it retains sole responsibility to select the appropriate sampler and conditions to ensure that a valid Sample has been collected. CFS disclaims any responsibility for the improper selection of sampling devices even if CFS supplied such sampling devices. To the fullest extent permitted by law, Client hereby forever releases and discharges CFS, its affiliates, officers, directors, employees, contractors, agents, and representatives from any and all claims, demands, causes of action, losses or liabilities of any kind, whether existing in the past, now or in the future, known or unknown, in any way related to or arising from any Samples provide by Client to CFS.
- c. **Sample Handling.** Risk of loss or damage to Samples remains with Client until such Sample is received and accepted by CFS. Samples are accepted when receipt is acknowledged by CFS by any means selected by CFS or otherwise when CFS begins to use such Sample in the performance of the Services. In no event will CFS have any responsibility for the action or inaction of any shipper or carrier involved in the shipment of Samples to or from a CFS facility.

Genidaqs – a lab of Cramer Fish Sciences



Terms and Conditions



- d. Retention of Samples. After performance of the Services and generation of a Deliverable with respect to a Sample, such Sample will be retained in CFS's facilities for up to 3 years after completion of the Services, after which the Samples will be destroyed. Client must inform CFS in writing prior to such date of destruction if it wishes to have the Samples held for a longer period of time or returned to Client. CFS may charge Client a fee for return shipment or longer-term storage of any Samples.

4. **WARRANTY; LIMITATION OF LIABILITY; INDEMNITY.**

- a. Warranty. CFS warrants that it will perform the Services in a professional and workmanlike manner and that any Deliverable generated in connection with the Services will be prepared in accordance with CFS's methodologies stated by CFS in such Deliverable if such methodologies are so stated therein. CFS makes no other warranties, express or implied, with respect to the Services or any Deliverable generated as a result thereof.
- b. Disclaimer. THE PARTIES AGREE AND ACKNOWLEDGE THAT IT IS POSSIBLE FOR A SAMPLE TO PRODUCE AN INACCURATE RESULT EVEN IF ALL PROCEDURES ARE PROPERLY FOLLOWED; THEREFORE, CFS DOES NOT WARRANT THAT THE SERVICES WILL PRODUCE ACCURATE RESULTS, EVEN WHEN ALL PROCEDURES ARE PROPERLY FOLLOWED. CLIENT ACKNOWLEDGES AND AGREES THAT CFS DOES NOT WARRANT THE ACCURACY OR CONTENT OF ANY DELIVERABLE OR THE RESULTS TO BE DERIVED FROM THE USE OF ANY DELIVERABLE. OTHER THAN AS SET FORTH IN SECTION 4(a) OF THESE TERMS, CFS MAKES NO REPRESENTATION, WARRANTY OR GUARANTEE CONCERNING THE SERVICES OR THE QUALITY, ACCURACY, OR FITNESS OF THE SERVICES FOR ANY PURPOSE. NOTHING

Genidaqs – a lab of Cramer Fish Sciences



Terms and Conditions



IN ANY DELIVERABLE PRODUCED BY CFS IN CONNECTION WITH THE SERVICES SHALL BE CONSTRUED AS A RECOMMENDATION BY OR ON BEHALF OF CFS. CFS DOES NOT ACCEPT, AND AFFIRMATIVELY DISCLAIMS, ANY LEGAL RESPONSIBILITY IN ANY WAY RELATED TO CLIENT'S USE OF ANY DELIVERABLE GENERATED BY CFS.

- c. Limitation of Liability. IN THE EVENT OF ANY BREACH OF THE WARRANTIES STATED IN SECTION 4(A) ABOVE, CLIENT'S SOLE AND EXCLUSIVE REMEDY AND CFS'S SOLE AND EXCLUSIVE LIABILITY SHALL BE TO RE-PERFORM THE SERVICES AT ITS OWN EXPENSE AND CFS SHALL HAVE NO OTHER LIABILITY WHATSOEVER. IN NO EVENT SHALL CFS BE LIABLE, WHETHER IN CONTRACT OR IN TORT (NEGLIGENCE OR STRICT LIABILITY), DIRECTLY OR UNDER ANY INDEMNITY, FOR LOST PROFITS, LOSS OF GOODWILL OR OPPORTUNITY OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THESE TERMS, INCLUDING BUT NOT LIMITED TO LOSS OF USE, BUSINESS INTERRUPTION OR DELAY OF PRODUCTION. CFS'S TOTAL CUMULATIVE LIABILITY TO CLIENT IN CONNECTION WITH THE SERVICES FOR ANY AND ALL LOSSES, EXPENSES, CLAIMS, DEMANDS, OR DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THE SERVICES OR THESE TERMS SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CLIENT TO CFS FOR THE SERVICES UNDER THE APPLICABLE SERVICES AGREEMENT TO WHICH SUCH CLAIM RELATES.
- d. Indemnification. To the fullest extent permitted by law, Client shall defend, indemnify and hold harmless CFS and all of its directors, officers, employees, agents and representatives from and against any and all third party claims, liabilities, damages, demands, lawsuits, causes of action, penalties, fines, administrative law actions and orders, reasonable

Genidaqs – a lab of Cramer Fish Sciences



Terms and Conditions



expenses (including reasonable attorneys' fees) and costs of every kind asserted or initiated by a third party arising out of or related to (i) Client's violation of applicable laws, rules or regulations, (ii) Client's breach of these Terms, (iii) Client's gross negligence or willful misconduct, (iv) Client's or any other person's interpretation of, use of, or reliance on, any Deliverable generated by CFS, or (v) any Samples provided by Client to CFS or CFS's use of the same. Client will not settle any such claim or action without the prior written consent of the CFS (which consent will not be unreasonably withheld or delayed).

5. CONFIDENTIALITY.

- a. Confidential Information. "Confidential Information" means any proprietary or non-public records, data, reports, materials, or other information delivered by one party to the other party. Confidential Information does not include information that: (i) is publicly known at the time of its disclosure; (ii) is lawfully received by the receiving party from a third party having a lawful right to possess it and not under an obligation of confidentiality to the disclosing party; (iii) is published or otherwise made known to the public by the disclosing party; or (iv) was developed by employees of the receiving party who did not have access to, and did not reference or use, the disclosing party's Confidential Information.
- b. Obligations. The parties acknowledge and agree that any and all Confidential Information of the other party shall be shall (i) be kept confidential, (ii) not be used for any purposes except as necessary to perform its obligations under this agreement, and (iii) not be disclosed by such party except (a) to such parties directors, officers and employees, or (b) to the extent required

Genidaqs – a lab of Cramer Fish Sciences



Terms and Conditions



by applicable law or regulatory authority. Upon termination of this Agreement, the Receiving Party shall promptly destroy or delete all Confidential Information and copies thereof that it has received under this Agreement.

- c. **Breach.** Each party acknowledges that the other party's Confidential Information contains valuable trade secrets and proprietary information, that any actual or threatened breach of this Section 5 may cause immediate, irreparable harm to such party for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. Such remedies shall not be deemed to be the exclusive remedies for any breach of this Agreement, but shall be in addition to all other remedies available at law or equity.

6. **INTELLECTUAL PROPERTY.** All intellectual property rights, including copyrights, patents, inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, and logos, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "Intellectual Property Rights") in and to all Deliverables, reports, documents, work product, and other materials that are delivered to Client under these Terms or prepared by or on behalf of CFS in the course of performing the Services shall be owned by CFS. CFS hereby grants to Client a license to use any Deliverable provided to it as part of the Services free of additional charge and on a non-exclusive, worldwide, non-transferable, non-sublicensable, fully paid-up, royalty-free, and perpetual basis solely to the extent necessary to enable Client to make reasonable use of such Deliverable in connection with Client's research purposes.

Genidaqs – a lab of Cramer Fish Sciences



Terms and Conditions



6. MISCELLANEOUS.

- a. Assignment. Neither party may assign these Terms or any of their rights or obligations hereunder without the prior written consent of the other party.
- b. Force Majeure. Except for payment of amounts due, neither party will be liable for any delay, failure in performance, loss or damage due to causes beyond such party's reasonable control including, but not limited to: acts of God; power failures or blackouts; acts or orders of any government authority; accidents; wars or armed conflicts; civil disturbances; epidemics or pandemics; shortage of labor or materials; labor disputes, strikes or other concerted acts of workers; embargoes; acts of terrorism; or difficulties or delays in transportation, mail, or delivery services.
- c. Governing Law. These Terms are governed by the laws of the State of Oregon without regard to its conflicts of laws provisions. The parties agree that the exclusive venue for any dispute between the parties under these Terms shall be the state or federal courts located in the State of Oregon and the parties agree to submit to the personal jurisdiction of such courts.
- d. Independent Contractor. The relationship between the parties is that of independent contractors. Nothing contained in these Terms shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
- e. Survival; Continuous Effect. These Terms shall indefinitely survive any completion, expiration or termination of the

Genidaqs – a lab of Cramer Fish Sciences



Terms and Conditions



Services and shall continue to apply to any and all Services Agreements issued by CFS to Client.

- f. Entire Agreement; Amendment. These Terms are the entire agreement between CFS and Client regarding the subject matter hereof and supersedes all prior negotiations and agreements. These Terms may be amended only by a written agreement signed by an authorized representative of each party.
- g. Severability. If any provision of these Terms are found to be invalid or enforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect.