

Liberty Genetics Ltd 2012- Terms and Conditions

Interpretation. Conditions means the terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between you and us; Contract means the contract for the sale and purchase of the Product including the Conditions and the form overleaf; Product means the goods we are to supply in accordance with these Conditions including processed bull semen for livestock breeding purposes; We and Us means Liberty Genetics Limited, an incorporated company having its registered office at Level 2 Melody Lane, Innovation Park Hamilton 3240, New Zealand; Writing includes fax and email communication; and You means the person or organisation whose order for the Product is accepted by us.

1 **Agreement.** We agree to sell and you agree to buy the Product subject to the Contract. No variation to these Conditions shall be binding unless agreed in Writing between our respective authorised representatives. Our employees and agents may not make any representations concerning the Product unless confirmed by us in Writing. You agree that you do not rely on any such unconfirmed representations. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, invoice or other documentation or information issued by us shall be subject to correction without any liability on our part.

2 **Product.** See overleaf. Supplies of Product are subject to availability. We shall not accept any order submitted by you until confirmed in Writing by our authorised representative. You shall be responsible to ensure the accuracy of the terms of any order submitted by you. No order which has been accepted by us may be cancelled by you except with our agreement in Writing and on terms that you shall indemnify us in full against any loss (including loss of profit), costs, damages, charges and expenses incurred by us as a result of the cancellation.

3 **Price.** The price for the Product is the price quoted in confirmation letter, or where no price is quoted, the price listed in our published price list (if any) current at the date of acceptance of the order. Where the Product is supplied for export from New Zealand, our published export price list (if any) shall apply. Prices quoted do not include GST and are subject to change without prior notice. All prices are given ex our premises, and where we agree to deliver the Product other than at our premises, you are liable to pay our charges for transport, packaging and insurance.

3.A- Quotations

3.1 Quotations provided by Liberty Genetics are non-obligatory and non-binding, unless indicated otherwise Liberty may revoke a quotation that contains a time limit at any time, even subsequent to receipt of a Sales Request, provided this is done within five working days of Liberty Genetics receiving the Sales Request.

3.2 All documentation or any information provided digitally to a quotation is (unless stipulated otherwise) for information purposes and shall not be binding on Liberty.

4 **Payment.** Risk, Transfer of Goods to You. You shall pay the price for the Product by the 20th of the month following posting of invoice to you. Interest is payable for late payment from the invoice date at 1.5% per month or part of a month. Property in the Product shall transfer to you on payment of the price. The customer will be liable for collection fees, late payment fees etc if they don't pay within the specified time.

5 **Delivery.** If you fail to take delivery of the Product or fail to give us adequate delivery instructions at the time stated for delivery (other than for any reason beyond your reasonable control or by reason of our fault) and without prejudice to any of our other rights or remedies, we may (a) store the Product until actual delivery and charge you for the reasonable costs (including insurance) of storage; or (b) sell the Product at the best price readily obtainable and after all reasonable deductions account to you for the excess over the price under the Contract or charge you for any shortfall below the price under the Contract; or

(c) where the Product cannot be resold, charge you for the price under the Contract.

6 **Our Rights.** Where Prompt Payment Is Not Received Whether or not property in the Product has passed to you, until we have received payment for the Product, we may (a) cancel the Contract or suspend any further deliveries to you, or (b) hold or obtain possession of the Product and sell or resell the Product.

7 **Warranties and Liability.** We warrant to you that we have title to the Product. Liberty Genetics does not give any warranty, express or implied as to the description, quality or productiveness or the results, which may be obtained by the use of any of its products or in connection with any techniques recommended Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by law (including under the Fair Trading Act 1986) are excluded to the fullest extent permissible by law. We shall not be liable to you for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever which arise out of or in connection with the Product, and our entire liability under or in connection with the Contract shall not exceed (at your option) the price of the Product, or replacement of the Product. We shall not be liable to you or deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, our obligations in relation to the Product where such delay or failure was due to any cause beyond our reasonable control. Liberty Genetics agents and employees are not authorized to provide any such warranty. While Liberty Genetics takes all care in certifying AI technicians as Liberty Genetics approved, Liberty Genetics accepts no responsibility for the service supplied by any such technician or any other such AI technician recommended by Liberty Genetics. LG accepts no liability for unforeseen and uncontrollable gestation periods, unforeseeable and uncontrollable infectious cattle disease(s), and the quality level and health of semen, embryos or cattle used by LG in the performance of its obligations. LG accepts no liability for loss that is in any way related to the presence (or absence) of undesired (or desired) hereditary characteristics of the cattle, semen and embryos used in the performance of the Agreements. LG accepts no liability for loss resulting from the transfer of diseases to animals, or for property damage that is not the result of damage to, destruction of or loss of objects, including animals.

8 **Intellectual Property.** Unless otherwise agreed in writing by LG, the Customer shall not: (i) Sell or otherwise supply any semen or Germplasm from the offspring of matings using semen or Germplasm supplied by LG; or (ii) Dispose of such offspring capable of being used for the collection of semen for sale or supply without first obtaining a covenant from the purchaser for the benefit of LG that 'the purchaser will not sell or supply semen or Germplasm from the offspring without first obtaining the written consent of LG'. All intellectual property rights relating to all materials, information, databases, software, hardware or otherwise as well as the preparatory material for the above, which is being or has been developed or made available pursuant to this Agreement will remain exclusively with LG or its authorised representative, unless agreed in writing.

9 **Privacy.** Information provided by you to us will be used to fill your order, and may be used by us for our business and marketing purposes. You have the right at any time to request an update or correction of your information or to remove your name for our mailing list (if any).

10 **General.** Any reference to any provision of a statute shall be a reference to that statute as amended from time to time. Headings are for convenience and shall not affect the interpretation of these Conditions. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provision of these Conditions and the remainder of the provision in question shall not be affected. Any dispute arising under or in connection with these Conditions or the sale of the Product shall be referred to arbitration by a single arbitrator appointed by agreement or nominated by the President for the time being of the Waikato Bay of Plenty District Law Society. This Contract is governed by the laws of New Zealand and you agree to submit to the non-exclusive jurisdiction of the New Zealand courts.

11. Delivery

11.1 Delivery shall be made to the place specified in the Sales Request and/or Order Confirmation and shall be in accordance with the provisions of the Contract and Commercial Law Act 2017. The Customer must specify the exact location in the Sales request and/or Order Confirmation and ensure that the delivery person has access to the location specified in the Sales request and/or Order Confirmation.

11.2 If any products are provided in a Liberty dewar, then the Liberty dewar is then made available under the conditions specified in the documents and instructions accompanying the Liberty dewar. The Customer shall not be entitled to use the Liberty dewar for any other purpose other than that specified. Liberty may invoice the Customer for any lost and/or damaged Liberty dewars that were sent to the Customer and not returned, or were returned damaged.

11.3 Liberty shall not be liable in any way whatsoever for any accident occurring as a result of incorrect or improper handling of a Customer's and/or Liberty dewar while it is in the Customer's possession.

11.4 Liberty reserves the right to arrange the time and method of delivery at its own discretion unless expressly agreed in writing between Liberty and Customer.

11.5 Liberty is not liable for any delay in delivery.

11.6 In the event that the Customer refuses to accept delivery of the Goods then Liberty reserves the right to charge the Customer for any additional costs incurred as a result of the refusal to accept the Goods, including any storage and/or transportation costs. However in accordance with section 172 of the Contract and Commercial Law Act 2017 nothing in this section affects the rights of Liberty if the Customer's refusal to take delivery of the Goods amounts to a repudiation of the contract to supply between Liberty and the Customer.

11.7 It is the Customer's responsibility to ensure that a Liberty or Customer's dewar remains filled at all times while in the Customers possession. Liberty will not accept any liability for any dry dewars that occur as a result of the Customer failing to request further LN2 to be supplied.

12 **Cancellations.** 10% deposit is non-refundable. Cancellations 30 days before AB start date as stated on this form, will require to pay a further 15% of the requested order to cover costs.

13. Order changes within a month of despatch date will incur a \$35.00 charge.