

EMBRYO/OOCYTE COLLECTION AND TRANSPLANT AGREEMENT



THIS AGREEMENT made on _____

BETWEEN:

BOVA-TECH LTD., an Alberta Corporation, Box 80142, Airdrie, AB T4B 2V8 (referred to in this Agreement as “**BTL**”)

-and-

(Referred to in this Agreement as the “**Owner/Agent**”)

(“**Owner/Agent**” and “**BTL**”, collectively, the “**Parties**” and each individually, a “**Party**”)

This agreement, in part affects all animals(s) upon which the “**Owner/Agent**” requests “**BTL**” to perform embryo/oocyte collection and transplant services, and also effects embryos, oocytes, cattle, or semen, previously produced and/or stored at “**BTL**”.

Cow(s) being referred to in this Agreement as “**Donor(s)**” and/or “**Recipient(s)**”.

With the full intention to enter into a legally binding contract and in exchange for services and fees between the Parties as described below, “**BTL**” and the “**Owner/Agent**” agree as follows:

1. “**BTL**” agrees to use its reasonable best efforts to provide any or all of the following services to the “**Owner/Agent**”; (i) Synchronization of, superovulation of, and embryo or oocyte collection from the “**Donor(s)**”; (ii) embryo freezing and storage of embryos collected; and (iii) embryo implantation. The “**Owner/Agent**” agrees to pay fees in exchange for such services, all in accordance with the terms of this Agreement.
2. **Housing Donor(s)**. The “**Donor(s)**” will be housed at any of **BTL**’s transplant facilities (referred to in this Agreement as “**BTTF**”) prior to and during the embryo or oocyte collection process, unless other arrangements have been agreed to by “**BTL**”.
3. **Semen**. The “**Owner/Agent**” shall pay for all costs associated with semen purchases, handling, shipments and return of semen transport tank to suppliers, if applicable. “**BTL**” must receive the semen prior to superovulation programming of the “**Donor(s)**”. A minimum of three (3) units of semen are required for each superovulation.
4. **Registration Papers**. The “**Owner/Agent**” agrees to supply “**BTL**” with a legible photocopy of the “**Donor(s)**” registration paper(s) and a full transplant history, prior to or at the time of delivery of the “**Donor(s)**” to “**BTTF**”.
5. **DNA Marker Typing or Blood Typing**. All “**Donor(s)**” shall be DNA marker typed or blood typed in accordance with their respective breed association standards. This must be completed prior to or at the time of rendering the embryo transfer services. The “**Owner/Agent**” will be responsible for the costs associated with the DNA marker typing or blood typing.

6. **Warranties**.

The “**Owner/Agent**” acknowledges and understands that there are **multiple risks** inherent in agriculture, including the feeding and boarding of “**Donor(s)**” and “**Recipient(s)**”; processing, freezing and thawing of semen and embryos; shipping of oocytes and embryos; transportation of “**Donor(s)**”, “**Recipient(s)**”, semen, oocytes and embryos, and the techniques of artificial insemination, oocyte collection and

embryo transfer. The "Owner/Agent" hereby agrees that under no circumstances shall "BTL":

- a) be liable for any loss of profit due to the failure of "Recipient (s)" to have offspring or healthy offspring or for any losses, claims, costs, expenses, direct or special damages, nor any indirect or consequential damages, or any other damage or loss resulting from the use, handling, removal, transfer, storage and transport, of embryos, oocytes or semen, the care of the "Donor(s)" and /or "Recipient(s)" and any offspring thereof, the health status of the mentioned animals now and in the future; and
- b) indemnify the "Owner/Agent" from and against any and all claims, actions, causes of actions, suits, damages, expenses, liabilities, costs, including legal fees on a solicitor client basis, and losses whatsoever, which the "Owner/Agent" may suffer, sustain, pay or incur. Notwithstanding that it arises from or arises out of "BTL's" failure to perform any of its obligations under this Agreement or the negligence or willful act of "BTL".

"BTL" MAKES NO REPRESENTATIONS, WARRANTIES, OR COVENANTS WHATSOEVER, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED REPRESENTATIONS, WARRANTIES, COVENANTS AND CONDITIONS OF FITNESS FOR A PARTICULAR PURPOSE, NOR OF MERCHANTABILITY OF EMBRYOS, SEMEN, "DONOR(S)", "RECIPIENT(S)", SERVICES, OR ANY OTHER EXPRESSED OR IMPLIED WARRANTY,

7. Insurance.

- a. The "Owner/Agent" hereby agrees to maintain any and all insurance as "Owner/Agent" may deem appropriate on resident "Donor(s)" and/or "Recipient(s)" and any offspring thereof, as well as any frozen embryos and semen stored on, or shipped to or from "BTL's" premises. The "Owner/Agent" understands that insurance may or may not be available for shipping of the embryos, oocytes and/or semen by common carrier, and expressly assumes the risk of loss thereof. **The "Owner/Agent" further agrees that "BTL" will not provide any insurance coverage on ANY of the "Owner/Agent's" property and that "BTL" is released from any and all liability for risk of loss** for any reason including but not limited to tank failure, death, acts of God, injuries or damages resulting from care and handling, and natural and/or accidental losses or disasters.
- b. It is further agreed that the "Owner/Agent" will not subrogate any claim for damages against "BTL". The "Owner/Agent" also agrees to, and does hereby, waive any claim or demand against "BTL", and agrees to indemnify and hold "BTL" harmless from and against any and all liability and/or damages for injury, illness, or death of animals or persons while including "Donor(s)", "Recipient(s)", or offspring of each, for any reason while said animal(s) are at any of the "BTL" facilities and after they have left the facilities of "BTL".

8. Embryo Storage Fee.

- a. The "Owner/Agent" hereby agrees to pay the embryo storage fees established by "BTL" and printed on the "BTL" annual price list. Charges are made per embryo per six-month period, charged on September 1st and March 1st of each year.
- b. Embryos that are received and/or produced by "BTL" from or for the "Owner/Agent" prior to the next billing date will be billed at a pro-rated fee based on the number of days until the next billing.
- c. Insurance against the loss of embryos, howsoever caused, is **NOT** included in the embryo storage fee. **Insurance is the sole responsibility of the "Owner/Agent"**.
- d. The "Owner/Agent" hereby acknowledges that the embryo storage fee is subject to change without notice.

9. **Transportation.** The "Owner/Agent" shall be responsible for the transportation of the "Donor(s)" and/or "Recipient(s)", semen, oocytes and embryos both to and from "BTL" facilities. "BTL" shall ship embryo(s) from designated "Donor(s)" upon authorization of the "Owner/Agent" subject to regulations of the place or country of destination. Expenses of the shipment, title, and risk of loss shall at all times be the responsibility of the "Owner/Agent". All shipments shall be made freight collect from "BTL" and received freight prepaid to "BTL". If

other arrangements are to be made, "Owner/Agent" is responsible to establish in writing the specific requirements of transfer, which must be approved by "BTL".

10. **TERMS OF PAYMENT.** Payment is due in full upon receipt of the invoice. No embryos shall be released unless the "Owner/Agent" account is paid in full. "Donor(s)" housed at "BTTF" will not be released unless the "Owner/Agent" account is paid in full. The *Animal Keepers Act, SA 2005, c A-40.5* is posted at "BTTF" and shall be enforced.
11. **INTEREST ON ARREARS.** All accounts are payable according to the terms set out in # 10. Overdue accounts as set out in # 10 shall bear interest at the rate of Eighteen (18%) percent per annum calculated monthly. All interest on arrears shall be added to the principal and bear interest at the foregoing rate.
12. The "Owner/Agent" agrees to pay any costs associated with palpation, breeding, housing and drugs used on "Donor(s)" left at "BTTF" to be re-bred after flushing.
13. **Security Interest/Lien.** In addition to any lien arising by operation of law, the "Owner/Agent" grants to "BTL" a continuing interest lien in and to all property of the "Owner/Agent" in the possession of "BTL" or which is/are otherwise the subject of this Agreement [including "Donor(s)", "Recipient(s)", the offspring of each, as well as frozen embryos(s) and semen] to secure the just value of all services rendered and expenses incurred by "BTL" hereunder, as well as for expenses incident thereto such as attorney fees, court costs, and other expenses relating to the enforcement of this Agreement. Such security interest shall be superior to any and all pre-existing security interest and/or liens, and shall remain in effect until all charges are paid.
14. The "Owner/Agent" agrees to assign ownership of all embryos stored by "BTL" and the "Donor(s)" and "Recipient(s)" cows housed at "BTTF" as security for the accumulated debt owed by the "Owner/Agent" to "BTL" for services provided in the past and in the future.
15. **Right to Set-Off.** Notwithstanding any other term or provision in this Agreement, "BTL" shall be entitled to deduct from any amounts due or owing by the "Owner/Agent" to "BTL" in connection with this Agreement, or any other agreement between the "Owner/Agent" and "BTL", any and all amounts owed by "Owner/Agent" to "BTL".
15. **Remedies in the Event of Default.** In the event of default by the "Owner/Agent", said "Owner/Agent" agrees that "BTL" has the right to retain possession of all "Donor(s)", "Recipient(s)", the offspring of each, as well as frozen embryos(s) and semen until outstanding charges are paid. "BTL" has the right to sell any products in its possession that "BTL" deems of value and apply the proceeds to the debt. "Owner/Agent" shall remain liable to "BTL" for any unpaid balance including attorney fees, court cost, and other charges relating to the enforcement of this Agreement.
16. The "Owner/Agent" hereby agrees that "BTL" will not liable for any losses, claims, costs, expenses, damages, liabilities or personal injuries to the "Donor(s)" or "Recipient(s)". However, if the need for health care of any "Donor(s)" or "Recipient(s)" housed at "BTTF" arises, the "Owner/Agent" agrees that treatment will be carried out under the supervision of "BTL" at the sole cost and expense of the "Owner/Agent".
17. This Agreement shall remain in effect for as long as "BTL" maintains embryos and/or semen in storage, "Donor(s)" and/or "Recipient(s)" housed at "BTTF", and/or for as long as charges remain unpaid for which "BTL" has provided services.
18. **Time.** Time is of the essence in all respects of this Agreement.
19. **Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, communications and discussions, whether written or oral, between the Parties with respect thereto made prior to the date of this

Agreement. **FOR CERTAINTY, THIS AGREEMENT SUPERSEDES ALL PRIOR AGREEMENTS RELATED TO EMBRYOS, OOCYTES, CATTLE, OR SEMEN, PREVIOUSLY PRODUCED AND/OR STORED AT "BTL" (NOTWITHSTANDING SUCH EMBRYOS, OOCYTES, CATTLE, OR SEMEN ARE NOT REFERENCED IN THIS AGREEMENT), WHICH ARE NOW GOVERNED BY THIS AGREEMENT.**

20. **Amendments.** No amendments, changes or modifications to any provision of this Agreement shall be valid unless evidenced in writing and executed by each of the Parties.
21. **Waiver.** No relaxation, forbearance, failure or delay by "BTL" in enforcing any of the terms of this Agreement shall prejudice or affect any other rights of "BTL" hereunder, nor shall any waiver by "BTL" of any breach of this Agreement operate as a waiver of any subsequent or continuing breach of this Agreement. Any waiver of "BTL's" rights or remedies must be in writing.
22. **Enurement.** This Agreement shall ensure to the benefit of, and be binding upon, the Parties and their respective successors and permitted assigns.
23. **Enforceability.** If any provision of this agreement is wholly or partially unenforceable for any reason whatsoever, such unenforceability shall not affect the enforceability of the remainder of this Agreement.
24. **Ambiguities.** The Parties acknowledge that their respective legal counsel has reviewed or has had the opportunity to review and participate in settling the terms of this Agreement, and agree that any rule of construction to the effect that any ambiguity in this Agreement will be resolved against the drafting Party will not be applied to the interpretation of this Agreement.
25. **Assignment.** The "Owner/Agent" shall not assign this Agreement or any interest herein to any person without the prior written consent of "BTL", which consent may be withheld in "BTL's" sole and absolute discretion. "BTL" shall be permitted to assign this Agreement or any interest herein to any person. Any assignment of this Agreement or any interest herein in violation of the foregoing shall be null and void.
26. **Governing law.** This agreement shall be governed and construed and interpreted in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein, without regard to principles of conflicts of law that would impose a law of another jurisdiction, and it shall be binding upon "BTL" and the "Owner/Agent" and each of their respective personal representatives, successors, administrators and assigns. "BTL" and the Owner/Agent" hereby irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Alberta and all courts of appeal therefrom.
27. **Counterpart.** This Agreement may be executed in any number of identical counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. Delivery of this Agreement by facsimile or electronic mail constitutes valid and effective delivery. "BTL" and the "Owner/Agent" sign this Agreement with the intent of constituting a legally binding contract.
- I CERTIFY THAT I REPRESENT THE INTEREST OF, OR AM THE LEGAL OWNER OF THE ANIMAL(S) PREVIOUSLY LISTED, AND HEREBY APPLY FOR ET/IVF/AI SERVICES UNDER THE TERMS OF THIS AGREEMENT AS THE "Owner/Agent".**

Owner/Agent Name and Signature

Date

Bova-Tech Ltd. Representative

Date