

Terms & Conditions

The Centre for the Commercialization of Antibodies and Biologics (“CCAB”) is performing certain services, outlined on the Service Order, (“the Services”) for the client identified on the Service Order (the “Client”) in accordance with the terms and conditions outlined below (the “Terms”).

The Services and the Terms together constitute the Service Agreement (“Service Agreement”). CCAB and the Client are each a “Party” and together are “Parties” to this Agreement and agree as follows:

1. **Agency.** CCAB reserves the right, in its sole discretion, to engage consultants, subsidiaries, agents or subcontractors (collectively “Agents”) to carry out all or part of the Services on its behalf and in any such case the provisions of this Agreement shall be deemed to apply to such Agents.
2. **Standard of Performance.** CCAB shall carry out its obligations under the Service Agreement in a timely manner, in compliance with all applicable laws, rules and regulations, and prevailing industry standards applicable to similar entities providing similar services. CCAB is only responsible for performing the obligations outlined in this Service Agreement unless otherwise agreed upon in writing by the Parties.
3. **Client Changes to Service Order.**
 - a. Deliverables are the result(s) of the Services. “Deliverables” means the Product(s) and/or Service Data to be delivered to a Client as a result of the Services under this Service Agreement. “Product(s)” means purified proteins and/or plasmid DNA made by CCAB as part of the Services. “Service Data” means data generated by CCAB in the process of performing the Services.
 - b. If a Client wishes to change any Services on a standing Service Order, then the Client shall notify CCAB in writing as soon as possible.
 - c. If such a change in Services requires a reduction in Deliverables and CCAB has not commenced work on any Deliverables affected by the change at the time it receives the notice, then CCAB shall complete the Deliverables as changed and it will adjust the fees payable under the amended Service Order.
 - d. If CCAB completed, commenced work on, or made reasonable non-cancellable commitments in connection with any Services on a standing Service Order before it receives notice from a Client about changes to such Services, then the Client will be charged a pro-rated fee for any partially completed Deliverables and the full fee for all completed Deliverables and for all applicable non-cancellable commitments for any eliminated Deliverables, on the originally-agreed upon terms.
4. **Timeline for Delivery.** CCAB will provide an estimated timeframe for the completion of Deliverables on a Service Agreement. If CCAB anticipates delays in completing an order under this Service Agreement, CCAB will notify the Client as soon as possible.
5. **Client Materials.**
 - a. “Client Materials” means documentation, records and information, such as nucleic acid sequences and amino acid sequences, and any materials, including cells, compounds, samples, or other substances required to perform the Services.
 - b. Client will provide to CCAB: (i) Client Materials of suitable quality and in sufficient quantities to permit CCAB and/or its Agents to perform the Services and produce the Deliverables and (ii) all information in the Client’s possession regarding the stability, use, proper handling, storage, and disposal requirements, and any other relevant information related to the Client Materials.
 - c. CCAB shall store, use, handle, and dispose of all Client Materials in accordance with the Client’s explicit instructions (other than for handling of DNA sequences and commercially available biological reagents, for which a Client need not provide instructions) and in compliance with applicable laws and regulations for handling biological or chemical material.
 - d. Any Client Materials transferred to CCAB are and shall remain the exclusive property of the Client and no right, title, interest, or license in or to the Client Materials are granted or implied by this Service Agreement. Unless otherwise agreed in writing by the Parties, CCAB will use Client Materials solely for the purpose of performing the Services.
 - e. CCAB will not transfer or provide Client Materials, in whole or in part, to any third party, other than to its Agents, without the Client’s prior written approval. Upon completion or termination of a standing Service Agreement CCAB shall, upon Client’s written request, promptly return any remaining quantities of Client Materials to the Client (or its designee), at the Client’s expense, or destroy such remaining quantities of Client Materials and provide Client with written notification of such destruction.

6. **CCAB Materials.**
 - a. “CCAB Materials” means documentation and records generated from the performance of the Services and biological materials, including but not limited to CCAB expression vectors and cells, required to perform the Services and any proprietary information related thereto.
 - b. The CCAB Materials used to perform the Services are and shall remain property of CCAB. No right, title, or interest therein is provided to Client under this Service Agreement.
 - c. Unless a Client includes the vectors required to perform the Services in the Client Materials, CCAB will use its own vectors to generate the Deliverables. For clarity, DNA in CCAB vectors will not be included as part of the Deliverables. If a Client requires access to the CCAB vectors used in the production of the Deliverables, then the Client will enter into a separate agreement with CCAB to license the use of those CCAB vectors.
7. **Fees and Payments.** CCAB shall invoice the Client following payment terms described in the Service Order. All undisputed invoice amounts shall be due and payable thirty (30) days from the invoice date, unless otherwise specified on the invoice, in the currency listed on the invoice. Should a Client dispute any invoiced fees, the Client shall notify CCAB at its earliest convenience and the Parties shall use commercially reasonable efforts to resolve any such dispute in good faith and within a reasonable period. Interest shall accrue on overdue accounts at the rate of interest established and published by the Bank of Montreal (“Prime Rate”) plus three percent (3%), compounded monthly, until payment is received by CCAB. If a Service Agreement is invoiced in stages and a Client fails to pay any invoices within ten (10) days of receiving notice from CCAB that the invoice payment is overdue, then CCAB may, in addition to charging interest on the overdue account, at its discretion and without prejudice to its other lawful remedies, delay performance or defer delivery of any outstanding Deliverables on the Service Order, and/or terminate the Service Agreement.
8. **Acceptance and Returns.** Upon receipt of Deliverables, Client shall review the shipment promptly for damage, completeness of the order, and correct identity and quantity of the Deliverables. The Client shall notify CCAB promptly, but no later than within five (5) business days of taking delivery of the order (“Notice Period”), of any discrepancy in the Deliverables under the Service Agreement. At its sole discretion, CCAB may request return of the Product in dispute, at the Client’s expense, for confirmation of any alleged discrepancy and it may (i) authorize a refund or credit for the cost of the Product and the return shipping cost of the Product if CCAB determines that it shipped an incorrect Product, or (ii) replace the Product at no additional cost and, if applicable, reimburse the Client for the return shipping cost of the Product. If Client does not notify CCAB of any concern with any of the Deliverables within the Notice Period the Client shall be deemed to have accepted the Deliverables as delivered and shall have no further recourse.
9. **Confidentiality.**
 - a. During performance of the Service Agreement and for three (3) years thereafter, CCAB will treat Client Materials as confidential and will not disclose or provide such Client Materials to any person except its employees, or its Agents who have a need to know or use the Client Materials to provide the Deliverables. Any other information disclosed by Client to CCAB that is of a confidential nature shall be in writing and marked “Confidential”. CCAB shall protect the Client Materials and any other confidential information received from Client with the same degree of care as CCAB uses to protect its own confidential information, but in any event with no less than a reasonable degree of care. Notwithstanding any other provisions in this Section 9, CCAB shall have no liability or obligation to Client for, nor be in any way restricted by, its disclosure or use of any data provided by Client that: (i) was in the public domain when provided to CCAB or subsequently came within the public domain without the fault of CCAB; (ii) was already known to CCAB at the time of disclosure by Client; (iii) is used or disclosed by CCAB with the prior written approval of the Client; (iv) is received from a third party without that party’s breach of obligation of confidentiality to Client; (v) is disclosed pursuant to an enforceable order of a court or administrative agency; (vi) was independently developed by or for CCAB prior to it receiving the information from the Client; or (vii) was developed by CCAB independently of such information.
 - b. Client acknowledges that, notwithstanding anything to the contrary in this section, CCAB shall be free to use and disclose anonymized Service Data, provided that in so doing CCAB does not disclose Client Materials.
10. **Termination.**
 - a. **By Client:** The Client may terminate a standing Service Agreement without penalty if the Client submits written notice of termination to CCAB

and CCAB receives such notice before it initiates any work or places any non-cancellable orders related to the Deliverables. If CCAB has initiated work on the Service Agreement but has not completed the Deliverables, a cancellation fee will apply. The cancellation fee shall be assessed on a case-by-case basis depending on the stage of the Services but it will not exceed the full amount owing under the Service Agreement. If CCAB has completed the Deliverables prior to receiving such notice of termination the full amount owing under the Service Agreement will be due and payable to CCAB.

b. **By CCAB:** CCAB may elect to terminate a standing Service Agreement at any time: (i) if, despite using reasonable efforts, CCAB determines that it is unable to perform the Services due to factors outside of CCAB's technical control including but not limited to instability, toxicity, or hydrophobicity of Products; (ii) if insufficient Client Materials were provided by the Client to complete the Service Order, provided that CCAB requested additional Client Materials from the Client and the Client failed to comply with the request; (iii) out of concern, in its sole but reasonable discretion, for biosecurity or biosafety risks, suspected patent infringement, or export restrictions; or (iv) in its sole discretion, if a Client fails to pay for work partially invoiced on an open Service Agreement.

c. Notwithstanding the termination of a Service Agreement for any reason, the Client will remain responsible for all fees accrued prior to such termination unless otherwise provided in this Service Agreement.

11. DISCLAIMERS.

a. THE DELIVERABLES ARE PROVIDED "AS IS" AND THE ENTIRE RISK AS TO THE USE, HANDLING, OR STORAGE OF THE DELIVERABLES RESTS WITH THE CLIENT. EXCEPT AS EXPLICITLY SET FORTH IN THIS SERVICE AGREEMENT, CCAB, ON ITS OWN BEHALF AND ON BEHALF OF ITS AGENTS AND THEIR COLLECTIVE EMPLOYEES, OFFICERS, AND ADVISORS ("REPRESENTATIVES"), HEREBY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE DELIVERABLES, INCLUDING, WITHOUT LIMITATION: ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, FUNCTION, AND NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY OF A THIRD PARTY, ANY WARRANTY THAT THE DELIVERABLES WILL MEET THE REQUIREMENTS OF A CLIENT, AND ALL WARRANTIES REGARDING RESULTS OBTAINED BY A CLIENT'S USE OF ANY DELIVERABLES, ANY WARRANTY ARISING FROM STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF PERFORMANCE, DEALING, OR USAGE OF TRADE. IN NO EVENT WILL CCAB'S TOTAL LIABILITY FOR BREACH OF ANY WARRANTY EXPRESSLY PROVIDED HEREUNDER EXCEED THE TOTAL AMOUNT OF THE INVOICE ISSUED UNDER THAT SERVICE AGREEMENT.

b. THE PRODUCTS PROVIDED AS PART OF THE DELIVERABLES HAVE NOT BEEN APPROVED, CLEARED OR AUTHORIZED, AND ARE NOT REGULATED BY ANY APPLICABLE GOVERNMENTAL AGENCY, WITHIN OR OUTSIDE CANADA, FOR ANY USE. CLIENT SHALL NOT USE ANY DELIVERABLES TO TREAT OR DIAGNOSE ANY CONDITION NOR FOR ANY OTHER DIAGNOSTIC OR THERAPEUTIC PURPOSES IN HUMANS OR ANIMALS, FOR INVESTIGATIONAL USE IN FOODS, DRUGS, DEVICES OR COSMETICS OF ANY KIND, OR FOR CONSUMPTION BY OR USE IN CONNECTION WITH OR ADMINISTRATION OR APPLICATION TO HUMANS OR ANIMALS UNLESS CLIENT FIRST OBTAINS ALL NECESSARY APPROVALS, CLEARANCES, AUTHORIZATIONS AND/OR LICENSES FROM THE GOVERNING REGULATORY BODY WITHIN OR OUTSIDE CANADA.

c. CLIENT SHALL USE ALL DELIVERABLES IN ACCORDANCE WITH APPLICABLE LAWS, RULES, REGULATIONS AND GOVERNMENTAL POLICIES AND IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS SERVICE AGREEMENT.

d. THE PRODUCTS MAY NOT BE RESOLD, MODIFIED FOR RESALE OR USED TO MANUFACTURE COMMERCIAL PRODUCTS WITHOUT PRIOR WRITTEN APPROVAL BY CCAB.

12. **Limitation of Liability.** None of CCAB, its Agents, or their respective Representatives shall be liable to the Client or any third party under any circumstances for any lost profits, lost data, lost time, loss of business, or any form of indirect, special, incidental, consequential, punitive, or treble damages, however caused, arising out of or relating to this Service Agreement, including but not limited to the acts or omissions of CCAB, its Agents, and their Representatives, even if advised of the likelihood of such damages occurring. No action in any form arising out of this Service Agreement may be instituted against CCAB, its Agents, or their

Representatives more than one (1) year after the cause of action has arisen. This section shall survive termination of this Service Agreement.

13. **Indemnity.** To the extent permitted by law, the Client shall hold harmless from, and indemnify CCAB, its Agents and their respective Representatives against, any and all liability, loss, damage, cost, and expense (including reasonable attorneys' fees) (collectively, "Losses"), which any of them may incur, suffer or be required to pay resulting from or arising in connection with any lawsuit, action, claim, demand or proceeding brought by a third party (collectively "Claims") in connection with the Client's or its Representatives' use, handling, or storage of Deliverables or any modifications to Deliverables made by the Client or its Agents, or the negligence, wilful misconduct of the Client, its Agents or their respective Representatives, or breach of any obligation of the Client under this Service Agreement, except to the extent any such Losses are attributable to the negligence or wilful misconduct of CCAB, its Agents, or any of their respective Representatives.

14. **Governing Law and Jurisdiction.** This Service Agreement will be governed by and construed in accordance with the substantive and procedural laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to the principle of conflicts of laws that would impose the laws of another jurisdiction. The Parties attorn to the exclusive jurisdiction of the courts of the Province of Ontario and the federal Courts of Canada.

15. **Assignment.** Except as otherwise expressly stated in this Service Agreement, a Client may not transfer or assign this Service Agreement without the prior written consent of CCAB, other than in connection with any assignment, transfer or encumbrance of this Service Agreement or Client's rights herein: (i) to a Client's affiliate (provided that Client continues to be liable for its obligations hereunder), (ii) as collateral security under Client's debt instruments or (iii) to the acquirer of all or substantially all of Client's assets, by asset sale, merger, amalgamation, or otherwise. The Parties agree that CCAB is entitled to assign and/or transfer all or part of its rights and obligations under this Service Agreement to any third party at its sole discretion.

16. **Entire Agreement.** The Client acknowledges and agrees that this Service Agreement represents the entire agreement between CCAB and the Client with respect to the subject matter thereof and supersedes all previous documents, agreements, understandings, or communications between CCAB and the Client, whether written or oral, unless otherwise explicitly agreed to in writing by both CCAB and the Client.

17. **Waiver.** No Party will be deemed to have waived the exercise of any right that it holds under this Service Agreement unless such waiver is made in writing. Failure or delay by either Party to exercise any of its rights, powers or remedies under this Service Agreement, either in whole or in part, shall not constitute a waiver of those rights, powers or remedies and shall not prevent their subsequent exercise or the exercise of any other right, power or remedy.

18. **Force Majeure.** Neither Party shall be responsible for any failure or delay in the performance of its obligations under this Service Agreement resulting from causes beyond its reasonable control. Such causes may include, but are not limited to, acts of government, court order, civil unrest, acts of war, cybersecurity attacks, sabotage, natural disasters, adverse weather conditions, labour troubles and unavoidable shortage of materials or services. The delayed Party will give timely notice to the other of any such event and will endeavour to avoid or remove the cause and resume performance with minimum delay.

19. **Severability.** Should any provision or part of any provision of this Service Agreement be found void or unenforceable by a court of competent jurisdiction, such provision (or part thereof) shall be deemed severed from this Service Agreement and all other provisions shall remain in full force and effect.

20. **Amendment.** No amendment, modification, change alteration or waiver of this Service Agreement shall be effective unless made in writing and accepted by the other Party.

21. **Survival.** The provisions of this Service Agreement which are meant by their nature to survive completion or termination of this Service Agreement shall survive such completion or termination. For clarity, the Service Order, Section 5(d), Section 5(e), Section 6, Section 9 (for the period outlined therein), Section 10(c), and Sections 11-23 shall survive completion or termination of this Service Agreement.

22. **Similar Services.** Nothing in this Service Agreement will limit, or be construed to limit, the freedom of CCAB or its Agents to engage in similar services under agreements with parties other than the Client.

23. **Signatures.** A Client's signature, or in the case of a corporate Client, its representative's signature, on the Service Order shall constitute conclusive proof for all purposes of that Client's agreement to be bound by the terms of this Service Agreement. The Parties consent to be bound by electronic signatures with the same force and effect as ink signatures on paper.