

TERMS AND CONDITIONS OF SALE AND DELIVERY OF TIME-LAPSE EQUIPMENT Vitrolife Inc.

These terms and conditions of sale and delivery of time-lapse equipment (the "Terms and Conditions") apply to all agreements between Vitrolife Inc. and a customer (the "Customer") about Vitrolife Inc.'s sale and delivery of EmbryoScope™ **time-lapse equipment** (the "Equipment").

1. General

1.1 "Vitrolife" means Vitrolife Inc. 3601 S. Inca, St. Englewood, CO 80110.

1.2 These Terms and Conditions supersede all prior representations, warranties, communications and agreements regarding the Equipment between Vitrolife and the Customer. Any conditions contrary to the content of these Terms and Conditions such as the Customer's purchase terms or other terms attached to or referred to in the Customer's order, shall be excluded and of no force or effect. In the event of discrepancy between Vitrolife's order confirmation and these Terms and Conditions then the wording in the order confirmation shall take precedence.

1.3 Vitrolife may at any time change these Terms and Conditions with effect for orders confirmed after such change.

1.4 The Customer purchases from Vitrolife the Equipment specified in Vitrolife's order confirmation at the prices stated in the order confirmation. Prices do not include VAT, sales-, import, use-, excise- or other taxes and duties. Terms of payment are 30 days from date of invoice, provided however that Vitrolife may request prepayment in full or in part. In case of late payment, interest shall accrue at a rate of 1% per month commenced.

1.5 Title in the Equipment shall remain vested in Vitrolife until payment has been made in full. If payment is not made in full, Vitrolife – in addition to its other remedies – is entitled to exercise its rights and remedies under the Uniform Commercial Code and other relevant law, including, but not limited to, taking possession of the Equipment. The Customer must insure the Equipment to its full replacement value from the day of receipt of the Equipment.

2. Delivery

2.1 Terms of delivery are DAP (Incoterms 2010) the destination specified in Vitrolife's order confirmation, exclusive however, of freight costs which costs shall be paid by the

Customer. Customs clearance is the Customer's responsibility.

2.2 Upon delivery of the Equipment the Customer shall immediately inspect the Equipment in accordance with Vitrolife's instructions. Any damage to the Equipment shall immediately be reported to the carrier and to Vitrolife. If no report is received by Vitrolife the Equipment shall be considered accepted by the Customer.

3. Installation

3.1 Vitrolife will perform on-site installation of the Equipment.

3.2 Prior to the installation by Vitrolife the Customer shall complete and return Vitrolife's checklist of laboratory requirements and specifications. Thereafter Vitrolife and the Customer shall agree in writing on an installation date which will be minimum 14 days after Vitrolife's receipt of the completed checklist. If the Customer subsequently wants to change the agreed installation date, the Customer shall pay Vitrolife's extra costs resulting from such change. The Customer must ensure that all laboratory requirements and specifications, including suitable IT and internet connections, as specified in the checklist are complied with at the date of installation.

3.3 The Customer must not start using the Equipment until installation has been completed.

4. Delay

4.1 If Vitrolife anticipates that the agreed shipping date will be delayed, Vitrolife shall forthwith notify the Customer thereof stating the reason and, if possible, the estimated shipping date.

4.2 For delays in the shipping date of 3 months or less, the Customer agrees that it may not cancel or terminate the purchase of the Equipment and that Vitrolife is not liable for any costs or damages associated with the delay. If the delay in shipping extends to more than 3 months, the Customer may in writing demand shipping within a final reasonable period of minimum 10 days. If Vitrolife does not ship the Equipment within such final period

then the Customer may by notice in writing to Vitrolife cancel the purchase of the Equipment. IN SUCH CASE THE CUSTOMER'S EXCLUSIVE REMEDY AND VITROLIFE'S SOLE OBLIGATION SHALL BE A REFUND OF ANY AMOUNTS PAID BY THE CUSTOMER TO VITROLIFE FOR THE EQUIPMENT.

5. Warranty

5.1 Vitrolife extends the following limited warranty for the Equipment (the "Limited Warranty").

5.2 Vitrolife warrants exclusively to the Customer that for a period of 12 months from date of installation or 13 months from the shipping date, whichever comes first, the Equipment will be free from defects in materials and workmanship subject to the exclusions set forth herein. The Customer shall notify Vitrolife of any defect that occurs during this period immediately after having discovered the defect and in any case not later than 5 days thereafter.

5.3 This Limited Warranty applies only to defects which appear under usual conditions of operation and under proper use and maintenance of the Equipment in accordance with the operating manual. The Limited Warranty does not apply to defects caused by: (i) circumstances arising after the risk of damage to the Equipment has transferred to the Customer such as, but not limited to, ordinary wear and tear or accident; (ii) improper use or operation of the Equipment; (iii) service or maintenance performed by anyone other than Vitrolife authorized personnel; (iv) use in conjunction with equipment, parts, software or systems not manufactured by, or not approved in writing by Vitrolife. This Limited Warranty shall terminate immediately if, in Vitrolife's sole judgment, maintenance, repair or attempt to repair, replace or modify the Equipment, including without limitation the software installed in the Equipment, is carried out by other than Vitrolife authorized personnel.

5.4 Normal user preventative maintenance of the Equipment is the responsibility of the Customer and is

excluded from this Limited Warranty.

5.5 If a defect arises which is covered by the Limited Warranty, Vitrolife at its option will either (i) repair the defect at Vitrolife's address in which case the cost of transportation and reinstallation of the Equipment shall be borne by the Customer, or (ii) replace the Equipment with new equipment corresponding to the Equipment, or (iii) refund the Customer the purchase price. If the Customer wants Vitrolife to repair a defect covered by the Limited Warranty at the place of installation, the Customer shall pay the costs connected with such repair excluding the cost of spare parts and working time spent on the remedy, but including without limitation the travel cost and travel time of Vitrolife's service technician.

5.6 The remedy of a defect through replacement of defective parts shall not extend the warranty period for the Equipment.

5.7 EXCEPT FOR THE EXPRESS LIMITED WARRANTY VITROLIFE HAS PROVIDED ABOVE, THE CUSTOMER TAKES THE EQUIPMENT "AS IS". VITROLIFE MAKES NO OTHER WARRANTY OR REPRESENTATION WITH RESPECT TO THE EQUIPMENT, AND THE CUSTOMER'S REMEDIES UNDER SECTION 5.5 CONSTITUTE VITROLIFE'S SOLE LIABILITY AND THE CUSTOMER'S EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY OR NON-CONFORMING EQUIPMENT. Without prejudice to the generality of the foregoing, Vitrolife expressly disclaims any implied warranty of merchantability or fitness for a particular purpose, or direct or indirect infringement of third party intellectual property rights.

6. Product Liability

6.1 Vitrolife shall not have any obligations to the Customer or any third party, for damage caused by the Equipment unless otherwise provided by mandatory product safety or product liability legislation. Vitrolife's liability under this section is, irrespective of the type, reason and scope of the defect, deficiency or damage limited to five million (5 000 000) USD for each occasion and aggregated liability during one year.

7. Force Majeure

7.1 If the performance of an undertaking of Vitrolife or the Customer is prevented or affected due to circumstances beyond the control of the prevented party, such as, but not limited to, changes in legislation, labor disputes, military mobilization,

government regulations, fire, power failure, earthquake, flood, acts or threats of terrorism, then this shall constitute a ground for relief of obligations and exemption from sanctions, provided that the prevented party immediately notifies the other party thereof.

8. Limitation of Liability

8.1 NOTWITHSTANDING ANYTHING IN ANY ORDER, PURCHASE ORDER OR DOCUMENT TO THE CONTRARY, VITROLIFE SHALL UNDER NO CIRCUMSTANCES, WHETHER AS A RESULT OF BREACH OF CONTRACT, BREACH OF WARRANTY, TORT, NEGLIGENCE OR OTHERWISE, BE LIABLE TO THE CUSTOMER OR ANY THIRD PARTY FOR ANY DAMAGES OF ANY KIND, INCLUDING (i) LOSS OF PROFIT, LOSS OF REVENUE; (ii) ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE AND SIMILAR DAMAGES, INCLUDING, BUT NOT LIMITED TO LOSS OF USE, LOSS OF DATA, DOWNTIME COSTS OR CLAIMS FROM CUSTOMER'S CUSTOMERS.

8.2 Vitrolife's total liability whether in contract, tort (including negligence), or otherwise shall never exceed an amount corresponding to the amount paid by the Customer for the Equipment.

9. Software and Data

9.1 All rights, title and interest in the software provided with the Equipment belong to the Vitrolife Group.

9.2 Vitrolife grants to the Customer a non-exclusive and non-transferable license to use the software solely on the Equipment supplied by Vitrolife for the agreed time period.

9.3 The Customer undertakes not to copy, modify, reverse engineer, disassemble or decompile all or any part of the software or rent, lease, distribute or sell the software. The Customer shall, however be entitled to make one copy of the software for back-up and recovery purposes for use solely on the Equipment for the agreed time period.

9.4 The Customer undertakes not to install or load any other software on the Equipment except for any updates to the software supplied by Vitrolife or software which has been approved in writing by Vitrolife prior to its installation.

9.5 Nothing in these Terms and Conditions shall be construed as an obligation for Vitrolife to provide to the Customer updates of the software. Vitrolife may from time to time request that the Customer updates the

software with updates supplied by Vitrolife in which case the software update shall be supplied to the Customer at no cost.

9.6 Vitrolife shall be entitled to terminate the license granted under this section 9 if the Customer violates the terms of the license.

9.7 Vitrolife assumes no liability with regard to any loss of data stored by the Customer in the Equipment. The Customer must at all times secure external back-up of all data stored in the Equipment.

10. Intellectual Property

10.1 Vitrolife expressly excludes any and all written or verbal, explicit or implied warranties of freedom from direct or indirect infringement of third party intellectual property rights arising from the Customer's use or purchase of the Equipment.

10.2 All logotypes, trademarks or product names set out on the Equipment and any design of the Equipment constitute Vitrolife's intellectual property. Use, reproduction or representation (in whole or in part) of these logotypes, trademarks, product names or the Equipment itself regardless of in what form it occurs, may require Vitrolife's prior written acceptance. The Customer undertakes not to remove or alter Vitrolife's labeling of the Equipment.

11. Disputes and Governing Law

11.1 These Terms and Conditions, and any dispute arising out of these Terms and Conditions or out of the Customer's purchase of the Equipment, shall be governed by and construed and interpreted in accordance with the laws of the State of Colorado with disregard to its conflicts of law principles. The United Nations Convention for the International Sale of Goods (CISG) shall not apply

11.2 Any suit, action or other legal proceeding arising out of agreements to which these Terms and Conditions apply shall be brought in the state or federal courts having jurisdiction in Denver, Colorado. Each of Vitrolife and the Customer consents to the exclusive jurisdiction of any such court in any such suit, action or proceeding. Vitrolife may also bring proceedings against the Customer before any competent court having jurisdiction over the Customer.