

## COOPERATIVE FISH REARING AND STOCKING CONTRACT

**THIS CONTRACT** is entered into under sections 23.09 (2) (intro.), (f) and (h) and 23.11, Wisconsin Statutes, between the State of Wisconsin Department of Natural Resources (the Department) and \_\_\_\_\_ **SAMPLE** \_\_\_\_\_, (the Fish Farmer).

\_\_\_\_\_  
SAMPLE  
(Business Name)

\_\_\_\_\_  
(Mailing Address)

\_\_\_\_\_  
(Location of Business)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(FAX Number)

\_\_\_\_\_  
(DATCP Fish Farm Registration Number)

\_\_\_\_\_  
(Wisconsin Livestock Premises ID Number)

**FOR AND IN CONSIDERATION** of the terms and conditions contained in this contract, the parties agree as follows:

**1. PURPOSE.** In order to meet the Department's management needs, the Department agrees to supply the Fish Farmer with \_\_\_\_\_ quarts of green eggs of game fish. The Fish Farmer agrees to incubate, hatch and rear the fish in the Fish Farmer's facilities. The resulting fish shall be apportioned between the Department and the Fish Farmer as provided in this contract. The Fish Farmer agrees to mark or tag the fish and stock the Department's share in waters of the State as specified in SECTION 4. of this contract. (See also SECTION 9.)

**2. CONSIDERATION.** In consideration for the Fish Farmer's assistance to the Department and in lieu of monetary payment, the Fish Farmer may keep and sell any portion over the quota of the fish produced under this contract. Eggs provided by the Department and all resulting fish produced by the Fish Farmer under this contract remain the property of the Department until it determines that the contract has been performed satisfactorily in accordance with SECTION 12. Fish stocked outside of this contract will require a Fish Stocking Permit.

**3. DATCP COMPLIANCE; PROPER CARE REQUIRED.** The Fish Farmer agrees to maintain their Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) Fish Farm Registration and the Wisconsin Livestock Premises ID Number for the duration of this contract. Eggs received and fish reared under this contract shall receive proper care by the Fish Farmer as described in "Best Management Practices for Aquaculture in Wisconsin and the Great Lakes Region" August 2005, edited by Jeffrey A. Malison and Christopher F. Hartleb. Sea Grant Institute, Board of Regents, University of Wisconsin System.

**4. QUOTAS TO BE FILLED, DETAILS.** The Fish Farmer agrees to produce fish from eggs supplied by to Department in order to fill the following quotas:

Working Quota Sequence Number (WQSN):	Species, stock and age class* to be stocked:	Number of fish to be stocked (Quota):	Waterbody name to be stocked (county, stocking site and comments):	Local Biologist name and phone number:	Marks or tags fish are to receive (Fish Farmer's responsibilities listed here):

\* Dates when specific age classes may be stocked, pending suitable site conditions as determined by the Local Biologist: **Small fingerlings** are to be stocked by July 10. **Large fingerlings** are to be stocked between September 1 and November 15.

**5. PROHIBITED ACTIONS.** The Fish Farmer agrees to comply with the following prohibitions:

- A. The Fish Farmer may not harvest his or her share of the fish at an earlier life stage or time than the Department's share.
- B. Fish being reared under this contract may not be commingled with other fish being reared or held at the Fish Farmer's facilities. Eggs may be incubated on a common incubator, however the eggs supplied under this contract must be in separate jars or trays and provisions made to collect hatched and swim-up fry separately from other fish.
- C. Fish species may not be substituted or augmented.
- D. Fish stocks (strains) may not be substituted or augmented.
- E. Fish being reared under this contract may not be transferred or assigned to another fish farm or Fish Farmer without the prior written approval of the Department.
- F. The number of fish stocked by the Fish Farmer to fill a specific quota may not exceed the 'Number of Fish To Be Stocked' identified in SECTION 4., above.

**6. REPORTING OF REQUIRED INFORMATION; RECORDS, ACCESS.**

A. The Fish Farmer agrees to record and report the following information to the Department's Contract Administrator on forms to be provided by the Department. This information is due to the Contract Administrator within 30 days of the fish being stocked or December 31 of the year this contract is issued, which ever comes first. The recording and reporting form will include the following information:

- (1) **Percent eyed eggs** shall be determined and reported by the Fish Farmer from the green egg stage to the eyed egg stage.
- (2) **Percent hatch** shall be determined and reported from the eyed egg stage to swim-up fry stage.
- (3) The **number fry stocked in to each rearing unit** shall be determined and reported.
- (4) The **rearing units involved with the rearing of fish under this contract** shall be uniquely identified and reported.
- (5) The **total number of fish harvested** shall be determined and reported.
- (6) The **actual number of fish stocked** shall be determined and reported.
- (7) **Disposition of the Fish Farmer's share of the fish** shall be reported (for example, sold, held for additional rearing, stocked in waters of the state, etc.).

B. The Fish Farmer shall maintain records directly pertinent to performance of work under this contract for a period of three (3) years. The Department shall have access to such

records for the purpose of inspection and copying. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such dispute, appeal or litigation, shall be maintained and made available until three (3) years after the date of resolution of such dispute, appeal or litigation.

**7. ADMINISTRATION.** The Department's Statewide Fish Propagation Coordinator (the Contract Administrator) shall administer SECTIONS 1., 4., 6., 8., 11., 12., 13. and 14. of this contract. The Local Biologist (as identified in SECTION 4) shall be responsible for activities outlined in SECTIONS 9., 10., 11., and 13.

**8. HARVEST NOTIFICATION; FISH HEALTH CERTIFICATE.** The Fish Farmer agrees to notify the Contract Administrator (or designee) one week prior to the harvest of all fish produced under this contract, for the purpose of scheduling verification of the number and condition of the fish. It is recommended that all fish produced, including the Fish Farmer's share, be harvested and properly held in holding tanks at least overnight when possible. The Fish Farmer agrees to obtain and provide a copy of the current fish health certificate to the Contract Administrator prior to stocking the Department's share of the fish reared under this contract.

**9. DELIVERY NOTIFICATION, VERIFICATION AND STOCKING OF FISH; PERMITS AND HEALTH CERTIFICATES.** The Fish Farmer agrees to notify the Department's Local Biologist at least 24 hours prior to the proposed stocking date and time to arrange for the fish stocking verification. When the fish are stocked, the Department may ask to receive 25 fish selected at random from all of the tanks containing fish for stocking under this contract for the purpose of verifying the health, size, weight and genetics of the fish. These fish will be handled by the Local Biologist or their designee and will count toward the number stocked under this contract. The Local Biologist will be responsible for entering the fish stocking information into the Department's Fish Stocking Database. The Local Biologist will verify that the Department's share of fish produced under this contract has been successfully stocked. A fish stocking Permit from the Department is not required for stocking the Department's share of the fish produced. The Fish Farmer agrees to carry a copy of this contract while transporting eggs or fish for stocking the Department's share of fish. However, stocking of the Fish Farmer's share of the fish will require both a Fish Stocking Permit from the Department and a valid DATCP Fish Health Certificate.

**10. CONDITION OF THE DEPARTMENT'S SHARE OF FISH TO MEET A STOCKING QUOTA.** The Fish Farmer agrees that fish stocked under this contract will be free of active disease and mortality, and agrees to employ Best Management Practices (as referred to in SECTION 3.) during harvest, transportation and stocking. The Fish Farmer and the Local Biologist will observe the fish in the immediate area of release for a period of ½ hour after their release. Mortalities shall be removed and subtracted from the number reported as stocked. If, after ½ hour, any fish remain lethargic, their number will be subtracted from the number of fish reported as stocked.

**11. RIGHT OF INSPECTION.** The Fish Farmer agrees that Department representatives may inspect the eggs or fish being reared under this contract at the Fish Farmer's facilities upon 48 hours' notice, during normal business hours.

**12. SATISFACTORY CONTRACT PERFORMANCE; TITLE TO EGGS AND FISH.**

**A.** As stated in SECTION 4. and SECTION 5., PARAGRAPH F., the parties agree that satisfactory performance is considered producing the number of fish to be stocked. The Fish Farmer's share of the fish produced shall be determined by the compensation formula in PARAGRAPH B., below. Title to the Fish Farmer's share of the fish transfers to the Fish Farmer upon determination by the Local Biologist that the contract has been satisfactorily performed. The Department understands that complete or partial failures may occur for a variety of reasons, but if the Fish Farmer fails to produce at least 90% of fish to be stocked as specified under SECTION 4. for 2 consecutive contracts, for purposes of bidding on future

contracts, the Fish Farmer may be considered 'unresponsive' for a period of 3 years following the last failure.

**B. Compensation Formula.** The parties agree that this contract does not involve any monetary payment, and that the Fish Farmer's compensation shall be determined solely according to the following formula:

Percent produced of number of fish to be stocked (quota)*:	Department's share of fish produced:	Fish Farmer's share of fish produced:
0 % to 100%	All	None
Over 100%	All of the fish up to 100% of the quota	All of the fish over 100% of the quota.

\*Number of fish to be stocked (quota) is listed in SECTION 4., above.

**13. TERM OF THIS COOPERATIVE FISH REARING CONTRACT.** This contract begins when both parties have signed it and continues until the Department's share of the fish produced under this contract have been accepted by the Local Biologist and the Contract Administrator has notified the Fish Farmer that the Fish Farmer has satisfied the terms of this contract; however, the rearing report must be received by the Contract Administrator within 30 days of the last stocking date for the Department's share of the fish produced under this contract.

**14. CAUSE FOR TERMINATION; FUTURE ELIGIBILITY.** The Fish Farmer agrees to be responsible for the acts, errors, omissions and wrongdoings of his or her crew members, agents or employees engaged in work under this contract. The Fish Farmer agrees to comply with all federal, state and local laws, ordinances and regulations and with all terms and conditions of this contract. This contract may be terminated by the Department if the Fish Farmer is adjudged guilty, by plea of no contest or otherwise, of a violation of any conservation law contained in chapters 23 or 29, Wis. Stats., or rules adopted under those chapters, or similar requirements in another state, or if the Department determines that the Fish Farmer has breached or violated any term or condition of this contract. Eligibility for future Cooperative Fish Rearing Contracts of a person adjudged guilty of a conservation law violation or determined by the Department to have breached or violated any term or condition of this contract is discretionary with the Department.

**A. Automatic termination.** This contract automatically terminates if the Department finds that the Fish Farmer breached or violated any of the following terms or conditions:

- (1) Failure to maintain DATCP Fish Farm Registration and Wisconsin Livestock Premises Registration ID Number(s) – **SECTION 3.**
- (2) Any of the prohibited actions listed in **SECTION 5.**
- (3) Failure to report or maintain required records under **SECTION 6.**
- (4) Failure to provide proper notice under **SECTIONS 8. or 9.**
- (5) Interference with verification activities required under **SECTION 9. or 10.**
- (6) Failure to meet standards outlined in **SECTION 10.**
- (7) Interference with inspection activities of **SECTION 11.**

**B. Discretionary termination.** If the Department finds that the Fish Farmer has a pattern of stocking the Department's share of fish produced under this contract in poor condition, has breached or violated any other term or condition of this contract not listed in **PARAGRAPH A.** above, or has been adjudged guilty of a conservation law violation, the Department may terminate this contract.

**C. Notification and termination procedure, notice of future ineligibility.** The Department shall notify the Fish Farmer whenever it finds that the Fish Farmer has breached or violated a term or condition of this contract. If the breach or violation is listed in **PARAGRAPH A.** above or if the Department decides to terminate the contract because of any other breach or violation, the notice shall include a notice of termination.

**15. FORM OF NOTICE OF CANCELLATION OR TERMINATION.** This contract may be cancelled or terminated by the Department at any time upon written notice. Such cancellation or termination shall be without prejudice to or liability on the part of the Department.

**16. BREACH OR DEFAULT.** In addition to any other remedies it may have, in the event of any substantial breach, default or refusal on the part of the Fish Farmer in the performance of this contract, the Department may enter the Fish Farmer's facilities at any reasonable time and take possession of any eggs or fish produced under this contract and to which it retains title, and do or cause to be done anything which the Fish Farmer has failed or refused to do as required by this contract, and may charge the cost thereof against the Fish Farmer, subject to offset for reasonable expenses incurred by the Fish Farmer.

**17. DISEASE AND EXOTIC CONTROL; HACCP PLAN.** Department spawning activities are conducted under the guidance of a HACCP plan (Hazard Analysis and Critical Control Point) to reduce the risk of spreading or introducing pathogens or exotic species. It is important to the Department that its management actions and activities are not a vector for the introduction or spread of pathogens and/or exotic organisms. However, this is no guarantee that the Department will not introduce a pathogen and/or an exotic organism. Likewise, the Department expects that the Fish Farmer will make every effort to minimize the risk of introducing or spreading a pathogen and/or exotic species. Accordingly, the Fish Farmer agrees to develop and implement a HACCP plan during the term of this contract.

**18. CREW LIST; IDENTIFICATION REQUIRED.** During the period of this contract the Fish Farmer agrees to maintain and update as needed a crew list consisting of the names of all persons engaged in operations under this contract. The Fish Farmer agrees to notify the Department of any new crew member before the person begins work on contract operations. The Fish Farmer agrees not to use or list as a crew member any person who, within the last 3 years, has been adjudged guilty of 2 or more conservation law violations or who has had a Cooperative Fish Rearing Contract or a rough fish removal contract terminated. The Fish Farmer agrees that their crew members will carry personal identification while engaged in contract operations and will produce identification upon demand by an officer or employee of the Department or by other proper authority.

**19. APPLICABLE LAW.** The parties agree that this contract shall be governed by the laws of the State of Wisconsin.

**20. ASSIGNMENT.** Neither this contract nor any right or duty in whole or in part by the Fish Farmer under this contract may be assigned, delegated, or subcontracted without the written consent of the Department.

**21. CANCELLATION.** The Department may cancel this contract without penalty, due to non-appropriation of funds or for failure of the Fish Farmer to comply with this contract. If the contract is cancelled due to non-appropriation of funds, the eggs or fish in possession of the Fish Farmer under this contract shall become the property of the Fish Farmer.

**22. ENTIRE AGREEMENT; AMENDMENTS.** This contract constitutes the entire agreement between the parties, and previous communications or agreements pertaining to the subject matter of this contract are hereby superseded. Any revisions may be made only by a written amendment to this contract, signed by both parties prior to the ending date of this contract.

**23. INDEMNIFICATION.**

**A.** The Fish Farmer agrees to save, keep harmless, defend, and indemnify the State of Wisconsin, the Department, and all their officers, employees, and agents, against any and all liability, claims, and costs of whatever kind and nature, for injury to or death of any person or persons, and for loss or damage to any property (state or other) occurring in connection with or

in any way incident to or arising out of this contract. This **PARAGRAPH** does not apply to liability, claims, and costs to the extent that they result from the willful misconduct, negligent act, error, or omission of the State, the Department, or their officers, employees, or agents.

**B.** The parties to this contract acknowledge the risk that eggs provided by the Department may introduce a pathogen and/or exotic organism into the Fish Farmer's facility. The Fish Farmer agrees to hold the Department harmless in the event that a pathogen and/or exotic species is introduced into the Fish Farmer's facility.

**24. INDEPENDENT CONTRACTOR.** The parties agree that the Fish Farmer is an Independent Contractor for all purposes and not an employee or agent of the Department. The Fish Farmer shall have sole control of the method, hours worked, and time and manner of any performance under this contract other than as specifically provided herein. The Department reserves the right only to inspect the job site or premises for the purpose of insuring that the performance is progressing or has been completed in compliance with the contract. The Department takes no responsibility for supervision or direction of the performance of the contract to be performed by the Fish Farmer or the Fish Farmer's employees or agents. The Department further agrees that it will exercise no control over the selection and dismissal of the Fish Farmer's employees or agents.

**25. INSURANCE.** The Fish Farmer shall maintain, during the term of this agreement, worker's compensation insurance as required by Wisconsin Statutes for all employees engaged in the work and public liability and property damage insurance against any claims which might occur in carrying out this agreement.

**26. NONDISCRIMINATION.** In connection with the performance of work under this contract, the Fish Farmer agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in section 51.01 (5), Wisconsin Statutes, sexual orientation, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Fish Farmer further agrees to take affirmative action to ensure equal employment opportunities. The Fish Farmer agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this nondiscrimination clause.

**27. SUCCESSORS AND ASSIGNS.** The Department and the Fish Farmer each bind themselves, their partners, successors, assigns, and legal representatives to the other party to this contract and to the partners, successors, assigns, and legal representatives of the other party with respect to this contract.

**STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES**  
**For the Secretary:**

\_\_\_\_\_ **SAMPLE** \_\_\_\_\_

**Date:** \_\_\_\_\_

**FISH FARMER:**

\_\_\_\_\_ **SAMPLE** \_\_\_\_\_

**Date:** \_\_\_\_\_