Fairfax Cryobank

Terms of Use - Canada

This Account should be in the name of the Intended Parent who plans to carry the pregnancy; a Co-Intended Parent or other individual may be designated to receive information about the Account and to authorize shipment of the donor sperm. If a gestational carrier will be engaged, please list one Intended Parent as the owner of the Account.

PLEASE LIST YOUR NAME EXACTLY AS YOU WANT THE ACCOUNT LISTED.

_____ _____

Intended Parent's Name *Date*

_____ _____

Intended Parent's Email Address *Intended Parent's Home Address*

_____ _____

Intended Parent's Telephone Number *Intended Parent's City, State and Zip Code*

_____ _____

Intended Parent's Social Security Number (last 4 digits) *Intended Parent's Date of Birth*

Co-Intended Parent's Name: _____

Physician's Name: _____

Clinic: _____

Physician's Shipping Address: _____

Physician's City: _____ *Physician's State:* _____

Physician's Zip or Postal Code: _____ *Physician's Country (if outside of United States):* _____

Physician's Phone Number (include country code if international): _____

Physician's Fax Number: _____

Physician's Contact Email Address: _____

For Cryobank Use Only:

Account #_____ Date Entered:_____

What the Cryobank Agrees To Do:

1.1. Donor Screening. All donors will meet the sperm donor eligibility criteria established by the U.S. Food & Drug Administration, found at 21 CFR 1271. Cryobank will conduct the additional robust screening and testing described on our website. These additional items may change over time in response to regulatory requirements, changes in the availability and quality of diagnostic tests or other reasons.

1.2. Privacy. Cryobank will not disclose Client's identity to the donor, or to anyone else, unless required by law. Cryobank will not disclose a donor's identity to Client. If Client selects an ID Donor, and registers the birth of Client's child, Cryobank will share the donor's identity and contact information with that child upon request when he or she reaches age 18, or sooner if required by law. There is more information about the ID Donor program below.

1.3. Quality Control. Cryobank will conduct a semen analysis on every sample a donor provides, both pre- and post-thaw, and will not place into inventory any specimens that do not meet its quality standards, listed below.

1.4. Quality Standard Guarantee. Cryobank's quality standard guarantee is described on the Cryobank website, and discussed more fully below. If a vial of donor sperm thawed at Client's clinic fails to meet this quality standard, as documented by the clinic in accordance with Cryobank's guidelines, then Cryobank will give Client a free replacement vial; if no replacement vial is available, Cryobank will give Client a credit so another donor may be chosen. Cryobank provides clear and detailed instructions for specimen handling and complaint reporting with every shipment. The criteria for qualifying for a replacement or credit are objectively verifiable and are not flexible. This is the exclusive remedy for a sub-standard Vial.

1.5. Medical and Genetic Updates. Cryobank enters into agreements with donors in which they promise to report any new or newly-discovered medical or genetic issues that could affect donor-conceived offspring; Cryobank enters into agreements like this one with clients in which they promise to report any medical or genetic issues affecting their donor-conceived offspring. Cryobank will make reasonable efforts to follow-up with donors and clients, in order to monitor the health status of donors and their offspring; however, Cryobank cannot compel such reporting, and may not be able to obtain this type of information. Cryobank places reported medical updates on donors' profiles on the website. Client may also check donor medical status at any time by calling Client Services at 1-800-338-8407.

1.6. Donors Relinquish Their Rights. Cryobank enters into agreements with donors in which they give up all of their rights, and are released from any obligations, to children born using their donated sperm.

1.7. Donor Restrictions. If Cryobank receives a report of a serious medical or genetic issue affecting a donor or his offspring that may indicate increased health risks for other offspring, its medical director or medical geneticist will investigate the situation and determine whether the donor should be "restricted" or withdrawn from the donor program. Not all issues reported result in restrictions. For those that do, Cryobank will make reasonable efforts to contact clients who have previously ordered Vials from the affected donor, and update the donor's profile on the website.

1.8. Shipping. Cryobank's authorized Canadian distributor will ship Client's order to Client's clinic in a specially designed liquid nitrogen tank that will keep Specimens frozen for seven (7) days, with Day 1 being the date of shipment. Vials shipped from the distributor may not be returned for refund or credit.

What the Cryobank Does Not Agree To Do:

2.1. Medical or Genetic Issues. Cryobank does not promise that, if pregnancy is achieved, the fetus or baby will be free from genetic disorders or defects, or from infectious disease. In the general population, every pregnancy has a small (approximately 3%-4%) risk of producing a child with a birth defect or mental deficiency. Cryobank uses robust screening and testing criteria to reduce risk as much as possible, *but Cryobank cannot eliminate the risk*. Even if donor testing shows normal results, the tests have limitations and may not always be reliable, even when properly administered. Client assumes this risk.

2.2. All Possible Testing. Cryobank does not test for all genetic disorders and infectious diseases. Not all genetic disorders or infectious diseases have tests, or it is impractical or otherwise not feasible to do such tests. Cryobank's current screening and testing criteria are described on the website, and are subject to change at any time for purposes of legal compliance, quality improvement or other reasons.

2.3. Donor Profiles. Donors self-report the family medical history, health and behavioral history information in their profiles. Cryobank does not independently verify their answers.

2.4. Cover Client's Other Costs. The remedy described in Cryobank's quality standard guarantee is the exclusive remedy available to Client from Cryobank. Cryobank will not reimburse, compensate or otherwise provide Client with any other remedies, even if Client's fertility procedure cannot be completed. In no event will Cryobank or its Affiliates be liable for special, consequential or incidental damages, including, without limitation, any costs or expenses associated with Client's fertility treatment or travel expenses related to treatment.

What Client Agrees To Do:

3.1. Donor Anonymity. Client agrees to use the information Cryobank provides about donors, including photographs, exclusively for the purpose of selecting a donor, and not to share, distribute or otherwise make any such information or images available in any manner, or through any medium (including without limitation email, social media or internet feeds), to any third party. Client will not seek a donor's identity. If Cryobank discovers that Client has made attempts to discover a donor's identity, Cryobank will pursue any and all appropriate action to protect itself, its donors and their other offspring.

3.2. Exclusive Use. Vial(s) are for the exclusive use of the Intended Parent named in this Agreement (or their gestational carrier). Cryobank is required by federal law to track the distribution of Vials; accordingly, Client may not transfer donor sperm or embryos created with donor sperm without Cryobank's express, prior written permission, which may be given or withheld in its sole discretion. In addition, transferring or sharing of donor sperm beyond the originally intended recipient interferes with the proper accounting for pregnancies and dissemination of health information about donors and offspring.

3.3. Pregnancy and Delivery Reporting. Client will report all pregnancies and, separately, all pregnancy outcomes to Cryobank within 90 days of each occurrence. A pregnancy report is sent with every donor semen order, and pregnancy reporting is available on the Cryobank website. Client will also report any unexpected medical or genetic issues affecting donor-conceived offspring.

3.4. Legal Status of Donor-Conceived Children. Client will be the legal parent of the child(ren) born to Client with the use of donated sperm, and will be responsible for their support and custody. Client may wish to consult legal counsel regarding co-parent rights.

3.5. Update Contact Information. Client (or Client's surviving partner/designee) agrees to update Cryobank if Client's mailing address, email address or telephone number changes. Cryobank may receive important medical or genetic updates about Client's donor or his other offspring, and need to contact Client. Cryobank is not obligated to track down Client.

3.6. Indemnification. If Cryobank (and/or any of its owners, directors, officers, employees, agents, affiliates or successors-in-interest, collectively, "*Affiliates*") is named as a party to any litigation arising from a disagreement between or among Client, Client's spouse, partner or other family member(s), a gestational carrier or anyone else, as to any such party's rights or obligations with respect to the Vials, any resulting embryos or any donor-conceived children, Client or Client's estate shall be liable for the reasonable attorney's fees and other costs of Cryobank and its Affiliates in such litigation.

Terms and Conditions of Cryobank's Quality Standard Guarantee:

4.1. Claim Submission Deadline. If a Specimen fails to meet the applicable quality standard set forth in the table below, Client's clinic should complete the Specimen Complaint Form, available from Cryobank's authorized Canadian distributor, on the Cryobank website or by calling Client Services at 1-800-338-8407. Cryobank must receive the completed Specimen Complaint Form within thirty (30) days after the Specimen was thawed.

Specimen Type	Total Motile Cells/ milliliter (TMC)	Clinical Use
IUI	10 million/vial	Pre-washed vials, ready for intrauterine insemination (IUI)
ICI	10 million/vial	Ready for intracervical insemination (ICI) or can be washed for IUI specimen
IVF	5 million/vial	Ready for ICI or can be washed for use as an IUI or IVF with/without ICSI
IUI ART	> 6 million/vial	Ready for IUI individually or combined, or can be washed post thaw and used for IVF with/without ICSI
ICI ART	> 6 million/vial	Ready for ICI individually or combined, or can be washed post thaw and used for IUI or IVF with/without ICSI
ICSI-W	>3 million/vial	Washed vials, ready for ICSI/IVF, can be used for IUI (we recommend ordering multiple vials)
ICSI	>3 million/vial	Ready for ICI or can be washed for use in an IUI or IVF with/without ICSI (we recommend ordering multiple vials for ICI and IUI procedures)

4.2. Lab Procedures. To qualify for the guarantee, the clinic must have followed all of Cryobank's printed thaw procedures enclosed in each shipment and other written handling instructions. The clinic must have performed the required semen analysis after thawing and prior to any processing, and the total motile cell ("*TMC*") count must be below the standard. *Note that TMC counts will vary by about 10%-30%, depending on the lab personnel and counting method. By way of example, if Cryobank's laboratory determined a Specimen contained ten million TMC, Cryobank would expect Client's clinic to find between seven million and thirteen million TMC. Client may still qualify for a replacement if Client's clinic's count is below the stated standard, but a TMC in this range is normal.*

4.3. Off-Site < 120 Days. To qualify for the guarantee, the Specimen may not have been out of Cryobank's or its authorized Canadian distributor's storage facility for more than 120 days, nor transferred from the original receiving clinic to another site.

4.4. Cycle Results. If pregnancy is achieved in an IUI or ICI cycle, or if fertilization is achieved in an IVF cycle, then the quality standard will be deemed satisfied, regardless of the TMC.

4.5. Other Costs Not Included. The replacement or credit is for the Specimen only; additional costs, such as shipping, handling or any other associated charges, are not refunded or credited.

Mutual Promises:

5.1. Binding Arbitration. Cryobank and Client acknowledge that the identity of sperm donors and the nature of sperm donation are sensitive and often very private matters. Accordingly, Cryobank and Client agree that any disputes between them arising under this Agreement or otherwise, except for disputes over payment for storage services, will be resolved exclusively through confidential, binding arbitration by JAMS under the JAMS Streamlined Arbitration Rules and Procedures, and not through a court or other public forum. Arbitration proceedings will be conducted in Washington, D.C., and the substantive laws of the Commonwealth of Virginia will apply exclusively. The decision of the arbitrator will be binding and final, and will be enforceable by any court of competent jurisdiction. Each party will pay one-half of JAMS' and the arbitrator's fees. The substantially prevailing party in any dispute will be entitled to receive from the other its reasonable attorney's fees and other costs and expenses associated with the dispute.

5.2. Notices. Cryobank will provide any notices to Client by mail sent to the address set forth on the first page of this Agreement or such other address as Client may request in writing be used for that purpose. Client will provide any notices to Cryobank by mail sent to the Fairfax, Virginia address listed on the Cryobank website, or to Cryobank's authorized Canadian distributor from which Client ordered the Specimen(s).

5.3. Severability. Cryobank and Client agree that the invalidity or unenforceability of any part of this Agreement shall not impair or affect in any manner the validity or enforceability of the balance of this Agreement.

5.4. Entire Agreement. This represents the entire agreement between Cryobank and Client concerning the subject matter; and there are no understandings, agreements or representations other than as herein set forth. This Agreement may be modified only by a writing signed by both parties.

5.5. Assignment; Binding Effect. This Agreement may not be assigned, except by Cryobank to an Affiliate. This Agreement will be binding upon the parties and their respective assignees, heirs, executors and administrators.

No Warranties / Limitation of Cryobank's Liability

Reproductive medicine and working with human reproductive tissues involve risks, uncertainties and costs. Cryobank takes responsibility for addressing some of those risks, but not all of them. One purpose of this document is to define clearly what Cryobank is offering and, perhaps more importantly, what Cryobank is not offering.

Except for the Quality Standard Guarantee, Vials are provided "as is," with no warranties of any kind, express or implied, including without limitation the implied warranties of merchantability and fitness for a particular purpose.

Except for the specific remedies described in this Agreement, Cryobank will not provide any compensation, refund or reimbursement for a sub-standard Vial, a shipment delay or failure, a cancelled or unsuccessful cycle, or for any other reason or in any other circumstance.

Cryobank has designed the donor program with the expectation that its costs are limited to those necessary to provide the specific services and remedies set forth in this Agreement. Cryobank would not make donor sperm available without these limitations. If Client has expectations that Cryobank is or should be responsible for any other type of risk, cost or expense, then we're sorry, but Cryobank is not the right sperm bank for Client.

Accepted and Agreed:

Intended Parent Signature:

_____

Name:_____

Date: _____

Cryobank Signature:

_____

Name: _____

Title: _____

ID Donor Program

If Client selects an ID Donor, Client may participate in the ID Donor Program, whereby Client's child may learn the donor's identity and contact information when Client's child reaches the age of 18. Client does not have to participate, and may choose to maintain donor anonymity for Client's child.

To register for the ID Donor Program, Client must complete the ID Birth Registration form, located at www.fairfaxcryobank.com, any time after the birth of Client's child. Merely using an ID Donor's specimen or reporting the pregnancy/birth online does not allow the child access to the contact information.

If Client registers Client's child ("*Registered Child*"), here is what to expect:

- When a Registered Child reaches the age of 18, Cryobank will, at his or her written request, give that child their donor's full name, date of birth, last known telephone numbers, email address, physical address and other contact information that the donor has agreed to release and provided to Cryobank for that purpose. Only a Registered Child, and not his or her parent(s), has the authority to request and be provided with an ID Donor's contact information.

- If a Registered Child makes a request for donor information, Cryobank will take reasonable measures to authenticate the request, and the Registered Child will be required to sign a contract agreeing to use the information only for himself or herself, and not to share it with any third party.

- Cryobank makes reasonable efforts to stay in contact with all donors, and especially ID Donors, so that Cryobank can maintain updated information. Cryobank will release the best information Cryobank has at the time of a Registered Child's request; however, Cryobank cannot force donors to update their contact information and it is possible that the information Cryobank has may be outdated.

- Cryobank does not guarantee any contact between the Registered Child and his or her donor, nor does Cryobank have any responsibility for the quality, frequency or other results of such contact.

- If Client transfers sperm from an ID Donor to another intended parent (which requires Cryobank's prior consent), or if Client creates embryos with sperm from an ID Donor and then donates the embryos to another intended parent, then Client and the new recipient will both have to submit forms to Cryobank, documenting the transfer, in order for the new recipient to participate in the ID Donor Program. The required forms are available from the Cryobank.