Fairfax Cryobank

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Transfer Agreement for Receipt and Storage of Semen, Oocytes, or Tissue

This agreement is made and entered into by and between Fairfax Cryobank, Inc. (hereafter referred to as Cryobank) and _____, an individual (hereafter referred to as Client), for the purpose of receiving and storing the Client's specimen.

WHEREAS, the Client has specimens **(circle one: semen testicular tissue ovarian tissue oocytes)** (hereafter referred to as "Specimen") which have been procured, frozen, and previously stored by another facility and now desires to store Specimen at Cryobank.

WHEREAS, Cryobank provides the service of storing stated Specimen if the requirements of this agreement are met.

WHEREAS, Client has been fully advised and understands that there are certain inherent risks in the process of freezing, shipping, and thawing of the Specimen, including but not limited to: damage to the Specimen, mishandling during shipment, loss during shipment, and cryopreservation tank failure during shipment or storage. These risks could result in reduced capacity for fertilization or survival, a reduced life span of Specimen after thawing, rehydration, and removal of cryoprotectant buffers, and culture prior to transfer to the recipient; Client assumes all of these risks.

WHEREAS, the parties agree that Cryobank shall receive and store Client's Specimen according to the terms and conditions as set forth in this Agreement. The foregoing preamble is incorporated herein in its entirety.

NOW, the parties agree as follows;

1. The Client has made arrangements for the release and transfer of the Specimen from the current storage facility to Cryobank. The Client shall provide Cryobank with the name, address, and contact number of the facility that froze the Specimen, the procedure protocol for thawing the Specimen, all shipment details including but not limited to: the carrier, method (e.g. overnight, courier, date), the number of cryopreservation tanks, the type of tank(s), and the number of Specimens being transferred. **NOTE:** The Client may need to sign a release document (HIPAA form) with the clinic that froze the Specimen in order for information about the Specimen to be released to Cryobank.

2. The Client is responsible for paying the shipping costs for each tank shipped. The Client has been fully advised and understands that there are certain inherent risks in the process of shipping and handling of the Specimen, including but not limited to: loss during shipment or liquid nitrogen tank failure that may render the Specimen useless. The Client is willing to assume all of these risks and the Client fully understands and accepts that Cryobank, a division of Genetics & IVF Institute, Inc., its laboratory directors, and its laboratory personnel do not assume responsibility or liability for the transportation, condition, or survival of the frozen Specimen.

3. If the shipment is from a destination outside of the United States, the Client is responsible for arranging for any requisite customs or other permits and, prior to shipment, the Client must provide Cryobank with copies of these permits or provide Cryobank with a written statement to the effect that no permits are required. The Client acknowledges that international shipments are subject to delay and to an increased risk of damage and, consequently, an increased risk of damage to or loss of the frozen Specimen; the Client assumes this increased risk.

4. Cryobank will store the Client's Specimen in accordance with Cryobank's procedures in the usual facilities maintained for that purpose until this Agreement is terminated in the manner provided in Section 12.

5. Cryobank did not originally freeze the Client's Specimen. Cryobank disclaims all responsibility for the freezing process used and quality assurance standards of the clinic or facility shipping the Specimen, including but not limited to: the quality of the Specimen at the time it was frozen, its likelihood of surviving a thaw, or its likelihood of resulting in a pregnancy or live birth. The Client has made arrangements for the release and transfer of the Specimen from the current storage facility to Cryobank.

   The Client understands that any Specimen received from an outside clinic or facility will be appropriately verified using the labeling on straws/vials/or other devices in which the Specimen is stored and accompanying paperwork but that the actual genetic material frozen in those vessels cannot be guaranteed or verified by Cryobank employees.

6. The Client acknowledges that they have received from Cryobank oral and/or written information explaining procedures for storage, release, and use of the Specimen for insemination, IVF, or other reproductive procedure. The Client acknowledges that they have been informed of the costs associated with the services to be provided under this Agreement which include, but are not limited to: storage, release, and distribution.

7. The Client hereby agrees to pay quarantine storage fees if the Client tests positive for any infectious disease. A confirmed positive test will result in the Client being notified and charged *applicable quarantine fees*.

8. The Client hereby agrees to pay storage fees by a pre-paid billing agreement **or** on a monthly basis, including any collection fees for failure to pay. **It is understood that this agreement shall remain in effect unless terminated pursuant to the provisions of Section 12.** Compensation for services rendered and expenses incurred by Cryobank under this Agreement shall be set by Cryobank and may be adjusted from time to time by Cryobank based upon market factors including but not limited to increases in costs. Periodically, the storage charge may be increased to an amount equal to the storage fee that is currently being charged to new clients. The Client also agrees to pay a handling fee, shipping fee, shipping tank fee (outgoing & return), and any outstanding fees each time one or more vials, straws, or other device(s) containing the Specimen is/are removed from storage. Cryobank shall give written notice to the Client of any storage fee increase for the forthcoming period.

   Cryobank shall release the Specimen only to the Client or to their designee by completing Cryobank's Use and Release Authorization. The Client understands that their medical records will be sent to the physician performing an insemination/fertilization and/or to the recipient of the Specimen for their evaluation and use. Accordingly, the Client hereby authorizes Cryobank to release their medical records and all other individually identifiable health information held by Cryobank, whether or not contained in the Client's medical records, regarding any past or present medical conditions, including but not limited to client account number, Specimen quality, order history, and medical information to such a physician and recipient the Client has identified to use the Specimen. The conditions and procedures for release shall be those reasonably established by Cryobank, with which the Client hereby agrees to comply. The Client understands and agrees that the procedures established by Cryobank may be modified at the sole discretion of Cryobank to reflect changes in industry practice, laws, or regulations.

9. Disposition Instructions. Client will indicate their wishes for use or disposition of Specimens in the event of their incapacity or death by completing Appendix A.

10. The Client agrees that in the event of loss or destruction of the Client's Specimen by any reason whatsoever, damages as a result thereof would be highly conjectural and speculative and would be difficult to determine. Accordingly, pursuant to § 8.7-204(2) of the Virginia uniform commercial code, the Client agrees that in the event that the Specimen is lost or destroyed by virtue of negligence by Cryobank, the Client will be entitled to damages in the amount equal to the storage charge for the particular year in which the loss occurs, plus $100 per Specimen device (such as vial or straw) lost (maximum compensation to Client not to exceed $2,000.00 USD).

11. As part of the consideration by the Client in agreeing to ship Client's frozen Specimen to another clinic or facility, the Client hereby agrees that any dispute arising out of this consent or directly related to the quality of care provided by Cryobank or any of its physicians, nurses, counselors, or other personnel, will be decided only through arbitration by JAMS under the JAMS Streamlined Arbitration Rules and Procedures. The Client further agrees that any binding arbitration proceeding shall be conducted in Fairfax County, Virginia, the location of Cryobank, and agrees that any arbitration proceeding shall be conducted in accordance with the laws of the Commonwealth of Virginia, including, but not limited to: standard of care issues, causation issues, damage issues, qualification of experts and rules of evidence. The Client further agrees that the decision of the arbitrator(s) shall be binding and final and shall be enforced in any court of competent jurisdiction. Any arbitration costs shall be borne equally between Cryobank and the Client. If, notwithstanding the parties' agreement to arbitrate, any dispute becomes subject to a judicial proceeding, the parties agree to waive trial by jury.

    If any action or proceeding is brought to enforce or interpret any of the provisions of this consent, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other reasonable costs expended in such an action or proceeding.

12. This agreement shall terminate and Cryobank responsibility for storage shall cease upon the happening of any one or more of the following events:
    a. Cryobank reserves the absolute right to terminate this agreement by written notice to the Client if it is determined that the Specimen is inappropriate for storage.
    b. The Client fails to complete and return signed original Agreement and necessary paperwork for storage.
    c. Release of the Specimen by written authorization of the Client.
    d. Written notarized direction of the Client to Cryobank authorizing destruction of all Specimen that is/are presently stored at that time.
    e. Failure to pay the storage charges due will result in the termination of this Agreement and the abandonment of the Specimen.
        i. If at any time Cryobank has not received full payment of all amounts due under this Agreement by 180 (one hundred eighty) days from the due date, the nonpayment of the full amount shall result in the termination of this Agreement and abandonment of the Specimen. If at any time storage charges are due and owing but remain unpaid, Cryobank will pursue collection of the storage charges, including referral of claim to a collection agency. In that event, the Client agrees to pay all costs of such collection including any reasonable fees charged by the collection agency, other costs of collection, and reasonable attorney's fees.
        ii. **It is imperative that the Client notify Cryobank of any change in address, extended absence, or sabbaticals.** Cryobank will send written notice, via U.S. Mail, of non-payment from Cryobank to the Client at their latest address on file at Cryobank. If a notice is returned for insufficient address or similar reason, or if no written response is received from either the Client, or the Client representative, it is agreed that this Agreement is terminated.

13. Upon termination of this Agreement, any remaining Specimen held in storage by Cryobank shall become the sole and exclusive property of Cryobank; all right, title, claim and interest therein being transferred, conveyed, and delivered to Cryobank by the execution of this Agreement. The Specimen so acquired by Cryobank shall be either (1) destroyed by Cryobank, or (2) if Cryobank in its sole discretion so elects, used by Cryobank for scientific and research purposes but not for insemination, IVF, ICSI, procreation, or other reproductive procedure. Abandonment of the Client's Specimen shall be immediate, permanent, and irrevocable.

14. Either party may terminate this agreement upon 30 days' written notice to the other. Upon termination, any past due or current storage fees are still required to be paid in full before the storage client's account is closed. Failure to pay unpaid fees will be handled as described in Section 12. In the event such notice is given by the Client and the Client has an annual or multi-year contract, the storage fee shall be prorated over the storage period used based on the current monthly storage rate then in effect, an administrative fee applied, and the remainder, if any, refunded to the Client upon receipt of a signed release for the Client's Specimen stored by Cryobank. In the event such notice is given by Cryobank, the storage fee shall be prorated over the storage period used and the remaining prepaid storage fee refunded upon receipt of a signed release for the Client's Specimen stored by Cryobank. It shall be the Client's obligation to make arrangements for transfer, use, or disposition of the Specimen in the event of a termination of this contract for any reason other than the Client's death or failure to pay storage charges. Cryobank shall exercise its reasonable best efforts to cooperate with the Client in the transfer and release of the Specimen.

15. It is specifically acknowledged and agreed by and between the parties hereto that there is an inherent risk in the process of storage and thawing of Specimen that may render it ineffective for insemination, IVF, ICSI purposes, or other reproductive procedure, and that the Client has expressly agreed to assume this risk. Client understands this information and has been given the opportunity to ask questions and receive adequate additional information to make an informed decision.

16. The Client understands that Cryobank may keep the client's name, address, and required health information on file indefinitely. However, the Client's information will be kept confidential and used only to comply with the terms of this agreement. Any information obtained during these procedures that may identify the Client will remain confidential and will be disclosed to individuals not connected with this agreement only with Client's written permission. The Client understands that photographs or videotapes may be taken of them or the Specimen as a permanent record and for identification. The Client understands that they have the right to review this information at any reasonable time, and the Client acknowledges and agrees that any government agency with legal authority to do so may also review such records.

17. In the event Cryobank terminates the operation of its storage facility, it may, 30 days after providing written notice to the Client (or to the surviving spouse, properly-identified intimate partner, or in the case of a minor, legal guardian(s), if applicable) at their last known address, assign and transfer its obligations and the Specimen held on behalf of the Client to a similar storage facility.

18. It shall be the Client's obligation to make arrangements for transfer or disposition of the stored Specimen. Cryobank shall exercise its reasonable best efforts to cooperate with the Client in the transfer of the Client's stored Specimen.

19. The Client understands and accepts that Cryobank, its physicians, laboratory directors, and laboratory personnel do not assume responsibility or liability for the transportation, condition, or survival of the Specimen or the physical, mental, or other characteristics of any child or children born as a result of the use of the stored Specimen.

20. The Client further agrees to indemnify, defend, and hold harmless Cryobank and its past, present, or future officers, directors, employees, agents, assignees, contractors and affiliates, from any and all claims, demands, causes, charges, costs, expenses, obligations, or action for damages or otherwise asserted against Cryobank arising out of the storage, shipping, handling, thawing, disposition and any other action involving the receipt, handling, transfer, disposition or release of Client's Specimen.

21. If the Client names Cryobank or any of its employees or agents party to any litigation arising from any disagreement between the Client and their spouse or properly-identified intimate partner as to the rights of either or both of them, as to each other, or as to Cryobank, the Client or their estate shall be liable for the reasonable attorney's fees and other costs of Cryobank in such litigation. Also, if any action or proceeding is brought to enforce or interpret any of the provisions of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and other reasonable costs expended in such an action or proceeding.

22. Any notices to be provided to a party hereunder shall be sent to the address set forth beneath the party's signature or such other address as a party may request in writing be used for that purpose. The Client (or the surviving spouse or properly-identified intimate partner, or in the case of a minor, legal guardian(s), if applicable) shall keep Cryobank informed in writing at all times during the term of the agreement of any change in address, including current mailing address, email address, and telephone number. The Client shall advise Cryobank promptly in writing on each change of address or prolonged absence from the last address on file. The Client acknowledges that their current mailing address is set forth on the Client information form provided with this Agreement and acknowledges that it is their obligation to provide in writing to Cryobank any change in address.

23. If any provision of this Agreement is found to be invalid or unenforceable by any court, that provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions hereof, unless such invalidity and unenforceability would defeat an essential purpose of this Agreement.

24. This represents the entire agreement between the parties concerning the subject matter; and there are no understanding, agreements, or representations other than as herein set forth. This Agreement shall be modified only by a writing signed by all parties.

25. The agreement shall be binding upon the parties and their respective assignees, heirs, executors, and administrators. This agreement shall be construed in accordance with the laws of the Commonwealth of Virginia, USA.

Records Release: I hereby authorize Fairfax Cryobank, Inc. to release any information related to my test results, specimen analysis and freeze reports, medical history, or billing account to the designated representative(s) below.

Designated Representative(s): _____

Relationship to Storage Client: _____

Date of Birth:_____

☐ I choose not to designate a representative at this time.

Specimen Release: Client must complete a Use and Release Authorization form provided by the Cryobank to Release the specimens to a Physician/Clinic for use with a recipient. If Client later desires to revoke or change their selections, Client must submit a new Use and Release Authorization.

_____ _____
(Client's signature) (date)

_____ Account #: _____
(Print Client name) (Cryobank will complete)

_____ _____
If Client is a minor, legal guardian signature Legal Guardian Printed Name

Cryobank will complete:
The Cryobank Representative signs below agreeing to provide all services referred to in the agreement.

_____ _____ _____
Cryobank Representative Printed Name Signature Date

Account #_____

Appendix A
Disposition Instructions

In the event of my incapacity or death, and to the extent permitted by applicable law, I prefer the following disposition of the Specimens(s) stored in my account at Fairfax Cryobank (*if no box is checked, Specimens will be thawed and discarded by Cryobank*):

☐ If I am married at the time of my incapacity or death, I want ownership to pass to my surviving spouse.

☐ Whether or not I am married at the time of my incapacity or death, I want ownership to pass to the following individual:

Full name:_____ Telephone:_____

Date of Birth:_____ Email:_____

☐ I want Fairfax Cryobank to thaw and discard my Specimen(s).

Responsibility to Notify Cryobank. I understand it will be the responsibility of my successor in interest to notify Cryobank about my incapacity or death and provide legal evidence of my incapacity or a copy of the death certificate, verification of their identity and the basis of their claim to the Specimens. The successor in interest must enter into a new storage agreement or arrange for the Specimens to be discarded or transferred to another facility, or the Specimens will be considered "abandoned" and may be discarded by Cryobank. I understand that, in some cases, state or federal law may limit or prohibit use of the Specimens for procreation by anyone other than the original intended recipient.

Child(ren) Conceived After Death. Cryobank has advised me that the laws concerning parentage and rights to inheritance and other survivor's benefits of posthumously-conceived children may vary from state to state, and that it may be necessary for me to take additional, affirmative steps during my lifetime in this regard. Cryobank has further advised me that it cannot and does not give legal advice, and I am strongly encouraged to consult an experienced attorney about the legal effects of posthumous conception.

Changes. I understand that I can change or revoke these Disposition Instructions in the future by providing Cryobank with written instructions bearing my notarized signature. Such instructions may (but are not required to be) provided on a new copy of this form.

CLIENT

Print Name:_____

Sign:_____

Date:_____

IF CLIENT IS A MINOR:

*Parent/Guardian Name:*_____

Parent/Guardian Signature: _____

Date:_____

Account #_____