



Terms of Use

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 First and Last Name: _____ Date (MM/DD/YYYY): _____

Intended Parent's Social Security Number (last 4 digits) _____

Intended Parent's Date of Birth (MM/DD/YYYY): _____

Intended Parent's Email Address: _____ Phone Number: _____

Intended Parent's Home Address: _____

City: _____ State: _____ Zip code: _____

Co-Intended Parent's First and Last Name: _____ or n/a

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. In particular, due to advancements in technology and updates in scientific and clinical recommendations, genetic testing has expanded over time. Client should confirm what genetic testing has been completed for a particular donor by reviewing the documents available for download on the online Donor Profile or by contacting Client Services.

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 donors promise to report any new or newly discovered medical or genetic issues that could affect donor-conceived offspring. Clients also must report any medical or genetic issues affecting their offspring. As a result, medical/genetic updates can arise at any time after Client has purchased Vials.

Although we ask donors, recipients, clinical professionals, and donor-conceived people (when applicable) to report this information, Cryobank cannot compel such reporting and may not be able to obtain this type of information in all cases. When obtained, the medical/genetic updates may not be accompanied by medical records and may not be confirmed.

If Cryobank receives a report of a serious medical or genetic issue affecting a donor, a donor's family member, or his offspring that may indicate increased health risks for other donor-conceived offspring, Cryobank's genetic team will investigate the situation and determine whether the donor should be "restricted" or withdrawn from the donor program. Cryobank's investigation process may involve requesting medical records or additional testing results from donors, donors' family members, or offspring, and this dependence on third parties and other factors means that Cryobank cannot guarantee that an investigation will be completed within a particular timeframe. 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 to update the donor's profile on the website.

As genetic testing technology and genetic research changes, a genetic testing provider may make changes to the classification of a gene variant carried by the donor. In the process, a donor's genetic test report may be amended by the testing provider to identify a new carrier status or to remove a previously reported carrier status. There also may be updated genetic testing results if a donor or offspring is tested for a new condition. Genetic testing summaries and results are available for download on the Cryobank website. Some testing utilized by donors, recipients, or offspring may not be clinically validated and the implications of the results may not be fully understood.

Donor's medical and genetic information provided to Client at time of purchase is the information available to Cryobank on that date. Cryobank places reported medical updates on donors' summary profiles on the website. Client may also check donor medical status at any time by calling Client Services at 1-800-338-8407. **It is the responsibility of Client to check if the Donor has any updated medical/genetic information before starting any fertility treatment.**

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

1.7. Shipping. Cryobank will ship Client's order to a U.S. clinic via Federal Express in a specially designed liquid nitrogen tank that will keep Specimens frozen for seven (7) days, with Day 1 being the date of shipment. Shipped Vials may not be returned for refund or credit. Cryobank will ship to a destination outside of the United States, provided Client arranges for any requisite customs or other permits and, prior to shipment, provides Cryobank with copies of these permits or a written statement to the effect that no permits are required. *International shipments are subject to increased risk of delay and damage and, consequently, an increased risk of damage to or loss of the frozen Specimen; Client assumes this increased risk.*

1.8. Storage. Many countries place restrictions on the length of time that donor samples can be stored and/or require that a donor sample be utilized within a particular time period. Restrictions may encompass embryos created from donor samples. It is Client's obligation to consult with their clinic and discuss if there are any such restrictions in the applicable jurisdiction prior to purchase. In any case, if Client does not want to ship Vials right away, Cryobank will store the Vials at its facility and the "Storage Terms and Conditions" set forth below will apply. Storage fees are listed on the website and are subject to change.

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 congenital condition, including but not limited to birth defect, intellectual disability, or genetic condition. Cryobank uses robust screening and testing criteria to reduce risk as much as possible, *but Cryobank cannot eliminate risk.* Even if available donor testing shows normal results, the tests have limitations and may not always be reliable, even when properly administered. Client assumes these risks.

2.2. All Possible Testing. Cryobank does not test for all genetic disorders and infectious diseases. It is impractical or otherwise not feasible to do all available tests, and not all genetic disorders or infectious diseases have tests. Donors are screened with the testing panel that is current at the time of their screening. 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 that is listed 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 Identifying Information. Client agrees to use the information Cryobank provides about donors, including photographs, exclusively for the purpose of selecting a donor. Client agrees 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 other clients and offspring.

3.2. Refund Policy. Clients who store Vials at the Cryobank that have never been shipped from Cryobank may receive a partial refund for those Vials. However, Clients whose insurance or fertility benefits company paid Cryobank for Vials in storage may not receive a refund but may qualify to exchange Vials per the exchange policy.

3.3. 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, state, and international laws to track the distribution of Vials; in addition,

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 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 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.** A replacement or credit provided is for the Specimen only; additional costs, such as shipping, handling or any other charges associated with the purchase or use of the Specimen, 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, after first attempting to resolve the dispute in formal or informal mediation, the Parties 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 the Washington, D.C. metropolitan area or virtually, 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 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.

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.

