Fairfax Cryobank

Donor Semen Storage Client Agreement

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 the "Client"), for the purpose of storing Donor Sperm (hereafter referred to as "specimens").

WHEREAS, the Client has specimens from Cryobank and the specimens shall continue to be stored by Cryobank.

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

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

WHEREAS, the parties agree that Cryobank will store the Client's specimens 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 shall purchase specimens from Cryobank and desire the storage of specimens by Cryobank. The Client asserts that he or she has the authority to store the specimens because he or she is the owner of the specimens.

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

3. The Client acknowledges that he or she has received from Cryobank oral and/or written information explaining procedures for storage and release of the specimens. The Client acknowledges that he or she has 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.

4. The Client has read and understands that any original signed addendum to this storage agreement must accompany this agreement when initiated. Agreement does not supersede signed terms of use.

5. The Client understands and agrees that the specimens have been tested in accordance with FDA regulations at the time of purchase.

6. 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 be continuous unless terminated pursuant to the provisions of paragraph 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 specimen(s) is/are removed from storage. Cryobank shall give written notice to the Client of any storage fee increase for the forthcoming period.

7. IMPORTANT NOTICE: PATERNITY OF CHILD. The Semen Donor has given up his parental rights, per his agreement with the Cryobank. PRIOR TO USING THE SPECIMEN, PLEASE CONSULT WITH AN EXPERIENCED ATTORNEY REGARDING PATERNITY OF THE CHILD.

8. Cryobank shall release the vials or straws of the Client's specimens only to the Client or to his or her designee at the expressed written authorization of the Client. The Client understands that medical records will be sent to the physician performing an insemination/fertilization and/or to the Recipient of the specimens for their evaluation and

use. Accordingly, the Client hereby authorizes Cryobank to release his or her medical records and all other individually identifiable health information, 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 specimens. The Client understands that this authorization is voluntary and that if the individual or entity authorized to receive this information is not a covered entity under federal privacy regulations, the release of such information may no longer be protected by federal privacy regulations. The Client also understand that once this information is used or disclosed pursuant to this authorization it may be subject to re-disclosure by the physician, and the Recipient may no longer be protected. 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. As of the date of this Agreement, the release procedures are as follows:

a. *During the Client's lifetime:* The specimens stored by Cryobank for the Client shall remain his or her property and will be released (1) to a licensed physician or the physician's designee, (2) for use with the Client or the Client's designee with the intent to create a child, and (3) upon the authorization of the Client.
b. *Upon the Client's death:* This Agreement terminates upon the death of the Client. If the Client has a written and notarized statement signed by the Client during his or her lifetime stating an intention for use of the specimens for procreation after the Client's death and granting ownership of stored tissue samples to a designee, disposition of the specimens will be in accordance with the instructions following (1) notification of Cryobank in writing within 60 days after the first storage invoice following the date of the Client's death, (2) a certified copy of the Client's death certificate, and (3) if the Client's surviving designee elects to continue storage of the specimens for his or her exclusive use, a written and notarized statement signed by the designee electing to take ownership of any remaining specimen(s), then the specimens stored by Cryobank shall become the property of the designee of the Client with all of the Client's rights and obligations transferred to the designee upon payment of applicable storage fees and completion of new agreement.

CHOOSE ONE:
( ) I understand that my specimen(s) can be used for the purpose of procreation by my surviving designee if all of the conditions of 8b are met.
( ) ***Upon my death, I elect to have all of my stored specimens destroyed, regardless of the desires of any surviving designee.***

Client's Initials _____

9. This agreement also represents the authorization for frozen specimen transport, unless other documentation is required per Cryobank procedures. The Client has been fully advised and understands that there are certain inherent risks in the process of shipping and handling of the specimens during shipment, including but not limited to loss during shipment and liquid nitrogen tank failure that may render the specimens useless. This is a rare event; however, Cryobank offers the option to ship the vials or straws containing the specimens in separate tanks (provided that there are at least two vials or straws to be shipped). The Client is responsible for paying the shipping costs for each tank shipped. The Client is willing to assume all of these risks and the Client fully understands and accepts that Cryobank, a division of Genetics and 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 specimens.

   If the shipment is to 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.

10. The Client agrees that in the event of loss or destruction of the Client's specimens 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 his or her 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 a refund of the amount equivalent to the price per unit paid at the time of purchase.

11. As part of the consideration by the Client in agreeing to ship the Client's frozen specimens 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 attorney's 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 specimens are inappropriate for storage.
    b. The Client fails to complete and return signed original Agreement and necessary paperwork for storage.
    c. Release of the specimens by written authorization of the Client.
    d. Written notarized direction of the Client to Cryobank authorizing destruction of all specimens then presently stored.
    e. Failure to pay the storage charges due resulting in the termination of this Agreement and the abandonment of the specimens.
        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 his or her 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's representative, it is agreed that this Agreement is terminated.
    f. Death of Client. Disposition of the stored specimens will be in accordance with the Client's instructions following receipt of a copy of the formal death certificate issued by the appropriate authority of the state in which the Client resided at the time of his or her death and a notarized copy of the statement described in paragraph 8b.

13. Upon termination of this Agreement, any remaining specimens 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.

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 Client's account is closed. Failure to pay unpaid fees will be handled as described in paragraph 13. 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(s) 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(s) stored by Cryobank. It shall be the Client's

obligation to make arrangements for transfer, use, or disposition of the specimens 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 specimens.

15. It is specifically acknowledged and agreed by and between the parties hereto that there is an inherent risk in the process of collection, freezing, storage, and thawing of a 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. The Client also understands and agrees that the viability of the semen specimen and the results from any insemination, IVF, ICSI, or other reproductive procedure depends almost entirely upon health and age of the Client and the Recipient and understands that the specimen will not be stored if it contains no viable sperm unless the Client specifically requests storage regardless of viability. The 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 the Client's written permission. The Client understands that photographs or videotapes may be taken of him, her, or the specimen as a permanent record and for identification. The Client understands that he or she has 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 partner/designee) at his or her 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 specimens. 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 the 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 intimate partner, as to the rights of either/ both of them, or as to each other, or as to Cryobank, the Client or his or her estate shall be liable for the reasonable attorney's fees and other cost 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 partner/designee, 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 addresses, 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 his or her current mailing address is set forth on the client information form provided with this Agreement and acknowledges that it is his or her 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.

26. Cryobank is a division of Genetics & IVF Institute, Inc., a Virginia corporation. All references in this Agreement to "Cryobank" shall be deemed to include Genetics & IVF Institute, Inc., unless the context otherwise requires.

By providing a signature below, the Client expressly agrees that his or her failure to comply with the terms of this Agreement will constitute termination of this Agreement and shall result in the abandonment of said specimen(s) to Cryobank.

This agreement is entered into on the _____ day of _____, 20____ by

_____
(Client's signature)

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

_____ _____
If applicable, Semen Depositor's signature Semen Depositor's 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