

## *Sperm Cryopreservation and Storage Agreement*

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The purpose of the document is to act as an agreement to store sperm for the purpose of short and/or long term storage in liquid nitrogen. This Agreement is made and entered into at the time and place hereinafter stated, by and between the University OB/GYN Associates - Fertility Center, Louisville, KY, hereinafter sometimes referred to as "Fertility Center" and \_\_\_\_\_, whose address is hereafter given and who is sometimes referred to as the "Client Depositor". The effective date of this Agreement is \_\_\_\_\_.

### AGREEMENT

1. The Client Depositor has consulted with a doctor and it has been determined that he may be an appropriate candidate to have his sperm collected, evaluated, frozen and stored for future use, as hereinafter set forth. Sperm is desired by the Client Depositor for one or more of the following reasons (please circle applicable items):

- A. Prior to vasectomy;
- B. Prior to irradiation and/or chemotherapy;
- C. Prior to exposure to potentially toxic medications;
- D. Prior to exposure to potentially toxic environmental conditions;
- E. Prior to travel or extended absence of the Client Depositor;
- F. Prior to artificial insemination;
- G. Prior to shipment of the semen to another location;
- H. Or other reasons deemed appropriate by my Doctor.

Sperm specimen can be any one originating from semen, testicular, epididymal or vas deferens sources.

2. Unless terminated under Section 4J or Q of this Agreement, this Agreement will automatically renew annually on the anniversary of its original effective date.

3. I hereby request that the University OB/GYN Associates store my sperm by cryopreservation (storage in liquid nitrogen).

4. I (the Client Depositor) understand and agree to the following conditions:

**A. I understand FDA regulations restrict and regulate the use of my semen sample. I understand that in order for my sample to be used as a directed donation (use by a non-intimate partner), I must be screened and tested for communicable diseases, as outlined by the FDA in 21 CFR 1271.**

**B.** To have a current semen analysis of my semen by the Fertility Center laboratory to determine if my sperm quality is sufficient to consider preservation by freezing. A written report will be sent to the Client Depositor or his Doctor evaluating the quality of the semen. I understand that it is impossible to determine with absolute certainty if my semen will freeze and thaw well enough to contribute to a future pregnancy. If it is determined that sperm quality is altered enough to make the technique of freezing and thawing unlikely to result in live sperm upon future thawing, the Client Depositor will be discouraged from cryopreserving sperm. If the Client Depositor still chooses to preserve the sperm then his desires will be followed by the Fertility Center even though the Client Depositor understands the technique of cryopreservation is unlikely to result in viable sperm.

**C.** Sperm will be frozen in small plastic vials. Usually 3-5 vials can be frozen from one semen sample, though more or less can occur. The Client Depositor understands that the use of frozen-thawed sperm results in a lower chance of pregnancy compared to fresh sperm. The Client Depositor understands that it is impossible to determine if a given individual's semen will be able to result in a pregnancy even under ideal conditions. The more vials that are stored, the higher the chance that the semen will be able to eventually result in a pregnancy if all conditions are ideal, however, no quantity of cryopreserved semen can assure a pregnancy.

**D.** *The storage of any semen samples for short term storage shall be for a 60 day period only. If storage exceeds sixty days, the Fertility Center will automatically place the vials in long term storage and the client depositor will be billed accordingly.*

***[NOTE: CLIENT TO RESOLVE CONFLICT BETWEEN D&E]***

**E.** The storage of any semen samples from the Client Depositor shall be for a twelve-month period. At the end of the twelve-month period the agreement shall be automatically renewed for additional twelve-month periods, assuming all of the obligations have been met as contained herein, and until terminated pursuant to the provisions of this agreement.

**F.** The Client Depositor agrees to pay all costs associated with semen analyses, freezing, test-thaws and storage of his semen. These charges will be billed in advance for the upcoming twelve-month period. In the event that the agreement is automatically renewed the Client Depositor agrees to pay in advance the storage fee for each sample held in frozen storage by the Fertility Center.

**G.** The Client Depositor understands that the Fertility Center has the right to increase any of the fees associated with sperm freezing and storage without prior notice.

H. The Client Depositor understands that due to space constraints, his sperm samples may be moved to an offsite storage location after a period of one year. Should this occur, the client depositor will be liable for any transfer fees or storage costs associated with the new facility.

I. Any charge for storage shall be paid within thirty (30) days of the date of billing, otherwise such charges shall be deemed delinquent.

J. The Fertility Center shall release the vial(s) of Client Depositor's frozen semen only upon written notice by the Client Depositor and only to a licensed medical doctor or authorized agent during the lifetime of the Client Depositor and upon compliance with reasonable procedures and policies which the Fertility Center may from time to time establish, including payment of a shipping and/or transfer fee.

K. This agreement shall terminate, and the Fertility Center's responsibility for storage shall cease, upon the occurrence of one or more of the following events:

(a) Release of all the semen samples according to the terms of this agreement and payment of the applicable transfer fee;

(b) Receipt by the Fertility Center of a signed and notarized disposition form from the Client Depositor authorizing destruction of all semen samples retained in storage;

(c) The Client Depositor's death with consent (listed in item L);

(d) Failure of the Client Depositor to pay storage charges within the time provided in paragraph 3(F);

(e) Upon thirty (30) days written notification by the Fertility Center to the Client Depositor of the Fertility Center's intention to discontinue storage operations.

L. In the event of the death of the Client Depositor, the Client Depositor would like his vials of sperm (*sign **one** of the items below*):

a. Destroyed \_\_\_\_\_.

b. Maintained in storage for future donation to my spouse or intimate partner \_\_\_\_\_ (fill in name) who will assume all of the obligations and terms described in this contract \_\_\_\_\_.

**M. In the event of termination of the agreement, for any of the reasons above, the Fertility Center has the authority to destroy the vial(s) held in storage.**

**N.** The Client Depositor acknowledges that he understands that there is an inherent risk in the process of collecting, freezing, storage and thawing of semen which may render it ineffective for insemination and the Client Depositor agrees to assume this risk.

**O.** It is agreed that in the event of loss, damage or destruction of any sample of Client Depositor's sperm for any reason whatsoever, that any damage which may result to the Client Depositor or any third party is speculative and impossible to determine. Accordingly, in the event of loss, damage or destruction during the process of collecting, freezing, storage, thawing, transferring or other procedures, the Client Depositor will accept and the Fertility Center will pay as liquidated damages an amount not to exceed the storage charges which have been paid for the year in which the loss, damage or destruction occurs, plus the sum of \$100.00.

**P.** Client Depositor covenants and agrees, without a reservation of rights, in law or equity, to indemnify, hold harmless and release the Fertility Center and its employees and agents, including but without limitation, the doctor, those persons who collect, examine, evaluate, collect, store, preserve, transfer or manipulate the sperm samples from any and all liability or obligation of any kind or manner, including attorney's fees, connected with said procedures or related thereto, and any other adverse consequences of any kind that may arise to be connected directly or indirectly to, or in any manner with, the offspring resulting from the artificial insemination utilizing said sperm samples and/or procedures connected therewith, except to the extent and under the circumstances set forth in the next preceding paragraph.

**Q.** Any notices provided hereunder shall be sent to the address as set forth below, and it shall be the responsibility of the Client Depositor to provide his current address to the Fertility Center, if different from that as stated below and any notice, correspondence or billing directed to that address shall be presumed to have been received in the regular course of mail by the Client Depositor.

**R.** Either party may terminate this agreement upon thirty (30) days written notice to the other, any provision to the contrary notwithstanding. In the event such a termination notice to the Client Depositor is given by the Fertility Center, any unused portion of the storage charges for the then current twelve-month period, shall be returned to Client Depositor and the Client Depositor shall have the responsibility, following payment of applicable transfer fees, to arrange the transfer, use or disposition of the vial(s) of semen then in the possession of the Fertility Center. In the event the Client Depositor terminates this agreement written notice must be received and acknowledged by the Fertility Center.

**S.** The Client Depositor acknowledges that University OB/GYN Associates, the Division of Reproductive Endocrinology and Infertility, and all officers and employees, including my doctor, are subject to the provisions of the Kentucky

Government Immunity Act, as amended, which Act controls all procedures and limitations with respect to claims of liability.

T. This agreement shall be binding upon the administrators, heirs and successors of the parties.

**U. Arbitration.**

i. All disputes and controversies of every kind and nature between the parties to this agreement arising out of or in connection with this Agreement as to the existence, construction, validity, interpretation or meaning, performance, nonperformance, enforcement, operation, breach, continuance, or termination thereof shall be submitted to arbitration pursuant to the procedure set forth below.

ii. Either party may demand such arbitration in writing within 15 days after the controversy arises, which demand shall include a statement of the matter in controversy.

iii. Within 30 days after such demand, the parties shall attempt to mutually agree upon an arbitrator. If mutual agreement cannot be reached, an arbitrator shall be immediately appointed by the arbitration committee of the American Arbitration Association.

iv. Unless otherwise agreed to in writing and signed by both parties, the arbitration costs and expenses of each party shall be borne by that party.

v. The arbitration hearing shall be held within 30 days of appointment of the arbitrator at a time and place mutually agreed to by the parties or if mutual agreement cannot be reached at a time and place designated by the arbitrator.

vi. The arbitration process shall be governed by KRS 417.050 et seq. and the arbitration procedures of the American Arbitration Association then in effect shall be utilized in the arbitration hearing and the law of evidence of the State of Kentucky shall govern the presentation of evidence at such hearing.

vii. The arbitration hearing shall be concluded within 3 consecutive days and the award shall be made within 30 days after the close of the submission of evidence.

viii. An award rendered by the arbitrator appointed under and pursuant to this agreement shall be final and binding on all parties to this Agreement, and judgment on such award may be entered by either party in the highest court, state or federal, having jurisdiction.

ix. The parties have to stipulate that the provisions of this Agreement shall be a complete defense to any suit, action, or proceeding instituted in any federal, state, or local court or before any administrative tribunal with respect to any controversy or dispute arising under this Agreement and which is arbitrable as set forth in this Agreement.

x. The arbitration provisions of this Agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this Agreement.

xi. Nothing contained in this Agreement shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this Agreement.

V. This agreement represents the entire agreement between parties and there are no understandings, agreements, or representations other than as set forth herein. The printed portion of this contract is the contract between the Client Depositor and the Fertility Center. Crossouts, written additions, notes or otherwise do not alter or become part of this contract. Written date and signatures do become part of this contract.

**I, THE CLIENT DEPOSITOR, RECOGNIZE I HAVE BEEN INFORMED ABOUT THE COLLECTION, STORAGE, RETRIEVAL, DISPENSING OF SPERM AND THE RISKS AND COSTS ASSOCIATED WITH CRYOPRESERVATION, STORAGE AND DISTRIBUTION. I HAVE ALSO BEEN GIVEN THE OPPORTUNITY TO ASK QUESTIONS REGARDING THE ABOVE INFORMATION AND RECOGNIZE THAT I MAY ASK QUESTIONS AT ANY TIME. THIS INFORMATION WAS PRESENTED TO ME IN ENGLISH IN TERMS WHICH I UNDERSTAND. I SIGN THIS CONSENT OF MY OWN FREE WILL.**

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals this day of \_\_\_\_\_, 2\_\_\_\_ .

\_\_\_\_\_  
CLIENT DEPOSITOR (please print)

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CLIENT DEPOSITOR (signature)

\_\_\_\_\_  
CITY, STATE, ZIP CODE

\_\_\_\_\_  
CLIENT DEPOSITOR'S LEGAL GUARDIAN (Print)

\_\_\_\_\_  
TELEPHONE NUMBER

\_\_\_\_\_  
CLIENT DEPOSITOR'S LEGAL GUARDIAN (signature)

Witnessed By

\_\_\_\_\_  
FERTILITY CENTER/ NOTARY (signature)