



Cryos International – New York LLC

90 Maiden Lane • Suite 302 • New York • NY 10038

Phone 212-430-5950 • Toll Free 866-366-6777 • Fax 917-210-3464

ny.cryosinternational.com/ny • ny@cryosinternational.com

Depositor Storage Agreement

(Version 2-2008)

This Patient Storage Agreement (the “Agreement”) is made between Cryos International, a New York limited liability company (“CRYOS”), the undersigned male (“CLIENT”; CRYOS and CLIENT are collectively referred to as the “Parties”).

WHEREAS, CLIENT desires that CRYOS store, preserve and protect CLIENT’s semen indefinitely, and CRYOS desires to hold, preserve and protect CLIENT’s semen, subject to the terms and conditions provided in the Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

CLIENT will provide to CRYOS CLIENT’s semen, and CRYOS will handle and store such semen in a reasonably safe and secure manner and in accordance with applicable law for a period to be agreed upon by the Parties, subject to the terms and conditions of this Agreement.

The right to dispose of the semen is personal to CLIENT so long as CLIENT is alive. CRYOS shall have no obligation to receive, act upon or abide by any instructions from any person other than CLIENT.

ASSIGNMENT IN CASE OF DEATH

In the event of my (CLIENT’s) death, or if I am rendered incapable of making any conscious decisions, am rendered mentally incompetent, I, the CLIENT, transfer control of all my specimens as indicated below:

Given to my legal spouse (indicate name and address below) _____(please initial here)

Be destroyed _____(please initial here)



Cryos International – New York LLC

90 Maiden Lane • Suite 302 • New York • NY 10038

Phone 212-430-5950 • Toll Free 866-366-6777 • Fax 917-210-3464

ny.cryosinternational.com/ny • ny@cryosinternational.com

Be given to the control of _____ (please initial here)

_____(Indicate name and address)

CRYOS shall release CLIENT’s semen only upon the explicit, written instructions (which may be by electronic mail) of CLIENT. If requested by CLIENT and at his own expense, CLIENT’s semen may be delivered to himself or, to the extent permitted by applicable law, to any other party. Before delivery of CLIENT’s semen takes place, CRYOS is entitled to demand confirmation of CLIENT’s identity to the extent that CRYOS determined to be necessary or appropriate.

CRYOS will not permit any of CLIENT’s semen to be used for research purposes without Client’s express, prior written consent.

If CLIENT shall have instructed CRYOS in writing that CLIENT wishes to terminate this Agreement or if CLIENT shall have died during the storage period, if CRYOS shall have become aware of CLIENT’s death, CRYOS shall destroy CLIENT’s semen without unreasonable delay. Thereupon, this Agreement shall be deemed to have terminated, and CRYOS shall have no obligation to pay to CLIENT or any other person any refund for any remaining storage time. CRYOS has the right to demand documentation to the extent that CRYOS shall determine to be necessary or appropriate, before destruction of any CLIENT’s semen.

Whether or not required by applicable law, CRYOS shall perform such tests or analysis upon CLIENT’s sperm as CRYOS shall determine to be necessary or appropriate; such tests may determine the semen quality prior to freezing and after a thaw of a test vial. CRYOS may perform such tests in its own laboratories or may cause such tests to be performed by an independent laboratory. Upon request in writing, CRYOS shall provide to CLIENT copies of any such test results. CRYOS is not responsible for any such tests or for the quality or effectiveness of any CLIENT’s sperm. The semen is expected maintain its fertility capacity, but CRYOS shall bear no responsibility for CLIENT’s semen’s lack of fertilization ability at any time.



Cryos International – New York LLC

90 Maiden Lane • Suite 302 • New York • NY 10038

Phone 212-430-5950 • Toll Free 866-366-6777 • Fax 917-210-3464

ny.cryosinternational.com/ny • ny@cryosinternational.com

CLIENT shall specify to CRYOS in writing the medical or healthcare provider to which he would like CLIENT's semen to be delivered at the time of release of CLIENT's sperm. CRYOS reserves the right to postpone or deny a shipment request if CRYOS shall have determined, in its sole discretion, that the specified provider is not authorized to carry out the contemplated treatment. In addition, CLIENT acknowledges that applicable law may restrict CRYOS from shipping any CLIENT's sperm for use by any specific recipient other than CLIENT's current or active regular sexual partner.

CRYOS shall not be liable for any delay or failure in performance due to events outside CRYOS's reasonable control, including without limitation acts of God, earthquake, labor disputes, shortages of supplies, riots, war, acts of terrorism, fire, epidemics, or delays of common carriers or other circumstances beyond CRYOS's reasonable control. The obligations and rights of the excused Party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.

CLIENT acknowledges that circumstances caused by unforeseen events (force majeure) may result in damage or loss of CLIENT's semen; CRYOS shall have no obligation to compensate CLIENT for any semen that may be lost by virtue of any force majeure type of event.

CLIENT is solely responsible for the use of CLIENT's semen. CRYOS has no responsibility for any treatment that may involve any CLIENT semen. CLIENT is solely responsible for all costs related to CLIENT semen, including shipping charges, as well as all charges related to or arising out of any medical procedure, any pregnancy that may result or any child that may result from any such pregnancy. CRYOS makes no warranty related to, and expressly disclaims all responsibility for, traits or characteristics, that may be present in offspring resulting from treatment with CLIENT semen. CRYOS WARRANTS ANY AND ALL SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER. EXCEPT AS SPECIFIED IN THIS SECTION, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, AGAINST INFRINGEMENT OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. AN AGGRIEVED PARTY MUST NOTIFY CRYOS PROMPTLY OF ANY CLAIMED BREACH OF ANY WARRANTY, AND SUCH PARTY'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY SHALL BE RETURN OF THE POR-



Cryos International – New York LLC

90 Maiden Lane • Suite 302 • New York • NY 10038

Phone 212-430-5950 • Toll Free 866-366-6777 • Fax 917-210-3464

ny.cryosinternational.com/ny • ny@cryosinternational.com

TION OF THE FEES PAID TO CRYOS BY PAYING PARTY FOR SUCH NON-CONFORMING SERVICES. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE. THE WARRANTY PROVIDED IS SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN THIS AGREEMENT.

CLIENT warrants that all CLIENT Information provided hereunder is accurate and reliable and undertakes to promptly correct and update such CLIENT Information during the term of this Agreement.

CLIENT warrants that CLIENT is the owner and source of all human tissue presented to CRYOS as CLIENT's sperm and has full authority to store CLIENT's sperm and direct its disposition in accordance with the terms of this Agreement. CLIENT shall reimburse CRYOS for any expenses reasonably incurred by CRYOS (including reasonable legal fees) by reason of CLIENT's compliance with the instructions of CLIENT in the event of a dispute concerning the ownership, custody or disposition of CLIENT's sperm stored by CLIENT with CRYOS.

If at any time CRYOS shall be unable to store CLIENT's semen for any reason, CRYOS shall seek other storage options as well as inform CLIENT at his last known address without any unreasonable delay. CLIENT is solely responsible for advising CRYOS of any change of address.

CRYOS may destroy CLIENT's semen if CLIENT shall not have paid any applicable storage fees in a timely manner. Should storage fees not be paid, CRYOS shall make every reasonable attempt to contact CLIENT using the most recent provided address/phone, following attempt to contact CLIENT by certified, return receipt mail, CRYOS has the right to discard the CLIENT's stored semen after a period of no less than one (1) month's time. CLIENT may extend the storage period by payment of any applicable storage fees and charges.

CRYOS may act in reliance upon any instruction, instrument, or signature reasonably believed by CRYOS to be genuine and from CLIENT or any other Authorized Person. CRYOS will not be required to inquire into the truth or evaluate the merit of any statement or representation contained in any notice or document reasonably believed to be from CLIENT. With respect to release and destruction of CLIENT's sperm, CRYOS shall rely on CLIENT.



Cryos International – New York LLC

90 Maiden Lane • Suite 302 • New York • NY 10038

Phone 212-430-5950 • Toll Free 866-366-6777 • Fax 917-210-3464

ny.cryosinternational.com/ny • ny@cryosinternational.com

CRYOS has no responsibility to provide any information about any medical condition or treatment of any such condition. CRYOS is not responsible in any manner for, and makes no representation or warranty related to, any treatment process. CRYOS's only responsibility to CLIENT is to provide CLIENT's semen consistent with and subject to the terms of this Agreement.

Screening tests and laboratory tests required by applicable law and medical guidelines are not always accurate. CRYOS cannot and does not guarantee that CLIENT's semen will be free from disease or that disease, illness or other maladies, including sexually transmitted diseases, inheritable illnesses and inheritable birth defects, will not result from treatment that may involve CLIENT's semen.

CLIENT (initials)

Treatment with CLIENT's semen involves inherent risks that a medical professional should make clear. CLIENT hereby assumes all such risks. CRYOS makes no representation or warranty as to the likelihood that a pregnancy will occur through the use of CLIENT's semen, or that, if there is a pregnancy, such pregnancy will result in the birth of a healthy, viable child.

CLIENT acknowledges that CRYOS has recommended to him that he should inquire of a qualified medical or healthcare provider as to the limitations and risks of treatment with CLIENT's semen. CLIENT has sole responsibility for such risks. CLIENT shall indemnify, defend and hold CRYOS and its suppliers, members and employees harmless from any and all actions, claims, demands, costs, liabilities, expenses and damages (including attorneys' fees) arising out of or in connection with CLIENT's semen after it has been delivered by CRYOS. CLIENT shall have sole responsibility for CLIENT's semen immediately upon CLIENT's semen being shipped from CRYOS.

CRYOS shall have no liability for the quality of CLIENT's semen. By way of example only, if the delivered CLIENT's sperm contains a significantly lower number of post-thaw motile sperm than that anticipated, CRYOS shall have no obligation to provide any replacement sperm from CLIENT or otherwise.

CRYOS will under no circumstances be responsible for any costs related to the actual treatment using CLIENT's sperm, such as (but not limited to) treatment, medicine, travel, transport, housing, etc.



Cryos International – New York LLC

90 Maiden Lane • Suite 302 • New York • NY 10038

Phone 212-430-5950 • Toll Free 866-366-6777 • Fax 917-210-3464

ny.cryosinternational.com/ny • ny@cryosinternational.com

CLIENT understands that all shipping of CLIENT’s semen will be “FOB (CRYOS New York)”, as defined at <http://www.incoterms.org/>. Consequently, CRYOS will not be responsible for any damage to the semen or delay that may occur after the semen leaves CRYOS’s premises.

CLIENT declares that he is above 18 years of age and not under any legal disability.

Please select and initial one of the following options:

_____ **I decline to receive the FDA required donor screening panel.** I understand that should I decide to use this specimen for someone other than my sexually intimate partner (i.e. Surrogate, Sister in Law), CRYOS will not be able (by law) to release my specimen to me.* I will need to produce a new specimen and have all appropriate tests/ surveys and medical exams performed. I understand I will be responsible for all costs associated with all services rendered. * *If a person is not physically capable (i.e. infertile, death) of producing another specimen the previous sample may be released with exception.*

_____ **I choose to receive the FDA required donor screening panel within 7 days of specimen collection.** I understand that this option may allow my specimens to be used for someone other than my sexually intimate partner in the future. In choosing this option I agree to receive a physical exam, interview, health history assessment and 6 month quarantine testing prior to the release of my specimens in addition to any other FDA requirements at the time of release. I am also aware that I will be responsible for any and all costs associated with the release and that CRYOS can not guarantee the handling of any testing performed off site.

Please initial & date that you have read and understood the following:

_____ I understand that if I am misleading or misrepresenting my intended use of this specimen and it is discovered as such by any CRYOS staff member; my specimen will not be released to me and I WILL be responsible for payment of ALL services performed



Cryos International – New York LLC

90 Maiden Lane • Suite 302 • New York • NY 10038

Phone 212-430-5950 • Toll Free 866-366-6777 • Fax 917-210-3464

ny.cryosinternational.com/ny • ny@cryosinternational.com

This Agreement must be executed by CLIENT, and received by and accepted by CRYOS, before CRYOS will receive CLIENT's semen. CRYOS reserves the right, in its sole discretion and for any reason, to reject this Agreement prior to receipt of CLIENT's semen. If CRYOS rejects this Agreement, CRYOS will notify CLIENT of the rejection within a reasonable time. If any such rejection shall occur, CRYOS will retain any fees (excluding prepaid semen and prepaid shipping) CLIENT may have paid to CRYOS prior to any such rejection. CLIENT shall refrain from any claims against CRYOS arising out of or in connection with a rejection.

[signature page follows]



Cryos International – New York LLC

90 Maiden Lane • Suite 302 • New York • NY 10038

Phone 212-430-5950 • Toll Free 866-366-6777 • Fax 917-210-3464

ny.cryosinternational.com/ny • ny@cryosinternational.com

This Agreement constitutes the entire agreement among the Parties related to the subject matter contained herein, and fully supersedes all prior or contemporaneous understandings of the Parties. This Agreement may not be modified or amended without prior written consent of the Parties. This Agreement shall be construed and controlled by the laws of the State of New York and the Parties consent to the exclusive jurisdiction and venue in the courts sitting in New York County, New York.

Dated this _____ day of _____ 20__.

CLIENT (signature)

CLIENT (printed name)

Address:

Address:

Phone:

Phone:

Email:

Email:

CRYOS INTERNATIONAL – NEW YORK L.L.C.

By: _____

Title:

Date: _____