



SEMEN STORAGE AGREEMENT

This Semen Storage Agreement (“Agreement”) is made and entered into by and between MANHATTAN CRYOBANK INC. (“Manhattan Cryobank”) a New York State licensed Tissue Bank and the individual named at the end of this Agreement (“Client”). Client either intends to a) store autologous semen specimen or b) store frozen donor semen specimen.

1. SCOPE OF AGREEMENT:

Manhattan Cryobank agrees to analyze, process, freeze and/or store, release and discard client specimens in the manner and on the terms and conditions set forth below. This Agreement will apply to all specimens deposited now or hereafter with Manhattan Cryobank by the Client including any specimens transferred from another storage facility (collectively, the “specimens”).

2. REPRESENTATIONS AND ACKNOWLEDGMENTS:

Client acknowledges that the cryopreservation and storage add no therapeutic value to the specimens. The specimens may transmit disease or genetic defects and any pregnancy resulting from insemination utilizing the specimens may result in birth defects, miscarriage and complications with the delivery of a baby. Client has not given any other person any right to claim ownership or possession of any of the specimens. Client further acknowledges that in order to make any changes to this Agreement, the Client must appear in person or mail a Notarized Letter to Manhattan Cryobank with specific instructions.

3. COLLECTION AND STORAGE:

With the assistance of the Client, and in accordance with Manhattan Cryobank’s established procedures for identification, collection, freezing, storing, testing and release, Manhattan Cryobank shall store Client’s specimens until this Agreement is terminated pursuant to Paragraph 7.

You may request that Manhattan Cryobank store your Specimens for a specified period of time (the “Initial Storage Period”). You shall pay in advance, as set forth in Paragraph 4 below, for the Initial Storage Term and all related laboratory and other services at Manhattan Cryobank’s then current rates. The Initial Storage Period shall be extended automatically for successive [three] month periods (each a “Renewal Period,” and together with the Initial Storage Period, the “Storage Period”. Each Renewal Period shall be at Manhattan Cryobank’s then current rates. Client and Manhattan Cryobank may mutually agree to a different Renewal Period.

All procedures established by Manhattan Cryobank may be modified at the sole discretion of Manhattan Cryobank to reflect changes in industry practices, laws, or regulations. Client has been advised and understands that there are inherent risks in the process of freezing and thawing semen. Manhattan Cryobank makes no representation or warranty of any kind, nature or description, express or implied with respect to any specimen or Manhattan Cryobank’s services (including, without limitation, any warranty of merchantability or fitness for a particular purpose), and Manhattan Cryobank expressly disclaims any such representations or warranties. Without limiting the generality of the foregoing, Manhattan Cryobank makes no representation or warranty with respect to:

- a) The condition or suitability of any specimen for future use.
- b) The viability, future motility (survival) or fertilizing ability of any specimen, notwithstanding the results of any post-thaw motility test.
- c) The results of any laboratory test (including any genetic or infectious disease screening) that may be performed by or on behalf of Manhattan Cryobank.

Client understands and agrees; that Manhattan Cryobank cannot assume responsibility for the safety or quality of specimens that were not originally processed by Manhattan Cryobank or have been removed from Manhattan Cryobank’s quality control and later returned to Manhattan Cryobank. Client agrees in said event, the sole responsibility of Manhattan Cryobank is limited to the storage of the specimens upon receipt in proper frozen condition. Client acknowledges that a list of other semen storage facilities is available upon request.

4. PAYMENT:

Costs for services rendered by Manhattan Cryobank under this Agreement for the collection, cryopreservation and storage will be determined by Manhattan Cryobank. The storage fees are subject to change without prior notice and are payable at the beginning of the storage period. All paid storage fees are not refundable. The client is fully responsible for notifying Manhattan Cryobank via certified mail with return receipt requested of any change of address, telephone number, and marital status for billing purposes. The address on file will be used to mail payment due Notices via certified mail with return receipt requested.

_____ CLIENT INITIALS REQUIRED



If at anytime Manhattan Cryobank has not received full payment of the entire amount due to Manhattan Cryobank by the Client, surviving spouse or designated recipient on or before the 30th day after the receipt of a payment Notice, the Client, surviving spouse or designated recipient is in default of this Agreement. In the event of such a default, Manhattan Cryobank may, in its sole discretion, refer the Client’s account to any agency for collection. In the event that the Client’s account is referred for collection, the Client, surviving spouse, or designated recipient agrees to pay all costs of such collection including any reasonable fees charged by the collection agency, costs of collection and reasonable attorney fees. If the Client is in default, Manhattan Cryobank may in its sole discretion discard/dispose all stored specimens.

You hereby authorize Manhattan Cryobank to charge your credit card for service and storage fees due hereunder, including for Renewal Periods. Manhattan Cryobank will use reasonable efforts to notify you of an approaching automatic renewal prior to the thirty (30) day period before it becomes effective.

5. DISPOSITION BY INSTRUCTION:

Client hereby authorizes Manhattan Cryobank to discard or release specimens to a licensed physician or clinic designated by the Client, in accordance with the Client signed written authorization. Any release or transfer of specimens shall be at the Client’s sole risk and expense. Manhattan Cryobank will only release Specimens if Client’s account is current. Client agrees that Manhattan Cryobank may inform any person or entity to whom any specimens are released of the existence and results of any tests, as well as of the risks of becoming infected with infectious organisms or diseases and the risk of inherited genetic conditions to any offspring resulting from use of Client’s specimens.

Client fully acknowledges that Manhattan Cryobank has no responsibility to honor, and in its sole discretion may refuse to honor, any instruction or document (other than a duly signed Authorization) that purports to give any person other than the Client any interest in any specimens, or any right to direct Manhattan Cryobank to release, transfer or discard any specimens other than pursuant to a government order in accordance with Paragraph 8.

6. DISPOSITION UPON DEATH:

Client understands that Manhattan Cryobank would like to know client’s wishes concerning the disposition of the specimens upon death so that it may attempt to comply with Client’s wishes if they are legally permissible at that time. So that Manhattan Cryobank might know Client’s preferences, Client has agreed:

- a. IN THE EVENT OF CLIENT’S DEATH: Upon receipt of certified copy of Client’s death certificate or other evidence of death satisfactory to Manhattan Cryobank in its sole discretion, Client would prefer that, and authorize Manhattan Cryobank to either:

_____ Release Specimens to Client’s current intimate partner: _____
Initials

_____ Discard all Specimens.
Initials

- b. IN THE EVENT OF THE DEATH OF BOTH, THE CLIENT AND CLIENT’S INTIMATE PARTNER ABOVE AT OR ABOUT THE SAME TIME: Upon receipt of certified copies of Client and Client’s intimate partner’s death certificates or other evidence of death satisfactory to Manhattan Cryobank in its sole discretion, Client authorizes Manhattan Cryobank to discard all specimens.

If Manhattan Cryobank is unable, after using reasonable efforts, to dispose of the specimens as provided in this Paragraph, Manhattan Cryobank shall have the absolute right in its sole discretion to discard/dispose the specimens.

Manhattan Cryobank strongly recommends Client to consult with an attorney regarding the disposition of the specimens upon Client’s death if Client does not want the specimens to be discarded thereafter.

_____ CLIENT INITIALS REQUIRED



7. TERMINATION:

All obligations of Manhattan Cryobank under this Agreement for storage of Client’s specimens shall cease, upon the occurrence of any of the following terminating events:

- a. Upon written instruction of Client to Manhattan Cryobank to transfer all specimens to another facility.
- b. Upon disposition of all specimens stored by Manhattan Cryobank pursuant to a default under Paragraph 4.
- c. Upon the disposition of all specimens stored by Manhattan Cryobank pursuant to either Paragraph 5 or Paragraph 6. Client shall make arrangements for the release, use or other disposition of any remaining stored specimens within ten (10) days, otherwise, Manhattan Cryobank may at its sole discretion without further notice, discard all specimens.
- d. Upon thirty (30) days prior written notice of Manhattan Cryobank’s separate termination agreement and final disposition forms.

There shall be no refund of storage fees upon termination of this Agreement pursuant to section (a), (b) or (c) of this Paragraph. A prorated refund of storage fees shall be paid by Manhattan Cryobank to the Client if this Agreement is terminated pursuant to section (d) of this Paragraph.

The termination of this Agreement shall not affect any rights or obligations of the parties occurring prior to such termination. Without limiting the previous sentence, Client expressly agrees that the provisions of Paragraph 9 and Paragraph 10 shall survive the termination of this Agreement and remain in full force and effect thereafter.

8. GOVERNMENT ORDERS:

Notwithstanding any other provision of this Agreement, Manhattan Cryobank may release or discard any or all specimens, without Client’s permission, or refrain from doing so despite receiving an Authorization, in each case if ordered to do so by any court of law or governmental body or agency of competent jurisdiction or upon the issuance of any law, regulation or advisory opinion requiring, in Manhattan Cryobank’s opinion, the release or destruction of such specimens. For purposes of this Agreement, “Regulation” includes, without limitation, the requirements of any federal and state permits or licenses, held or required to be held by Manhattan Cryobank and “agency of competent jurisdiction” includes any authority using any such permit or license.

9. LIMITATION OF LIABILITY (liquidated damage):

The parties acknowledge and agree that Manhattan Cryobank shall have no liability to the Client, or Client heirs, estate, legal representatives, or any person claiming through any of them, whether in contract or in tort or under any other legal theory, for any damages, costs or expenses (including any indirect, special, incidental, consequential or similar damages), arising out of or in connection with this Agreement or Manhattan Cryobank’s performance or nonperformance of its obligations hereunder, even if Manhattan Cryobank has been advised of the possibility of such claim. In the event of loss, damage or destruction of the specimens for any reason whatsoever, Client’s actual damages as a result thereof would be impracticable or extremely difficult to determine. Accordingly, the parties hereto agree that in the event specimens or any part thereof, are lost, damaged or destroyed for any other reason, Client shall be entitled to liquidated damages in the amount equal to the storage fee paid by Client for the most recent storage year.

10. INDEMNIFICATION:

Client shall indemnify, defend and hold harmless Manhattan Cryobank, employees, its agents, officers, directors, shareholders and affiliates from and against any claim, loss, expenses, liabilities, damage, demands, offsets, causes of action and attorneys’ fees sustained by Manhattan Cryobank as a result of any third party action, proceeding, or dispute of any nature or kind involving the ownership, storage, use and/or disposition of the specimens. Furthermore, Client releases Manhattan Cryobank from all liability now or hereafter arising out of or related to physical appearance of or any abnormalities, birth defects, hereditary characteristics or tendencies of any offspring, or from any other adverse consequences, including the transmission of infectious or genetic disease, which may arise in connection with or as a result of using any specimens. In the event of any disputes whereby Manhattan Cryobank is ordered by a court with judicial authority to hold specimens, Manhattan Cryobank shall be entitled to collect back storage fees resulting from the court hold.

11. ARBITRATION:

Any dispute, controversy or claim arising out of this Agreement or the performance, breach or termination thereof shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The place of arbitration shall be New York, New York. The arbitration shall be conducted by a neutral arbitrator appointed by the American Arbitration Association. Judgment upon the award rendered may be entered in any court having jurisdiction.

_____ CLIENT INITIALS REQUIRED



The prevailing party shall be entitled to be awarded all costs of arbitration including, but not limited to, attorney’s fees. All information resulting from or otherwise pertaining to any dispute shall be non-public and handled by Manhattan Cryobank, Client and their respective agents in such a way as to prevent the public disclosure of such information. Notwithstanding the foregoing, Manhattan Cryobank and Client shall have the right to seek and obtain court ordered specific performance, injunctive and other equitable remedies in connection with any actual or threatened breach of this Agreement by Manhattan Cryobank or Client.

12. FORCE MAJEURE

Manhattan Cryobank shall not be liable to any person for any failure to perform any obligation hereunder to the extent that such failure is due to fire, flood, earthquake, act of war or terrorism, interruption of public utilities or methods of transportation, compliance with governmental requests, laws, regulations, order or actions, revocation or modification of governmental permits or other required licenses or approvals, accident, inability to procure necessary supplies, riot, act of court or governmental authority, act of God, or other contingencies beyond the reasonable control of Manhattan Cryobank.

13. NOTICES:

All notices, requests, and other communications required or permitted under this Agreement shall be in writing, signed, and shall be deemed given five days after deposit in the U.S. mail duly addressed to the intended recipient at the applicable address shown below. Either party may change its address for notice purposes by giving the other party notice of its new address in accordance with this Paragraph. The addresses of the parties for purposes of this Agreement are:

If to Manhattan Cryobank :	If to Client:
Manhattan Cryobank Inc. 369 Lexington Avenue, #401 New York, NY 10017	At the address set forth below client’s signature

14. MISCELLANEOUS:

- a) In the event any part of this Agreement is found unenforceable, the remainder of the Agreement shall remain in effect.
- b) This Agreement shall be governed by the laws of the State of New York without regard to its conflict of law rules.
- c) This Agreement embodies the entire agreement and understanding of the parties with respect to the subject matter contained herein. There are no promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings between the parties with respect to its subject matter.
- d) Manhattan Cryobank is authorized to rely on and treat as valid any written authorization; release or instruction purportedly signed by the Client, unless Manhattan Cryobank has actual knowledge that such document is not bona fide.
- e) The headings and captions contained herein are for convenience only and shall not control or affect the meaning or construction of any provision.
- f) This Agreement may be amended, modified or supplemented only by written agreement of the parties hereto.

Client acknowledges that Client had an opportunity to consult with medical advisors and legal counsel of Client’s choosing.

Client Name:	
Signature:	Date:
Address:	

MANHATTAN CRYOBANK INC.

By: _____