



# Reproductive Technologies, Inc. **THE SPERM BANK OF CALIFORNIA**

2115 Milvia Street, Berkeley 94704 Phone 510.841.1858 Fax 510.841.0332 www.thespermbankofca.org

## **SEMEN STORAGE AGREEMENT FOR TRANSFERRED SEMEN**

The Sperm Bank of California (hereinafter TSBC) is a non-profit, California Corporation that operates a sperm bank and provides the services of preserving, storing, and distributing human semen to licensed physicians and their patients, health care facilities, and recipients for the purpose of artificial insemination.

This Agreement is made and entered into between TSBC and \_\_\_\_\_,  
who is (please check one):

an individual Provider of semen

a Recipient of anonymous donor sperm purchased from a bank other than TSBC

### **1. DEFINITIONS**

A Provider is an individual who deposits semen for storage by TSBC for any length of time. A Provider may be a Client Depositor or a Directed Donor. A Client Depositor is an individual who deposits semen for storage prior to potential artificial insemination of an intimate partner. A Directed Donor is an individual who deposits semen for storage prior to potential artificial insemination of a designated recipient who is known to the donor but is not the donor's intimate partner. A Recipient is an individual designated to receive semen from a Provider for the purpose of artificial insemination; for purposes of this Storage Agreement, a Recipient may also be a woman transferring storage of anonymous donor sperm purchased from another sperm bank. An Authorized Representative is an individual who is selected by a Provider or Recipient for the purpose of taking control of the semen samples transferred for storage and who therefore has the Provider's or the Recipient's authorization to retrieve vials of these semen samples upon written application. Under California law, reproductive fluid is considered tissue, and tissue transfer is regulated by the California Health and Safety Code. Reproductive tissue banks are also regulated by the Food and Drug Administration (FDA).

### **2. PURPOSE**

I understand that the purpose of this Storage Agreement is to set the terms under which TSBC will store samples that were originally collected, identified, and stored at another facility.

### **3. INHERENT RISKS**

I have been fully advised and understand the inherent risks in the process of collecting, freezing, storing, and thawing of semen samples. These risks include: damage to sperm, reduced capacity for fertilization, and reduced

time frame for fertilization (average survival rate of thawed frozen sperm is twenty-four hours), all of which risks I hereby expressly assume.

Although TSBC requires documentation that the testing detailed below in Section 4 has been completed, I understand that laboratory tests are not 100% accurate, and that TSBC cannot guarantee the absence of any sexually transmitted diseases (hereinafter STDs) or organisms in the semen samples transferred for storage. TSBC cannot guarantee the absence of any STDs in any child born as a result of artificial insemination with the semen samples transferred for storage.

I understand that TSBC cannot guarantee the success of any artificial insemination, nor can it guarantee the viability of the pregnancy resulting from artificial insemination with the semen samples transferred for storage. The risks involved with artificial insemination with the semen samples transferred for storage include, but are not limited to, failure to induce pregnancy; miscarriage; ectopic pregnancy; and variations relating to the appearance and/or features of the newborn including, without limitation, ethnic or racial variations, skin color, eye color, hair color, and/or abnormalities related to these structures. I understand that TSBC cannot guarantee the absence of congenital or subsequent mental, neurological, or physical abnormalities or diseases of any child born as a result of artificial insemination with the semen samples transferred for storage. The occurrence of congenital abnormalities or diseases includes, but is not limited to, genetic, chromosomal, environmental, metabolic, internal, and external anomalies.

#### **4. DUTIES OF THE PARTIES**

According to California Health and Safety Code Section 1644.5, "No tissues shall be transferred into the body of another person by means of transplantation, unless the donor of the tissues has been screened and found nonreactive by laboratory tests for evidence of infection with HIV, agents of viral hepatitis (HBV and HCV), human T lymphotropic virus-1 (HTLV-1) and syphilis". TSBC requires that all Providers of semen be tested in accordance with the California Health and Safety Code Section 1644.5 and FDA Regulation 1271.

If Provider is a Client Depositor, Provider agrees to furnish TSBC with written documentation that he has been tested and found negative for evidence of infection with HIV, agents of viral hepatitis (HBV and HCV), human T lymphotropic virus-1 (HTLV-1) and syphilis. Provider understands that blood testing must either have been performed after a date 7 (seven) days prior to the initiation of sperm storage or anytime after the samples were provided, but before the samples are transferred to TSBC. Provider understands that TSBC must have documentation of the negative test results prior to the transfer of samples.

If Provider is a Directed Donor, Provider agrees to furnish TSBC with written documentation from medical personnel at the original sperm storage facility confirming that all testing described in the attached form entitled "Requirements for Transfer to The Sperm Bank of California" was completed within 7 (seven) days of the initiation

of sperm storage. Provider understands that TSBC must receive this written documentation prior to the transfer of samples.

If Provider is an anonymous sperm donor, Recipient agrees to furnish TSBC with written documentation from medical personnel at the original sperm storage facility confirming that all the testing described in the attached form entitled "Requirements for Transfer to The Sperm Bank of California" was completed within 7 (seven) days of the initiation of sperm storage. Recipient understands that TSBC must receive this written documentation prior to the transfer of samples.

The parties hereto agree that TSBC shall store the transferred semen sample(s) on each and all of the terms and conditions set forth as follows:

A. The semen samples being transferred were originally collected, identified, and stored at the following sperm storage facility: \_\_\_\_\_ in accordance with their established procedures. The testing detailed above has been completed using FDA-approved tests. I will furnish TSBC with written documentation of the test results prior to the transfer of samples.

B. I hereby agree to pay TSBC in advance an administrative fee for the establishment of my account as well as the quarterly or annual storage fees. Storage fees apply for up to every six vials of semen transferred at one time. (If, for example, four vials are transferred on one date, and two vials are transferred on a subsequent date, there will be two separate storage fees.) TSBC shall give me written notice of the storage charge for the forthcoming quarterly or annual period; the storage charge may be increased periodically to an amount equal to the fees being charged to new accounts. TSBC shall send all invoices to the address listed on the last page of this Storage Agreement or to my last known address. TSBC shall not undertake extraordinary measures to locate me in order to obtain payment. I acknowledge that it is my obligation to keep TSBC updated with my correct, current mailing address throughout the term of this Agreement. Unanswered correspondence or failure to provide TSBC with a current address may make me responsible for overdue and/or collection fees and may ultimately result in termination of this Agreement and the destruction of these semen samples.

C. I can designate an Authorized Representative for the purpose of taking control of semen samples transferred for storage. "Taking control" refers to the Authorized Representative's ability either to retrieve vials of these semen samples upon written application, delivered in person, by mail, or by fax, or to authorize the destruction of these semen samples. In the event that vials of these semen samples are released to the Authorized Representative, TSBC is not required to notify me. Based on the conditions set forth in this paragraph, I name \_\_\_\_\_ to be the Authorized Representative for the purpose of taking control of these semen samples. The Authorized Representative's signature and contact information must appear on the last page of this Storage Agreement.

D. TSBC shall release the vials of Client Depositor or Directed Donor semen samples stored pursuant to this Agreement only to the Provider himself or to his designated Authorized Representative upon written application, delivered in person, by mail, or by fax. TSBC shall release the vials of anonymous donor sperm stored pursuant to this Agreement only to the Recipient herself or to her designated Authorized Representative upon written application, delivered in person, by mail, or by fax. The retrieval of samples must be arranged by calling TSBC; there is a release form to complete, and there are fees associated with retrieval and shipping.

E. This Agreement shall terminate, and TSBC's responsibility for storage shall cease, upon the occurrence of any one or more of the following events:

- 1) Release of all semen sample(s) to me or my Authorized Representative;
- 2) My or my Authorized Representative's written instructions to TSBC authorizing the destruction of all vials of semen then presently stored;
- 3) Positive or incomplete results for any of the testing requirements described above, or STD test procedures and/or results that appear to be inadequate or fail to meet industry standards;
- 4) My own or my Authorized Representative's failure to pay storage charges as provided by this Agreement;
- 5) Termination of TSBC's operation, whereupon all stored samples shall be transferred to the California Cryobank, Inc. I understand that the California Cryobank, Inc. will require a separate storage agreement and will set its own fees;
- 6) My death, unless I specifically instruct TSBC to dispose of the semen samples transferred for storage in one of the following ways (please initial your choice). If I do not select any of the instructions below, TSBC has the authority to destroy these stored semen samples in the event of my death.
  - a) \_\_\_\_ The Authorized Representative, named in Paragraph C above, has the authority to renew or terminate this agreement;
  - b) \_\_\_\_ The following person has the authority to renew or terminate this agreement **only** in the event of my death (Please write this person's full name, address, and phone number): \_\_\_\_\_  
\_\_\_\_\_
  - c) \_\_\_\_ My heir, as designated in my will, has the authority to renew or terminate this agreement.

F. In the event of termination of this Agreement, TSBC may, at its option, destroy the stored semen samples or donate the same for research or laboratory purposes only for the advancement of medical science. Evolving tissue bank regulations may impact TSBC's ability to release stored semen samples. Additional laboratory tests may be required in the future. I agree to cooperate with TSBC in obtaining any required tests.

## 5. LIMITATIONS OF LIABILITY

It is specifically acknowledged and agreed by all the parties hereto that there is an inherent risk in the process of collecting, freezing, storing, and thawing semen that may render cryopreserved semen samples ineffective for

insemination purposes. I expressly agree to assume this risk and further agree that TSBC cannot be held liable for failure of pregnancy to occur in any insemination attempt using the semen samples transferred for storage.

I further agree that in the event of the loss or destruction of the semen samples by any reason whatsoever, resulting damages to myself would be highly speculative and would be impractical and difficult to determine; thus, the parties agree that in the event the semen samples transferred for storage are lost or destroyed by virtue of the breach of this Agreement or negligence by TSBC, I shall be entitled to liquidated damages in the amount equal to the total storage charges from the inception of this Agreement to the date of destruction, plus \$100.00.

I further understood that TSBC is not liable for damage or destruction to stored semen samples due to acts of God, accident, fire, flood, storm, earthquake, riot, war, sabotage, theft or criminal activity, explosion, strike, national defense requirement, governmental law, ordinance, rule or regulation, or any contingency beyond the control of TSBC. I agree to indemnify and hold TSBC harmless for any claim, demand, or cause of action for damages otherwise asserted against TSBC arising out of the agreed upon storing or release of the semen samples transferred for storage pursuant to this Agreement. I further agree to indemnify and hold TSBC harmless for any results or failure of results from insemination following the use of such semen samples asserted by any person or entity not party to this Agreement. The provisions of this paragraph shall extend to and include TSBC and its officers, directors, agents, and independent contractors.

All notices to be provided under this Agreement shall be sent to the address set forth beneath each party's signature, or such other address as a party may request in writing to be used for that purpose. Notwithstanding any other provision herein contained, either party hereto may terminate this Agreement upon thirty (30) days written notice to the other. In the event I give notice of termination, the storage fees shall be deemed totally earned by TSBC, including any unpaid overdue fees, which remain my responsibility even after the termination of this Agreement and the destruction of these semen samples. In the event TSBC gives notice, any unused portion of any pre-paid storage charge for the then current period shall be pro-rated and refunded upon release of the stored semen samples. It shall be my obligation to make arrangements for transfer, use, or disposition of the semen samples in the event of the termination of this Agreement for any reason other than my death or failure to pay storage charges. TSBC shall exercise its reasonable best efforts to cooperate with me in effecting the transfer or release of the vials.

This Agreement represents the entire agreement between the parties concerning the subject matter herein; and there are no understandings, agreements, or representations other than as herein set forth. This Agreement shall be binding upon the parties and their respective assigns, heirs, executors, and administrators. This Agreement shall be construed in accordance with the laws of California; if any portion is determined to be unenforceable, the remaining provisions shall be fully enforceable in accordance with their terms. Should any dispute arise concerning the terms of this contract, necessitating any legal action, the prevailing party shall be entitled to reasonable attorney fees and costs.

IN WITNESS WHEREOF, the parties have affixed their signature on this date: \_\_\_\_\_

\_\_\_\_\_  
**TSBC Representative**  
2115 Milvia St, 2nd FL. Berkeley CA 94704

**PROVIDER** check one: \_\_\_\_\_client depositor \_\_\_\_\_directed donor

\_\_\_\_\_  
Provider's printed name (First, Middle, and Last)

\_\_\_\_\_  
Provider's signature

\_\_\_\_\_  
**Current Street Address** City State Zip Code  
(\_\_\_\_\_) \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Home phone Office phone

\_\_\_\_\_  
**Permanent Street Address** City State Zip Code  
(\_\_\_\_\_) \_\_\_\_\_  
Permanent home phone

**RECIPIENT**

\_\_\_\_\_  
Recipient's printed name

\_\_\_\_\_  
Recipient's signature

\_\_\_\_\_  
Street City State Zip Code  
(\_\_\_\_\_) \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Home phone Office phone

**AUTHORIZED REPRESENTATIVE**

\_\_\_\_\_  
Representative's printed name (First, Middle, and Last)

\_\_\_\_\_  
Representative's signature

\_\_\_\_\_  
Street City State Zip Code  
(\_\_\_\_\_) \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Home phone Office phone

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