

## **Cascade Cryobank**

### **SEMEN PURCHASE AND STORAGE AGREEMENT**

This Semen Purchase and Storage Agreement ("Agreement") is entered into between Cascade Cryobank (CC), and the undersigned recipient of products and services provided by CC and, if applicable, their partner or spouse (collectively "Purchaser") (together, the "Parties").

1. **Donor Semen.** CC collects semen samples and engages the services of third parties to test them for certain (not all) genetic and infectious diseases. Samples that meet CC's quality control criteria are then made available for purchase by CC's customers ("Donor Semen"). To assist in the selection of Donor Semen, CC makes certain information about the donor and the testing process available to customers. Purchaser acknowledges and agrees that all such information is provided for Purchaser's convenience and personal use, and shall not be shared with the public or any third party. Purchaser is solely responsible for the selection of Donor Semen and for obtaining any additional tests or information necessary to satisfy themselves regarding its suitability.

2. **Purchase of Donor Semen.** Orders for Donor Semen may be placed only through CC's website, by telephoning CC's laboratory, or through email communication with CC. Payment must be made in full at the time an order is placed. All purchases are final and there are no refunds or exchanges except as specifically set forth in this Agreement. Upon purchasing Donor Semen, Purchaser must either arrange for storage by CC (see Section 3) or arrange for shipping to an alternate location (see Section 4). Purchaser is solely responsible for all costs related to the Donor Semen following the purchase, including shipping charges and all charges related to or arising out of any treatment with Donor Semen.

3. **Storage of Donor Semen.** Upon request by Purchaser, CC will provide storage services for Donor Semen purchased from CC. Available storage periods range from 1 month to 10 years. Payment for storage must be made in full in advance of the commencement of the storage period. No later than one week before expiration of a storage period, Purchaser must (a) enter a contract for a new storage period; (b) authorize in writing destruction of the Donor Semen at the conclusion of the storage period, or (c) direct CC to ship the Donor Semen to another location and provide payment of all shipping and handling costs.

Purchaser may also request that CC repurchase Donor Semen, provided it was originally purchased from and continuously stored by CC. CC may agree to a repurchase request in its sole discretion, and may charge a repurchase fee.

If Purchaser fails to pay storage fees for a period of three months, all such Donor Semen will become the sole property of CC, which may re-sell, destroy or retain it for future use.

CC's liability for any loss, damage or destruction of Donor Semen during storage shall be limited to the cost of the Donor Semen and any storage costs.

**4. Transfer of Donor Semen.** Except as set forth in Section 5, CC will transfer Donor Semen to Purchaser, Purchaser's health care provider, or any person designated by Purchaser in writing to receive Purchaser's Donor Semen; *provided that* written permission from Purchaser's health care provider is required before CC can release Donor Semen directly to Purchaser, Purchaser's designee, or any other non-clinical entity. If requested by Purchaser, CC will ship Donor Semen via a commercial shipping service at Purchaser's expense. In such event, Donor Semen shall be deemed delivered to Purchaser upon acceptance by the shipper for shipping, and Purchaser shall accept all risk of loss to Donor Semen during shipping. CC will not be responsible for any damage or loss to Donor Semen or any delay that may occur after Donor Semen leaves CC's facility.

**5. Changes Restricting or Preventing Donor Semen Release.** Assisted reproductive technologies and related medical treatments are evolving rapidly. Accordingly, changes to donor screening requirements or the discovery of new medical or genetic information about a donor may prevent CC from releasing Donor Semen that was previously available for purchase. In the event CC cannot release Donor Semen to Purchaser for these reasons, CC will provide Purchaser with a full refund. Purchaser may elect to purchase alternative Donor Semen at then-current per-vial rates.

**6. Quality of Donor Semen.** Purchaser understands that in most circumstances, at least 20 million motile sperm/mL will result from every post-thaw intrauterine insemination (IUI) sample (0.5 mL) of Donor Semen, and 15 million motile sperm/mL from every post-thaw intracervical insemination (ICI) sample (1.0 mL) of Donor Semen. Fewer motile spermatozoa are present in assisted reproductive technology (ART) samples (as few as half of typical samples) and in vitro fertilization/intracytoplasmic sperm injection (IVF/ICSI) samples (fewer than half of typical samples). Sperm counts will vary up to 30% depending on the lab personnel and counting method.

If Purchaser's health care provider confirms in writing that a sample purchased from CC includes a significantly lower number of motile sperm and resulted in cancellation of Purchaser's treatment, and if the deviation is not related to damage during transport or improper handling of the Donor Semen after release by CC, CC will provide, at no additional charge to Purchaser, replacement samples from the same donor if available, or from a similar donor if the original donor is no longer available.

**7. Newly-Discovered Information.** CC requires its donors to contractually agree to report any new or newly-discovered medical or genetic issue that could affect donor's genetic offspring. CC will make reasonable, good-faith efforts to provide Purchaser with any such information affecting the Donor Semen, but cannot guarantee such reporting and is not obligated to disclose to Purchaser any

information received after the purchase is complete. Purchaser is responsible for contacting CC to request updated information before using Donor Sperm, if desired.

**8. No Medical Advice.** CC cannot provide medical advice to Purchaser, and Purchaser accepts all risks associated with the use of Donor Semen. If Purchaser has purchased Donor Semen on which genetic carrier screening has been performed, CC will provide those test results to Purchaser at no charge, so Purchaser may consult with a genetic counselor or other healthcare provider at their own expense.

Any Donor Semen carrying known genetic mutations will require Purchaser to complete informed consent documents prior to purchase. Purchaser understands that CC has no duty or obligation to disclose to Purchaser any information about the Donor Semen received after the purchase is complete, regardless whether that information is clinically significant.

CC makes no representations or warranties regarding the risks of using Donor Semen. Purchaser agrees to direct any questions regarding the limitations and risks associated with using Donor Semen to their treating physician or other health care provider.

**8. Reporting Pregnancies.** Purchaser agrees to report all pregnancies and pregnancy outcomes (miscarriages, births) arising out of the use of Donor Semen. Pregnancies shall be reported within 60 days of completion of the first trimester. Births shall be reported within 60 days of delivery. Miscarriages shall be reported within 60 days.

**9. Protection of Donor Identity.** Purchaser acknowledges that Washington law requires all licensed gamete banks to collect and retain certain information about donors. Specifically, RCW 26.26A.810(1) requires a gamete bank to the donor's identifying information and medical history at the time of the donation. Washington law further provides that gamete banks must provide donors with a declaration stating the donor's intention regarding identity disclosure. Pursuant to RCW 26.26A.815, donors may elect to allow or not allow disclosure of their identity to their biological child at the age of 18. Upon request of a donor-conceived child who has reached the age of 18, gamete banks shall provide the child with the donor's identifying information unless the donor has signed a declaration prohibiting disclosure, in which case the gamete bank shall provide the child with the donor's nonidentifying information. RCW 26.26A.815.

Notwithstanding the foregoing, Purchaser understands that he or she is purchasing Donor Semen with the intention that the donor's identity remain anonymous. Accordingly, Purchaser agrees that not to make any direct or indirect efforts to identify or contact a donor or donor's relatives, including but not limited to through electronic databases or DNA testing services. Purchaser understands that CC will not provide any identifying donor information other than as required by law.

**10. Protection of Purchaser Identity; HIPAA Release.** The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA Privacy Rule) protects

patients from unnecessary disclosure of private health information. The HIPAA Privacy Rule requires covered entities to maintain the confidentiality and protection of protected medical information. Because it may be necessary for CC to share protected medical information with Purchaser's healthcare providers, express written consent to such disclosure is required. By their signature below, Purchaser consents to CC's disclosure of protected health information to his or her healthcare providers.

This Agreement may be revoked in writing at any time, except to the extent that action has already been taken. Revocation of the Agreement may disqualify Purchaser from eligibility for future purchases of Donor Semen.

By signing this Agreement, Purchaser releases, discharges and agrees to defend and hold harmless CC from any liability arising from or related to disclosure of their protected health information in connection with the purchase of Donor Semen.

11. **No Warranties.** By their initial(s) below, Purchaser acknowledges CC's express disclaimer of the following warranties.

**ALL CC PRODUCTS AND SERVICES INCLUDING, WITHOUT LIMITATION, DONOR SEMEN AND THE COLLECTION, TESTING, FREEZING, STORAGE, AND SHIPPING OF DONOR SEMEN, ARE PROVIDED "AS IS" WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

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Purchaser(s) Initials

CC will timely pack and ship all Donor Semen via a commercial shipment service in accordance with Purchaser's delivery and shipment instructions. After delivering the Donor Semen to the shipper, CC is not responsible for shipment delays or disruptions. CC strongly recommends scheduling delivery of Donor Semen two to three business days before scheduled procedures. Under no circumstances will CC be responsible for any losses or damages associated with missing a scheduled procedure, including the cost of fertility medications.

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Purchaser(s) Initials

Although Donor Semen has been subject to certain genetic screening and tests, it is not possible to test for or detect all genetic diseases or defects, and laboratory tests are not always accurate. As such, CC makes no warranty or representation that Donor Semen is free from all genetic defects or diseases.

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Purchaser(s) Initials

Although Donor Semen has been subject to certain infectious disease screening and tests, it is not possible to test for or detect all infectious diseases and laboratory tests are not always accurate. As such, CC makes no warranty or representation that Donor Semen is free from all infectious disease, or that disease or illness, including sexually transmitted diseases, will not result from treatment with Donor Semen.

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Purchaser(s) Initials

CC does not warrant that a pregnancy will result from the use of Donor Semen, and makes no representations regarding the likelihood of a pregnancy occurring.

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Purchaser(s) Initials

CC does not represent or warrant that a pregnancy resulting from the use of Donor Semen will result in the birth of a healthy child, or that a child conceived using Donor Semen will be free of all physical and mental disease or defects.

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Purchaser(s) Initials

Donor information is obtained directly from donors. As such, CC makes no warranties or representations regarding its accuracy or completeness.

**12. Indemnification.** Purchaser agrees to defend, indemnify and hold harmless CC and its directors, officers, employees, agents, representatives, independent contractors, customers, affiliates, successors and assigns from and against any claims, losses, damages, liabilities, demands, offsets, causes of action and expenses, including attorneys' and experts' fees, arising out of or related to any action, proceeding or dispute arising from or related to the use of CC products (including Donor Semen) or services. This paragraph shall not apply to actions or proceedings initiated by or on behalf of Purchaser.

**13. Arbitration/Waiver of Jury Trial.** Any claim or dispute arising from or related to this this Agreement shall be resolved by binding arbitration in Snohomish County, Washington. The parties shall agree on an arbitrator and the arbitration shall be conducted according to the rules established by the American Arbitration

Association. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. The substantially prevailing party shall be entitled to recover reasonable attorneys' fees and costs from the non-prevailing party. **Purchaser expressly waives the right to a trial by jury.**

#### 14. Additional Provisions

- a. Purchaser represents that they are over the age of eighteen (18) and that Purchaser is purchasing CC's products and services for personal use and not for resale or other commercial purposes. Purchaser represents that they will not use Donor Semen for at-home insemination in violation of any applicable law or regulation in their state of residence.
- b. Purchaser understands and agrees that they will be the legal parent of any child conceived using Donor Semen, and will be responsible for the support and custody of such child just as if the child were their biological offspring. Purchaser understands that neither CC nor the donor shall have any legal, moral or ethical obligation of support or custody for children conceived using Donor Semen.
- c. This Agreement constitutes the entire agreement among CC and Purchaser related to the subject matter hereof, and supersedes all prior or contemporaneous understandings of the Parties. This Agreement may be modified or amended only with the written consent of all Parties. This Agreement shall be construed and controlled by the laws of the State of Washington.
- d. This Agreement must be executed by the Purchaser and any partner or spouse and accepted by CC before CC will release any Donor Semen. CC reserves the sole right and discretion to reject the Agreement prior to release of Donor Semen. If CC rejects the Agreement, it will notify Purchaser of the rejection and refund any prepaid shipping fees. Purchaser shall not be entitled to a refund of any other fees paid to CC.

**Purchaser has reviewed the above terms carefully and had sufficient opportunity to seek independent advice. By their signature below, Purchaser indicates that he/she has received all requested information and understands and accepts the risks and terms of purchasing Donor Semen from CC.**

#### **Purchaser(s):**

\_\_\_\_\_  
Purchaser Name (include middle name if applicable)

\_\_\_\_\_  
Partner/Spouse or Co-Parent Name (if applicable)

\_\_\_\_\_  
Purchaser Signature

\_\_\_\_\_  
Partner/Spouse or Co-Parent Signature

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

**Purchaser Information:**

\_\_\_\_\_  
Purchaser Date of Birth (mm/dd/yyyy)

\_\_\_\_\_  
Partner or Co-Parent Date of Birth (mm/dd/yyyy)

\_\_\_\_\_  
Purchaser Social Security Number

\_\_\_\_\_  
Partner or Co-Parent Social Security Number

\_\_\_\_\_  
Home Address

\_\_\_\_\_  
Delivery Address

\_\_\_\_\_  
Primary Phone Number

\_\_\_\_\_  
Alternate Phone Number

\_\_\_\_\_  
Primary Email

\_\_\_\_\_  
Alternate Email

For confidentiality and privacy purposes, what is the best method of contact?

\_\_\_\_\_

How will you be using the sample(s)?

- At-Home Insemination
- With Healthcare Provider

This document must be mailed or emailed to:

**19221 36th AVE W, STE. 201**

**Lynnwood, Washington 98036**

Email: **info@CascadeCryobank.com**

Please keep a copy for your records.

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For Cascade Cryobank Use Only:

DATE RECEIVED: \_\_\_\_\_

EMPLOYEE NAME: \_\_\_\_\_

EMPLOYEE SIGNATURE: \_\_\_\_\_