

4. RELEASE OF SPECIMENS

Upon Client's written request and verification of identity (to Cryobank's reasonable satisfaction, including completion of such forms as Cryobank determines to be appropriate), Cryobank will ship Specimens to Client or to Client's designated medical facility via a commercial carrier shipping service. Specimens will be deemed to be retrieved by Client when accepted by the carrier. Client accepts full responsibility for the Specimens during and following such shipping.

5. TERMINATION

Notwithstanding any other provisions herein, this Agreement shall terminate upon the occurrence of any one of the following events (each a "Terminating Event"):

- a) Termination by Cryobank pursuant to Section 1 (Specimen Storage).
- b) Written instruction of Client, with a verification of Client identity (to Cryobank's reasonable satisfaction, including completion of such forms as, Cryobank determines to be appropriate) to terminate this Agreement and to direct destruction of all Client Specimens.
- c) Written instruction of Client, with a verification of Client identity (to Cryobank's reasonable satisfaction, including completion of such forms as, Cryobank determines to be appropriate) to terminate this Agreement and to direct the transfer of Client Specimens to another designated facility.
- d) Upon the notification of the death of the Client and the disposition of the Client Specimens as specified by Client in Section 7 (In the Event of Death of Client).
- e) Termination by Cryobank in connection with default in payment by Client as described in Section 3 above.

Except as described in Section 1 (Specimen Storage) with respect to a Terminating Event described in clause a) above, there shall be no refund of storage or any other fees upon termination of this Agreement.

Upon the occurrence of any Terminating Event, all obligations of Cryobank for storage of Client Specimens shall cease and, in the absence of instructions in accordance with this Agreement from Client (or Client's Legal Representative) relating to the disposition of Client Specimens, Client shall retrieve any remaining stored Specimens within thirty (30) calendar days. If Client fails to retrieve the Specimens within said thirty (30) day period, Cryobank may, at its sole and absolute discretion, discard any or all of the Client Specimens remaining in storage with Cryobank.

The provisions of Sections 3 through 10 of this Agreement shall survive its termination for any reason.

6. LIMITATION OF LIABILITY AND DISCLAIMER OF WARRANTIES**6.1 Acknowledgement of Risks and Release of Liability**

Client has been advised and understands that there are inherent risks in the process of collecting, testing, processing, freezing, storing, shipping, and thawing semen, including but not limited to damage to the sperm, reduced capacity for fertilization and reduced life span of the sperm after thawing. Client acknowledges and agrees that Cryobank does not guarantee against any possible loss, degradation, spoilage, contamination or the like of any portion or all of the Specimens for any reason, including without limitation, as a result of Cryobank's negligence or as a result of circumstances beyond Cryobank's control (including but not limited to fire, power outage, natural disaster, terrorist attack or act of war). Client agrees that except as set forth in "Liquidated Damages" below, Client shall not be entitled to any form of damages, compensation, recovery or reimbursement, and hereby releases Cryobank from all liability in connection with any loss, damage or destruction of the Specimens due to the risks described in this paragraph or otherwise.

6.2 Liquidated Damages

The parties stipulate and agree that it would be impracticable and extremely difficult to fix actual damages for the loss, injury, damage, or destruction of Specimens stored under this Agreement. In accordance with California Civil Code, Section 1671, the parties hereby agree that in the event of the loss, injury, damage or destruction of the Specimens caused by Cryobank's negligence or failure to exercise reasonable care in providing storage of the Specimens, liquidated damages shall be the amount of aggregate storage fees paid to Cryobank for the storage of such Specimen hereunder. The parties stipulate and agree that this declared value is a limit of liability in accordance with California Civil Code Section 1840.