

VALLEY ANDROLOGY FERTILITY CENTER, INC
729 N. Medical Center Drive West Suite #207 Clovis, CA 93611

This agreement is made and entered into by and between Valley Andrology Fertility Center, Inc. (hereafter referred to as VAFC) and _____, an individual (hereafter referred to as Client), for the purpose of collecting, analyzing, freezing, and storing semen.

WHEREAS the Client desires to store his semen for later use.

WHEREAS VAFC provides the services of collecting, processing, freezing and storing semen.

WHEREAS, Client has been fully advised and understands that there are certain inherent risks in the process of freezing and thawing his semen including but not limited to damage of the sperm, reduced capacity for fertilization, and reduced life span of sperm after thawing, all of these risks he assumes.

WHEREAS, the parties agree that VAFC shall collect, process, freeze and store Client's semen according to the terms and conditions as set forth in this Agreement:

NOW, the parties agree as follows;

1. Client shall provide samples of his semen for collection, processing, identification, cryopreservation (freezing) and storage by VAFC. With the assistance of the Client and in accordance with VAFC procedures for collection and identification, VAFC will receive process, identify, package, cryopreserve, and store the Client's semen in the usual facilities maintained for that purpose until this Agreement is terminated in the manner provided in paragraph 5.

Client acknowledges that he has received from VAFC oral and/or written information explaining procedures for collection, processing, freezing, storage, release, and use of his semen for insemination, IVF, or other reproductive procedure, as well as the costs associated with the services to be provided under this Agreement.

2. VAFC shall freeze and store the vials of Client's semen if the requirements of this agreement are met.
3. In addition to the laboratory processing and freeze charge, Client hereby agrees to pay storage fees by a pre-paid billing agreement or on a monthly basis, including any collection fees for failure to pay. **It is understood that this agreement shall be continuous unless pursuant to the provision of paragraph 7.**

Compensation for services rendered and expenses incurred by VAFC under this Agreement shall be set by VAFC, and may be adjusted from time to time by VAFC based upon market factors including but not limited to increases in costs. Client acknowledges that he has been informed of the costs associated with semen cryopreservation, storage and distribution. Periodically, the storage charge may be increased to an amount equal to the

storage fee that is currently being charged to new clients. Client also agrees to pay a handling fee, shipping fee, and any outstanding fees each time one or more vials of semen is removed from storage. VAFC shall give written notice to Client of any storage fee increase for the forthcoming period. Client acknowledges that he had been advised that VAFC requires blood testing for certain transmissible diseases.

Client's Initials and Date _____

4. VAFC shall release the vials of Client's semen only to him or to his designee at the expressed written authorization of Client. The Client understands that his medical records will be sent to the physician performing an insemination/fertilization and/or to the recipient of his semen for their evaluation and use. Accordingly, the Client hereby authorizes VAFC to release his medical and semen analysis records to such physician and the recipient he has identified to use the semen specimens. The conditions and procedures for release shall be those reasonably established by VAFC, with which Client hereby agrees to comply. The Client understands and reasonably establish by VAFC, with which Client hereby agrees to comply. The Client understands and agrees that the procedures established by VAFC may be modified at the sole discretion of VAFC to reflect changes in industry practice, laws or regulations. As of the date of this Agreement, the release procedures are as follows:
- a. *During the Client's lifetime:* The semen stored by VAFC for the Client shall remain his property and will be released only (1) to a licensed physician or the Client's designee, (2) for use with the Client's intimate partner for purposes of insemination, IVF, ICSI, or other reproductive procedure, with the intent to create a child, (3) upon completion of required testing of the Client, and (4) upon the authorization of the Client.
 - b. *Upon the Client's death while married:* If the Client is married at the time of his death, and if and only if VAFC receives from the Client's surviving spouse, within 60 days after the first storage invoice following the date of Client's death, (1) a certified copy of the Client's death certificate and (2) a written and notarized statement signed by the surviving spouse electing to take ownership of any remaining semen, then the semen stored by VAFC shall become property of the surviving spouse of the Client with all of the Client's rights and obligations transferred to her upon payment by the of applicable storage fees.

Chose one:

) *I understand that my specimens can be used for the purpose of procreation by my surviving spouse, if all of the conditions of 4a and 4b are met. I further understand that I must take additional legal steps during my life to establish the paternity of the child.*

) *Upon my death, I elect to have all of my stored specimens destroyed regardless of the desires of any intimate partner.*

Client's Initials and date _____

- c. ***Upon the Client's death while unmarried:*** If the Client is not married at the time of his death but has an intimate partner to whom he desires to transfer ownership and control, and, if and only if VAFC receives from the Client's identified intimate partner, within 60 days after the first storage invoice following the date of Client's death, **(1) a certified copy of the Client's death certificate, and (2) a written and notarized statement signed by the intimate partner electing to take ownership of any remaining semen, then the semen stored by VAFC on his behalf shall become property of Client's identified intimate partner with all of the Client's rights and obligations transferred to the identified sexually intimate partner upon payment of applicable storage fees.**
- d. If the Client is not married at the time of his death and VAFC has not received a written and notarized statement signed by the Client during his lifetime stating he intends to parent after his death and granting ownership of stored semen to his intimate partner with written and notarized statement identifying his partner, then this agreement shall terminate pursuant to paragraph 8.

Choose One:

I understand that my specimens can be used for the purpose of procreation by my identified surviving intimate partner, if all of the conditions of 4a and 4c are met. I further understand that I must take additional legal steps during my life to establish the paternity of the child.

Upon my death, I elect to have all my stored specimens destroyed, regardless of the desires of any intimate partner.

Client's Initials and date _____

- e. *Upon the Client's death if a minor:* If the Client is a minor at the time of death, is unmarried, and if he has indicated on this Agreement that he intends to make all his stored specimens available for use by his parent or parents, including to use for procreative purposes, then within 60 days after the first storage invoice following the date of Client's death, if and only if VAFC receives from Client's parent or parents (1) a certified copy of the Client's death certificate, and (2) specific written instructions from the parent(s) that they desire to assume ownership and use of the samples, then the semen stored by VAFC on his behalf shall become the property of the parent(s) with all the rights and obligations transferred to them upon payment by them of applicable storage fees, and (4) that they understand that regulatory agencies may make these samples unable to be used for the purpose of procreation.

I understand that my specimens can be used for the purpose of procreation by my parent(s), if all of the conditions of 4a and 4e are met. Upon my death, I elect to make all of my stored specimens available for use by one or both of my parents for the purpose of procreation. I further understand that my specimens can be used for the purpose of procreation by my parent(s), but I must take additional legal steps during my life to establish the paternity of the child.

Upon my death, I elect to have all of my stored specimens destroyed, regardless of the desires of my parent or parents.

I am not a minor.

Client's Initials/Guardians Initials and Date _____

5. The Client has been fully advised and understands that there are certain inherent risks in the process of shipping and handling of the specimens during shipment, including but not limited to loss during shipment and liquid nitrogen tank failure that may render the specimen useless. This is a rare event however, and VAFC offers the option to ship the vials containing the semen in separate tanks (provided that there are at least two vials containing the specimen to be shipped). The Client is responsible for paying the shipping cost for each tank shipped. The Client is willing to assume all of the risks; and the Client fully understands and accepts that VAFC, its laboratory directors and laboratory personnel, do not assume responsibility or liability for the transportation, condition, or survival of the frozen specimens.
6. I agree that in the event of loss or destruction of the storage client semen by any reason whatsoever, damages as a result thereof would be highly conjectural and speculative and would be difficult to determine. I agree that in the event that my semen is lost or destroyed by virtue of negligence by VAFC. I will be entitled to damages in the amount equal to the storage charge for the particular year in which the loss occurs, plus \$100 per vial lost (maximum compensation to Storage Client should not exceed \$2000).
7. As part of consideration by semen storage client in agreeing to ship clients' frozen semen to another clinic or facility, client hereby agrees that any dispute arising out of this consent or directly related to the quality of care provided by VAFC or any of its physicians, nurses, counsellors or other personnel will be decided only through arbitration. I further agree that any binding arbitration proceeding shall be conducted in the state of California, location of Valley Andrology Fertility Center Inc., and agree that any arbitration proceeding shall be conducted in accordance with the laws of the state of California, including, but not limited to standard of care issues, causation of issues, damage issues, qualification of experts and rules of evidence. I further agree that the decision of the arbitrator(s) shall be binding and final and shall be enforced in any court of competent jurisdiction. Any arbitration cost shall be borne equally between Valley Andrology Fertility Center, Inc. and me. If notwithstanding the parties' agreement to arbitrate, any dispute becomes subject to a judicial proceeding, the parties agree to waive trial by jury.

If any action or proceeding is brought to enforce or interpret any of the provisions of this agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other reasonable costs expended in such an action or proceeding.

8. This agreement shall terminate and VAFC responsibility for storage shall cease upon the happening of any one or more of the following events:
 - a. In the event the Depositor's fresh semen sample contains no viable sperm.
 - b. Release of the semen by written authorization of Client.
 - c. Written notarized direction of Client to VAFC authorizing destruction of all vials then presently stored.
 - d. Failure of the Client to pay storage charges as described within this agreement.

If at any time VAFC has not received full payment of all amounts due under this Agreement by 180 (one hundred eighty) days from the due date, the non-payment of the full amount shall result in the termination of this Agreement and the abandonment of the semen. If at any time storage charges are due and owing but remain unpaid, VAFC will pursue collection of the storage charges, including referral of claim to a collection agency. In that event, Client agrees to pay all costs of such collection including any reasonable fees charged by the collection agency, other costs of collection, and reasonable attorney's fees.

Upon termination of this Agreement any remaining semen held in storage by VAFC shall become the sole and exclusive property of VAFC, all right, title, claim and interest therein being transferred, conveyed and delivered to VAFC by the execution of this Agreement. **The semen so acquired by VAFC shall be either (1) destroyed by VAFC, or (2) if VAFC in its sole discretion so elects, used by VAFC for scientific and research purposes but not for insemination, IVF, ICSI or procreation or other reproductive procedure.**

- e. Death of Client. Disposition of the stored samples will be in accordance with the Client's instructions following receipt of a copy of the formal death certificate issued by the appropriate authority of the state in which the Client resided at the time of his death and a notarized copy of the statement described in paragraph 4.
 - i. If the Client dies and neither a surviving spouse, nor a properly-identified intimate partner, nor parent(s) has elected under paragraph 4(b) or (c) or (d); or
 - ii. Upon the death of the surviving spouse, or properly-identified intimate partner, or parent(s) who has elected under paragraph 4(b) or (c) or (d)
9. **It is imperative that the Client notify VAFC of any change in address, extended absence or sabbaticals.** VAFC will send by U.S. Mail, written notice of non-payment from VAFC to Client at his latest address on file at VAFC. If a notice is returned for insufficient address or similar reason, or if no written response is received from either the Client, or the Client representative, it is agreed that this Agreement is terminated.
10. Either party may terminate this agreement upon 30 days written notice to the other. In the event such notice is given by Client and the Client has an annual or multi-year contract, the storage fee shall be prorated over the storage period used based on the current monthly storage rate then in effect, an administrative fee applied, and the remainder, if any,

refunded to the Client upon receipt of a signed release for Client's vials of semen stored by VAFC. In the event such notice is given by VAFC, the storage fee shall be prorated over the storage period used and the remaining prepaid storage fee refunded upon receipt of a signed release for Client's vials of semen stored at VAFC. It shall be the Client's obligation to make arrangements for transfer, use, or disposition of the vials of semen in the event of a termination of this contract for any reason other than Client's death or failure to pay storage charges. VAFC shall exercise its reasonable best efforts to cooperate with Client in the transfer and release of the vials.

11. It is specifically acknowledged and agreed by and between the parties hereto that there is an inherent risk in the process of collection, freezing, storage and thawing of semen that may render it ineffective for insemination, IVF, ICSI purposes or other reproductive procedure and that Client has expressly agreed to assume this risk. Client also understands that the viability of the sperm specimen and the results from any insemination, IVF, ICSI or other reproductive procedure depends almost entirely upon health and age of the Client and the recipient, and understands that the semen will not be stored if it contains no viable sperm unless he specifically requests storage regardless of viability. Client understands this information and has given the opportunity to ask questions and receive adequate additional information to make an informed decision.
12. Client understands that VAFC may keep his name, address, and required health information on file indefinitely. However, the Client's information will be kept confidential and used only to comply with the terms of this Agreement. Any information obtained during these procedures that may identify the Client will remain confidential and will be disclosed to individuals not connected with this agreement only with Client's written permission. Client understands that he has the right to review this information at any reasonable time, and he acknowledges and agrees that any government agency with legal authority to do so may also review such records.
13. In the event VAFC terminates the operation of storage, it may, 30 days after providing written notification to the Client (or to the surviving spouse or properly-identified intimate partner, or in case of a minor, parents/guardians, if applicable) at his/her last known address, assign and transfer its obligations and the semen held on behalf of the Client to a similar storage facility.
14. It shall be Client's obligation to make arrangements for transfer, or disposition of the stored semen, VAFC shall exercise its reasonable best efforts to cooperate with Client in the transfer of his stored semen.
15. The Client understands and accepts that VAFC, its physicians, laboratory director, and laboratory personnel do not assume responsibility or liability for the transportation, condition, or survival of the semen or the physical, mental, or other characteristics of any child or children born as a result of the use of the stored semen.
16. Client further agrees to indemnify, defend, and hold harmless VAFC and its past, present, or future officers, directors, employees, agents, assignees, contractors and affiliates, from any and all claims, demands, causes, charges, costs, expenses, obligations, or action for damages or otherwise asserted against VAFC arising out of the collection, analysis, freezing, storage, handling, thawing, transfer or release of Client's semen.
17. If Client names VAFC or any of its employees or agents party to any litigation arising from any disagreement between Client and his spouse or intimate partner as to the rights of either or both of them as to each other or as to VAFC, Client or his estate shall be liable for the reasonable attorney's fees and other cost of VAFC in such litigation. Also, if any

actions or proceeding is brought to enforce or interpret any of the provisions of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and other reasonable costs expended in such an action or proceeding.

18. Any notices to be provided to a party hereunder shall be sent to the address set forth beneath the party's signature or such other address as a party may request in writing be used for that purpose. The Client (or the surviving spouse or properly-identified intimate partner, or in case of a minor, parents/guardians, if applicable) shall keep VAFC informed in writing at all times during the term of the agreement of any change in address, including current mailing address, email address and telephone number. Client shall advise VAFC promptly in writing on each change of address or prolonged absence from the last address on file. Client acknowledges that his current mailing address is set forth on the last page of this Agreement, and acknowledges that it is his obligation to provide in writing to VAFC any change in address.
19. If any of this Agreement is found to be invalid or unenforceable by any court, that provision shall be ineffective only to the extent that it is contravention of applicable laws without invalidating the remaining provisions hereof, unless such invalidity and unenforceability would defeat an essential purpose of this Agreement.
20. This represents the entire agreement between the parties concerning the subject matter; and there are no understanding, agreements, or representations other than as herein set forth. This Agreement shall be modified only by writing signed by all parties.
21. The agreement shall be binding upon the parties and their respective assignees, heirs, executors, and administrators. This agreement shall be construed in accordance with the laws of the state of California, USA.

By this signature below, Client expressly agrees that his failure to comply with the terms of this Agreement will constitute termination of this Agreement, and shall result in the abandonment of his semen to VAFC.

This agreement is entered into on the _____ day of _____, 20____ by

(Client's signature)

Date

If client is a minor, legal guardian signature

Legal Guardian Printed Name

FOR OFFICE USE ONLY:

Witnessed by VAFC Representative _____ Date _____

VALLEY ANDROLOGY FERTILITY CENTER, INC
729 N. Medical Center Drive West Suite #207 Clovis, CA 93611

Patient name _____
(First, Middle, Last)

Address _____
(Street and Apartment Number)

City _____ State _____ Zip _____

Home Phone _____ Work phone _____ Cell Phone _____

Social Security # _____ Email _____

Birth Date _____ Occupation _____

Contact Person (other than self) _____

Relationship _____

Home phone _____ Work phone _____

Referring physician _____

Referring physician address and phone _____

How did you learn about Valley Andrology Fertility Center? Physician Friend Website...Other

I acknowledge that I'm responsible for payment for services rendered to me at Valley Andrology Fertility Center, Inc. Additional fees, including any collection costs, will be imposed on delinquent accounts. By signing below I acknowledge the yearly storage fee will automatically be charged to my account below.

\$400 annually _____ \$250 per 6 month charged to debit/credit card _____

CC Account # _____ 3 digit _____ Exp _____ V / M/C

Name on Account _____

Signature _____ Date _____