

## Consent for Transport to and Storage by SDFC of Frozen Material

I (We), \_\_\_\_\_ (Patient) and \_\_\_\_\_ (Partner) wish to have my (our) previously cryopreserved Oocytes Sperm Embryos Tissue (check all that apply) transferred to and maintained in storage by San Diego Fertility Center. Detailed documentation pertaining to the cryopreserved material being transported will be provided to SDFC. This should include cryopreservation date, # frozen, # vials or straws, contents per straw/vial, any laboratory forms pertaining to the cryopreserved material, infectious disease labs and freeze/thaw protocols. The Patient transporting frozen material must contact SDFC before doing so.

### Shipping

- Shipping of reproductive tissue occurs frequently, but is not free of risk
- You have your choice of shipping providers
- SDFC recommends you choose a shipping provider that offers shipping insurance
- You may elect to divide your tissue into two shipments as an additional precaution

Shipping cryopreserved materials occurs throughout the United States and other parts of the world, and is relatively safe. However, there are certain risks involved with transporting such sensitive material. This includes, but is not limited to, improper packaging, transport container malfunction, mishandling, damage, thawing, or total loss of container and its contents. SDFC A.R.T. Laboratories cannot guarantee successful thaw outcome. In other words, there is a chance that when the frozen material is thawed, the material may not be recovered, a poor outcome may result, or there may be no survival at all of cryopreserved material. I (we) am (are) fully aware and understand that there are certain inherent risks in the process of freezing, shipping, storage and thawing of oocytes/sperm/embryos and am (are) willing to assume these risks. I (we) understand and accept the risks of transporting frozen oocytes, sperm, and embryos from one clinic to another. I acknowledge and accept that San Diego Fertility Center and its Laboratory cannot accept responsibility for the quality of the freezing process, the packaging process, the transportation, or survival of any of the oocytes, sperm or embryos received in our facility. I further understand that San Diego Fertility Center does not assume responsibility or liability of the physical or mental characteristics of any child or children born as a result of the use of the cryopreserved material.

### Cryopreserved Tissue Storage

- A person or couple with frozen tissue **MUST** be in touch with the clinic at least once a year
- There are yearly fees for keeping tissue frozen.
- If you choose to freeze tissue, you **MUST** complete the Disposition section below
- SDFC cannot guarantee successful storage, or anticipate malfunctions of storage dewars or natural disasters
- SDFC does not assume responsibility or liability of the physical or mental characteristics of any child or children born as a result of the use of the cryopreserved material

Initials: \_\_\_\_\_ Partner (if applicable) \_\_\_\_\_

The laboratory offers cryopreservation of embryo(s), oocytes, and sperm and cryostorage to patients going through treatment at our facility. However, the laboratory is not a long-term storage facility. Prior to SDFC transferring your tissue to a recommended long term storage facility, the patient(s) may contact a long-term storage facility of their choosing and make arrangements for transporting their cryopreserved tissue to that site. Also, the patient has other options if desired, including: use the tissue in a treatment cycle, discard the tissue, donate to the laboratory for training and/or quality control testing. In some circumstances, tissue may also be donated to research or to another couple.

The contract with the San Diego Fertility Center for continued cryopreservation must be renewed each year by paying a yearly storage fee, currently \$500/year for the first type of tissue frozen. Discounts may apply for more than one type of tissue frozen. The yearly cryostorage fee is billed annually in the earliest month that any tissue was frozen. Fees may be changed without further notice. The yearly invoice and current information will be sent electronically, so it is imperative that your email address is correct and current. Notify SDFC immediately of any changes.

I/We understand that if storage fees are not paid within ninety days of the billing date, my account will be considered delinquent. ***I/We also understand that should I/we not pay the storage fees due after contact has been attempted on at least three occasions, then I/we will automatically have elected disposal of my/our cryopreserved tissue, including embryo(s), as provided for in the paragraph below.***

Cryostorage dewars may break, malfunction, or leak at any time. SDFC takes precautions to ensure proper functioning of all cryostorage containers and filling tanks, but cannot anticipate all possible failures.

### **Value of cryopreserved tissue(s)**

I/We fully understand, accept and recognize that the value of all reproductive tissues to be stored under the care of SDFC, regardless of their condition, shall be assigned the maximum value of ten thousand dollars (\$10,000.00) regardless of the number(s) and type(s) of reproductive tissue(s) stored by one individual or family, in any settlement regardless of the action of resolution (such as small claims court, binding arbitration, county or state court, etc.). Patients are encouraged to seek additional outside insurance should they feel that this is necessary. A list of potential insurance carriers shall be provided upon request by SDFC. This insurance has been initiated in the case of natural disasters or acts of God other than acts of war.

By signing below, I(we), the patient(s), release SDFC and SDFC A.R.T. Laboratories of all liability pertaining to the transport, storage and thawing of my (our) cryopreserved material. I (We), the patient(s), have thoroughly reviewed and fully understand the contents of this agreement.

\_\_\_\_\_  
(Patient)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Partner)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Embryology Staff)

\_\_\_\_\_  
(Date)

Initials: \_\_\_\_\_ Partner (if applicable) \_\_\_\_\_



## **Contractual Agreement for the Disposition of Unused Cryopreserved Embryos, Eggs and/or Sperm**

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If you choose to freeze tissue, you MUST complete the Disposition statement before freezing. The statement explains the choices you have for disposing of the tissue in a variety of situations that may arise. You can submit a new statement later if you change your mind about your choices. For frozen embryos, any change requires that both parties – you and your partner-- agree in writing to the change

I/We intend, understand and agree that this Agreement is a valid, binding and enforceable agreement, and that SDFC will enforce my/our advanced directives regarding the disposition of my/our unused cryopreserved embryos, eggs and/or sperm without further direction from me/us, and without court order. This Agreement shall supersede and take precedence over any prior or contemporaneous oral or written agreement between me/us. Further, all future decisions regarding the use or disposal of our unused cryopreserved embryos, eggs and/or sperm must be joint decisions, if applicable.

I/We understand that under California law my/our unused cryopreserved embryos, eggs and sperm are my/our “property” subject to disposition under California Probate Code §6400 et seq., and California Family Code §2010, and that I/we jointly have the right to exercise decisional control over the disposition of my/our frozen embryos, eggs and/or sperm. I/We further understand that this Agreement is required to be provided to all IVF patients by SDFC pursuant to California Health and Safety Code §125315, and that the possible choices for disposition of our embryos are dictated by that statute. I/We also understand that the disposition choices for our frozen eggs and/or sperm, although not specifically referred to in California Health and Safety Code §125315, will be treated in the exact same manner as our frozen embryos. We further understand that the legal status of cryopreserved embryos, eggs and/or sperm, and the use, custody, ownership, inheritance, child support and disposition of said embryos, eggs and/or sperm, upon death, incapacity, divorce, legal separation and abandonment, are complex, uncertain and unsettled in the law, and are subject to change. I/We further understand that the issues may become even more complex if we are unmarried and/or if donor gametes have been used to create our embryos, and/or if we elect to donate our embryos to research or an anonymous couple. I/We are making the choices indicated herein to avoid the complexities, uncertainties and ambiguities inherent in the process, in case any of the stated contingencies or other unexpected events occur, and to ensure that my/our joint written directives regarding the disposition of our unused cryopreserved embryos, eggs and/or sperm are followed.

I/We understand that this Agreement is not a medical consent form, nor an advanced healthcare directive, and cannot be unilaterally modified, amended or revoked.

For couples with cryopreserved embryos, or donor eggs and/ or donor sperm, we have been advised, understand and agree that this Agreement is an enforceable contract between the two of us and may only be modified or revoked in writing, signed by both the Patient and the Partner, in the presence of a witness and/or notary, wherein different allowable instructions for the disposition of our unused embryos donor eggs and/or donor sperm are provided. We have

Initials: \_\_\_\_\_ Partner (if applicable) \_\_\_\_\_

been further advised that alternatively, we have the right to provide our own set of advanced written directives regarding the disposition of our unused cryopreserved embryos donor eggs and/or donor sperm, prepared by a qualified attorney, so long as said advance written directives, at a minimum, comply with California Health and Safety Code Section 125315, and are approved by SDFC's legal counsel. We reserve the right to jointly alter our instructions if the stated conditions (for example, death, incapacity, divorce) have not yet occurred by delivering another duly signed and executed Agreement to the SDFC IVF Program, with different allowable instructions indicated therein. However, we acknowledge and agree that under no circumstance may either one of us unilaterally revoke or modify this Agreement, thereby forcing one of us to procreate or co-parent a child over our objection.

For couples with cryopreserved autologous eggs and/or autologous sperm (non-donor), we have been advised and agree that this Agreement is an enforceable contract, but that can be modified or revoked in writing, signed by ONLY the tissue provider, not necessarily both parties, in the presence of a witness and/or notary, wherein different allowable instructions for the disposition of the sperm and/or eggs are provided. We have the right to provide our own set of advanced written directives regarding the disposition of the unused cryopreserved autologous sperm and/or eggs, prepared by a qualified attorney, so long as said advance written directives, at a minimum, comply with California Health and Safety Code Section 125315, and are approved by SDFC's legal counsel. We reserve the right to separately alter our instructions if the stated conditions (for example, death, incapacity, divorce) have not yet occurred by delivering another duly signed and executed Agreement to the SDFC IVF Program, with different allowable instructions indicated therein.

For single patients with cryopreserved tissue, I have been advised and agree that this Agreement is an enforceable contract, but that can be modified or revoked in writing, in the presence of a witness and/or notary, wherein different allowable instructions for the disposition of the tissue are provided. I have the right to provide my own set of advanced written directives regarding the disposition of the unused cryopreserved tissue, prepared by a qualified attorney, so long as said advance written directives, at a minimum, comply with California Health and Safety Code Section 125315, and are approved by SDFC's legal counsel. I reserve the right to separately alter my instructions if the stated conditions (for example, death, incapacity) have not yet occurred by delivering another duly signed and executed Agreement to the SDFC IVF Program, with different allowable instructions indicated therein.

I/We acknowledge that SDFC cannot guarantee that the directives I/we have enumerated herein will be followed in every instance, as forces beyond the control of SDFC could prevent it from following our stated directives. I/We hereby release SDFC and its' physicians, agents, officers, directors, partners, shareholders and employees from any liability pertaining to or arising from this Agreement, and the directives enumerated herein, on behalf of myself/ourselves, my/our heirs, successors and assignees.

I/We explicitly acknowledge and agree that in the event of a judicial or legal proceeding concerning the enforceability of this Agreement, and the disposition of my/our unused cryopreserved embryos, eggs and/or sperm, SDFC may elect to await a court order concerning their disposition. I/We agree to hold harmless and indemnify SDFC and its' physicians, agents, officers, directors, partners, shareholders and employees for any action or inaction they undertake regarding said judicial or legal proceeding.

Embryos cannot be thawed and implanted into the uterus of the patient, or a surrogate, to produce a pregnancy, nor may our frozen eggs and/or sperm be used to create embryos, nor may the frozen embryos, donor eggs and/or donor sperm be transferred to another clinic or facility, over or against the wishes of either the Patient or the Partner. For example, if either one of us withdraws our consent to the IVF procedure because he/she no longer desires to have a child as

Initials: \_\_\_\_\_ Partner (if applicable) \_\_\_\_\_

a couple, or to co-parent with the other, or in the event of a legal separation, break-up or divorce, the embryos, eggs and/or sperm cannot be thawed, used, transferred or implanted unless this Agreement so indicates, without the express, written consent of both Parties, even if donor gametes were used to create the embryos, or the eggs and/or sperm were donated.

The disposition of embryos that are created using donated sperm or eggs, as well as donor eggs and/or sperm itself, may be subject to prior enforceable agreements that have been entered into with a sperm, egg or embryo donor. SDFC and its' counsel may need to review those agreements before accepting the sperm, eggs or embryos into their clinic and/or before using them for procreation and/or before implementing the chosen disposition option.

## **Advanced Written Directives for Disposition of Cryopreserved Embryos, Oocytes and/or Sperm**

I/We understand that, to the extent permissible by law, I/we have disposition options, each of which has been explained to me/us by our physician, and all my/our questions have been asked and answered:

- "Transfer to Patient or Partner": Transfer to Patient or Partner for any purpose, including creation of embryos, implantation of embryos to have children posthumously, donation for research, donation to another couple or destruction. This may entail maintaining the embryos, eggs and/or sperm in storage, and the fees and other payments due the clinic for these cryopreservation services.
- "Thaw and Discard": Thaw of my/our embryos without further medical intervention, rendering them non-viable after which SDFC will dispose of them.
- "Thaw for Training or Quality Control ": Thaw of our embryos with observation by the IVF laboratory staff of subsequent development up to a maximum of six days post thaw, after which the embryos will become non-viable and be disposed of in accordance with SDFC policy and procedure. This will result in destroying the embryos, but will not result in the birth of a child.
- "Donate to Research": The embryos, eggs and/or sperm may be used to derive human pluripotent stem cells for research and the cells may be used, at some future time, for human transplantation research. Additional consents will be required. In certain situations, donating embryo(s) for research may not be possible or may be restricted by law. While efforts will be made to abide by your wishes, no guarantees can be given that embryo(s) will be used for research. In these instances, if after one year no research project can be found, or your embryos, eggs and/or sperm are not eligible, your embryos, eggs and/or sperm will be thawed with no further action taken by the lab in accordance with laboratory procedures and applicable laws.
- "Donate to another Couple": Donating the embryos to another individual or couple to achieve a pregnancy ("recipient(s)"). Additional consents, testing and screening will be required. In certain situations, donating embryo(s) to another couple may not be possible or may be restricted by law. While efforts will be made to abide by your wishes, no guarantees can be given that embryo(s) will be donated to another couple. In these instances, if after one year no recipient can be found, or your embryos, eggs and/or sperm are not eligible, your embryos, eggs and/or sperm will be thawed with no further action taken by the lab in accordance with laboratory procedures and applicable laws.

Initials: \_\_\_\_\_ Partner (if applicable) \_\_\_\_\_

## Death or Incapacitation of Patient OR Partner

In the event the Patient/Partner dies prior to use of all the embryos, eggs and/or sperm we agree that all cryopreserved tissue, embryos, eggs and/sperm, should be disposed of in the following manner (initial only one box each):

Note: This Directive will supersede all previously completed Directives.

<b>EMBRYOS</b>	Patient (Initial ONE choice) MUST CHOOSE THE SAME OPTION Name: _____	Partner (Initial ONE choice) MUST CHOOSE THE SAME OPTION Name: _____
Transfer to surviving Partner	**Complete next page also	**Complete next page also
Thaw and Discard all tissue(s)		
Thaw for Training all tissue(s)		
Disposition per my Living Trust/Will		
Other (please specify):		

<b>SPERM – Patient 1</b>	Patient (Initial ONE choice) Name: _____
Transfer to surviving Partner	**Complete next page also
Thaw and Discard all tissue(s)	
Thaw for Training all tissue(s)	
Disposition per my Living Trust/Will	
Other (please specify):	

<b>SPERM – Patient 2</b>	Patient (Initial ONE choice) Name: _____
Transfer to surviving Partner	**Complete next page also
Thaw and Discard all tissue(s)	
Thaw for Training all tissue(s)	
Disposition per my Living Trust/Will	
Other (please specify):	

<b>EGGS – Patient 1</b>	Patient (Initial ONE choice) Name: _____
Transfer to surviving Partner	**Complete next page also
Thaw and Discard all tissue(s)	
Thaw for Training all tissue(s)	
Disposition per my Living Trust/Will	
Other (please specify):	

Initials: \_\_\_\_\_ Partner (if applicable) \_\_\_\_\_

## Death or Incapacitation of Patient AND Partner (or of last surviving partner)

In the event that both parties (Patient AND Partner) die prior to use of all the embryos, eggs and/or sperm, we agree that the embryos, eggs and/or sperm should be disposed of in the following manner (check one box only):

<b>EMBRYOS</b>	Patient (Initial ONE choice) MUST CHOOSE THE SAME OPTION Name: _____	Partner (Initial ONE choice) MUST CHOOSE THE SAME OPTION Name: _____
Thaw and Discard all tissue(s)		
Thaw for Training all tissue(s)		
Disposition per my Living Trust/Will		
Other (please specify):		

<b>SPERM – Patient 1</b>	Patient (Initial ONE choice) Name: _____
Thaw and Discard all tissue(s)	
Thaw for Training all tissue(s)	
Disposition per my Living Trust/Will	
Other (please specify):	

<b>SPERM – Patient 2</b>	Patient (Initial ONE choice) Name: _____
Thaw and Discard all tissue(s)	
Thaw for Training all tissue(s)	
Disposition per my Living Trust/Will	
Other (please specify):	

<b>EGGS – Patient 1</b>	Patient (Initial ONE choice) Name: _____
Thaw and Discard all tissue(s)	
Thaw for Training all tissue(s)	
Disposition per my Living Trust/Will	
Other (please specify):	

Initials: \_\_\_\_\_ Partner (if applicable) \_\_\_\_\_

## Abandonment (Discontinuation of IVF Treatment/Failure to Complete Requirements/Failure to Communicate/Nonpayment of Storage Fees)

In one or more of the following circumstances:

- The patient or partner communicates to SDFC that they no longer wish to participate in the IVF process to cause a pregnancy and conceive a child
- The patient or partner ceases to participate in the IVF process
- The patient or partner does not complete required testing for cryopreservation
- The patient or partner do not complete required testing for SDFC governing entities
- The patient or partner fails to communicate intent to use embryos after SDFC makes at least three (3) attempts to contact
- The patient or partner does not pay one or more years' worth of storage fees

the patient account will be considered delinquent and the tissue(s) considered abandoned. If more time than required by legal or ethical guidelines has passed without contact from me/us, and no other written instruction from me/us exists concerning disposition of the cryopreserved embryo(s), the Medical Group and Laboratory can conclude that I/we am no longer interested in storing any and all tissue(s). I/we acknowledge that any embryos, eggs and/or sperm should be disposed of in the following manner (check one box only):

<b>EMBRYOS</b>	Patient (Initial ONE choice) MUST CHOOSE THE SAME OPTION Name: _____	Partner (Initial ONE choice) MUST CHOOSE THE SAME OPTION Name: _____
Thaw and Discard all tissue(s)		
Thaw for Training all tissue(s)		

<b>SPERM – Patient 1</b>	Patient (Initial ONE choice) Name: _____
Thaw and Discard all tissue(s)	
Thaw for Training all tissue(s)	

<b>SPERM – Patient 2</b>	Patient (Initial ONE choice) Name: _____
Thaw and Discard all tissue(s)	
Thaw for Training all tissue(s)	

<b>EGGS – Patient 1</b>	Patient (Initial ONE choice) Name: _____
Thaw and Discard all tissue(s)	
Thaw for Training all tissue(s)	

Initials: \_\_\_\_\_ Partner (if applicable) \_\_\_\_\_

## Divorce/Dissolution/Legal Separation/Termination

In the event of a divorce, dissolution, legal separation, or termination of relationship, i.e. break-up, between the Patient/Partner and Partner/Spouse (as evidenced by a judicial filing, judgment, order, decree or other written notice to SDFC), embryos will be bound by the following (decisions on non-donor sperm and/or non-donor eggs are made individually, regardless of relationship status). We agree that the embryos should be disposed of in the following manner (check one box only):

<b>EMBRYOS</b>	Patient (Initial ONE choice) MUST CHOOSE THE SAME OPTION Name: _____	Partner (Initial ONE choice) MUST CHOOSE THE SAME OPTION Name: _____
Thaw and Discard all tissue(s)		
Thaw for Training all tissue(s)		
Disposition per Court Decree or Settlement Agreement		
Other (please specify):		

## General Provisions

**Advanced Written Directive for Disposition of Embryos, Oocytes and/or Sperm:** We agree that in the absence of a new and more recent written Agreement signed by both of us, witnessed and/or notarized, SDFC is authorized to act on the written directives contained herein regarding the disposition of our unused cryopreserved embryos, eggs and/or sperm. This Agreement constitutes the entire agreement between us with respect to the subject matter of this Agreement and supersedes all prior agreements, oral and written, between us with respect to the disposition of our unused cryopreserved embryos, eggs and/or sperm in the event of death, divorce, dissolution, legal separation, termination of relationship, i.e. break-up and abandonment. We met and consulted with a SDFC employee regarding this Agreement prior to signing, to ask any and all questions, or express any concerns, that we had. All our questions or concerns were answered to our satisfaction by the employee, or in a subsequent meeting with our treating physician. We were warned to take this Agreement and the directives very seriously and advised at that time about the importance and gravity of the directives elected herein. We were also reminded that the advanced written directives regarding our unused cryopreserved embryos, eggs and/or sperm, were final, and that this Agreement is binding between us, unless we bilaterally amend the directives in a new written and witnessed and/or notarized agreement. No time limit was imposed by SDFC or either party; we had as much time as required to read, understand and execute the Agreement. We read and understood the directives available to us regarding the disposition of our unused cryopreserved embryos, eggs and/or sperm in the various circumstances, and knowingly, intelligently, freely and voluntarily made our choices without coercion, undue influence or duress. We have executed this Agreement with the understanding and expectation that it is valid and enforceable, and that it is consistent with, and should be construed, to the extent possible, in accordance with the laws of the State of California. In the event this Agreement, or any portion or provision thereof, should be deemed legally unenforceable, we nonetheless agree that this Agreement represents our specific wishes, mutual intentions and directives regarding the disposition of our unused cryopreserved embryos, eggs and/or sperm in the event of death, divorce, dissolution, legal separation, termination of relationship, i.e. break-up and abandonment, and should guide any legal determination pertaining thereto. Any term or provision found to be invalid or unenforceable shall be deemed severable from this Agreement and shall not cause the invalidity or the unenforceability of the remainder of the Agreement.

Initials: \_\_\_\_\_ Partner (if applicable) \_\_\_\_\_

My/Our signature below evidences my/our understanding of this Consent and agreement (with each other) regarding the advance written directives for the disposition of my/our unused cryopreserved embryos, eggs and sperm. I/We hereby certify that: 1) I/we have read, understood and agreed to all of the terms of this Agreement; 2) that I/we, if applicable, discussed the various directives and dispositional options with each other prior to signing, and mutually agreed as to which directives to elect; 3) that I/we understand the gravity and importance of the dispositional choices I/we have made and that they can only be revoked by executing a new written agreement (signed by both of us, if applicable); 4) that I/we have had sufficient time to have all of our questions answered and to complete this form; 5) that I/we had the opportunity to consult with attorneys of our own choosing, and if applicable have relied upon their legal advice regarding the terms of this Agreement; and 6) that this Agreement is entered voluntarily, without coercion, undue influence or duress.

I/We both understand and agree that I/we were afforded the opportunity to make meaningful choices and exercised my/our right to make those choices by electing the directives regarding the disposition of my/our unused cryopreserved embryos, eggs and/or sperm. I/We also agree that the terms and provisions of this Consent and Agreement are not unreasonably favorable to either the Patient/Partner or the Partner/Spouse or any party involved.

X  
\_\_\_\_\_  
Patient Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Patient Name

\_\_\_\_\_  
Date of Birth

X  
\_\_\_\_\_  
Spouse / Partner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Spouse / Partner Name

\_\_\_\_\_  
Date of Birth

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**Statement by Witness (must be employee of Clinic and at least 18 years of age)**

I declare that the person who signed this document is personally known to me and appears to be of sound mind and acting of his or her own free will. I have reviewed this consent and confirmed patient has no further questions.

Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Initials: \_\_\_\_\_ Partner (if applicable) \_\_\_\_\_