BIOGENETICS CORPORATION

FDA Registered <> Licensed by New York State Department of Health<> Licensed by New Jersey Department of Health (CLIA)
187 Mill Lane <> Mountainside, New Jersey 07092 <> 908-654-8836 <> 800-637-7776 <> Fax 908-232-2114

MEDICAL PROVIDER SERVICE AGREEMENT FOR CRYOBANKED DONOR SPERM

PLEASE COMPLETE ALL BLANK AREAS, SIGN AND RETURN ORIGINAL MAKE PHOTO COPY FOR YOUR RECORDS

AGREEMENT made as of _____ between BIOGENETICS CORPORATION (referred to as "BioGenetics") a New Jersey corporation with its principal place of business at 187 Mill Lane Mountainside, New Jersey 07092 and,

Physician's Name _____
(If more than one, please list individual names)

Medical Facility Name and address _____

_____

Phone number: _____ Fax number: _____

WHEREAS:

A. BioGenetics is a New Jersey Corporation, which operates as a human sperm bank. The business of which is to recruit, process, preserve and store and distribute anonymous donor sperm for direct purchase by licensed physicians and health care facilities or directly by individual recipient(s) under the supervision of the medical entity named above for the purpose of therapeutic assisted reproduction.
B. Physician/Medical Facility wishes to purchase anonymous donor sperm vials (referred to as "Specimens") for their patient(s) use, or to authorize their patient(s) to purchase directly from BioGenetics and to be delivered to the Physician/Medical Facility.

IT IS FURTHER AGREED:

STATUS OF PHYSICIAN/MEDICAL FACILITY:

Physician/Medical Facility warrants and represents that it is either a physician duly licensed to practice reproductive medicine in the jurisdiction in which therapeutic assisted reproduction will occur or, is a duly licensed hospital or other health care facility in the jurisdiction of its location.

PURCHASE OF SPECIMENS:

A. Physician/Medical Facility must submit to BioGenetics, verbally an order for a given donor Specimen(s) to be followed in writing sent by mail or fax a "Phone Confirmation Form" developed and available from Biogenetics. A "Phone Confirmation Form" is to be completed and sent every time Physician/Medical Facility places an order for Specimen(s). The order shall set forth the desired donor(s) as made available through The "Donor Quarterly". The provisions of this Agreement shall supercede the terms of any form of purchase order supplied by Physician/Medical Facility.
B. BioGenetics shall have the right, during the period between the date on which the actual order was placed and the date on which the phone confirmation form is received, to exhaust its inventory of any of the Specimen(s), without liability to Physician/Medical Facility or to any Patient(s) of Physician/Medical Facility.
C. If BioGenetics does not have Specimens suitable to fill Physician/Medical Facility order, BioGenetics shall so notify Physician/Medical Facility and/or Recipient when Recipient is placing order, verbally within a reasonable time. Physician/Medical Facility shall have the option of changing its requested donor Specimens or canceling the order. If the order is cancelled, neither party shall have any obligations of any kind to the other with respect to the order.
D. The fees to be paid to BioGenetics with respect of each purchase of Specimens shall be those set forth on BioGenetics published fee schedule in effect at the date of the order. BioGenetics shall furnish copies of its fee schedule to Physician/Medical Facility on request. Fees paid to BioGenetics shall include all shipping costs and other charges associated with the delivery of the Specimens to Physician/Medical Facility.

OBLIGATIONS OF PHYSICIAN/MEDICAL FACILITY:

As a condition of each sale to take place pursuant to the terms of this Agreement, Physician/Medical Facility shall:

A. Not to use the Specimens for therapeutic assisted reproduction except under the supervision of a licensed professional.
B. Advise, Recipient(s), and Recipient's spouse or partner, if any, acknowledges and understands that BioGenetics is not able to nor does guarantee or in any way represents or warrants that the utilization of Specimens for any therapeutic assisted reproduction will result in pregnancy.
C. Advise Recipient(s), and Recipient's spouse or partner, if any, acknowledges, and understands that within the normal population a certain percentage of children are born with physical or mental defects and that the occurrence of such defects is beyond the control of BioGenetics.
D. Store, handle and prepare the Specimens in accordance with good medical practices and written documents furnished to Physician/Medical Facility by BioGenetics from time to time.
E. Cause the Recipient(s) and the Recipient's spouse or partner, if any, to execute and deliver all releases, agreements and other materials required by the laws of the jurisdiction in which the therapeutic assisted reproduction is to take place.
F. Cause the Recipient(s) and the Recipient's spouse or partner, if any, to execute and deliver to BioGenetics prior to the first reproductive assisted procedure, a properly completed, Recipient Acknowledgement and Consent for Therapeutic Assisted Reproduction by Cryopreserved Donor Sperm.
G. Not to commingle any Specimens with sperm received from any other supplier, including the use of fresh sperm, with the Specimens supplied to Physician/Medical Facility by BioGenetics for therapeutic assisted reproduction during any single reproductive assisted procedure.

DONOR'S NAME:

Neither Physician/Medical Facility nor the ultimate user of the Specimens shall have the right to learn the donor's identity or donor's personal information. Physician/Medical Facility acknowledges that BioGenetics is relying totally upon the representation of its donors that; (1) the semen sample collected by that donor is the donor's own; and (2) the donor's genetic and hereditary characteristics as well as the donor's medical health history provided in the donor profile is accurate and correct to the best of the donor's knowledge.

Neither Biogenetics nor any laboratory employed by Biogenetics makes an independent supervision of the donation. Neither Biogenetics nor any laboratory employed by Biogenetics makes an independent verification of any information contained in the donor profile. Neither Biogenetics nor any laboratory employed by BioGenetics shall not be liable to Physician/Medical Facility or to any other party by reason of the breach of any representation made to it by the donor. Neither Biogenetics nor any laboratory employed by Biogenetics shall not be liable to Physician/Medical Facility or to any other party for any claim based in whole or in part on information which Biogenetics or the laboratory could have learned had it made any independent investigation or any information contained in the donor profile or any supervision of the donation.

WARRANTIES:

A. Except as otherwise specifically set forth in this Agreement, BioGenetics hereby disclaims all express and implied warranties INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR USE. In no event shall BioGenetics be liable for incident or consequential damages of any kind to Physician/Medical Facility, or to any transferee of the Specimens, to Recipient(s) or to any child born as a result of therapeutic assisted reproduction with Specimens supplied by BioGenetics.

B. Physician/Medical Facility acknowledges that Specimens are subject to spoilage and other risks inherent to organic and inorganic matter.

C. The sole warranty of BioGenetics in respect to the Specimens is that within thirty (30) minutes after thawing according to BioGenetics' specifications the Specimens will have the following indices:

1. **Motility of not fewer than 10 million motile sperm cells per vial(s).**
2. **Index of motility 2.0 (0=non motile, 3=excellent forward progressive motility)**

Specimens that are found by a Physician/Medical Facility not to meet the above indices set forth by BioGenetics may qualify for credit. The Physician/Medical Facility must notify BIOGENETICS using a Product Complaint Report Form (available from BioGenetics), within twenty-four (24) hours or the first day of business following the post-thaw evaluation of the Specimens. This only applies when the Specimens are kept in BioGenetics dry shippers or appropriately transferred to a liquid nitrogen storage container allowing for Specimens to remain in a vapor phase environment for long term storage, a period greater than four (4) days.

D. The effective holding time of the dry shipper, used for shipping and transport of Specimens, is based on BioGenetics quality assurance protocol for accessing dry shipper performance. BioGenetics therefore limits the holding capacity of cryopreserved Specimens in its dry shipper to a period not to exceed four (4) days**. BioGenetics recommends that Physician /Medical Facility maintains Specimens in BioGenetics' dry shipper for a period not greater than four (4) days from shipping of the Specimens**. **Approval for EXTENDED STORAGE OF CRYOPRESERVED SPECIMENS by Physician/Medical Facility other than the recommended method proposed by BioGenetics, must be obtained by directing all inquiries to the sperm bank Director at BioGenetics.**

E. **Specimens not used due to over-stock, cancelled or missed treatment cycle may not be returned to BioGenetics for credit.**

F. The sole liability of BioGenetics for breach of the warranty set forth in paragraph C (specifically line 1 thru 4) or any other breach of this Agreement shall be the return of monies paid for the Specimens to which the warrant relates. BioGenetics shall not assume liability for breach of warranty unless: A claim is made using the Product Complaint Report Form supplied by BioGenetics. The Product Complaint Report Form is to be completed in its entirety. *Failure to assert a claim for breach of warranty strictly within the time limit and in the manner described in paragraph, C D and E of this section shall constitute a waiver of claim with respect to the Specimens to which the claim would have related.*

DIAGNOSTIC TESTS:

BioGenetics represents that the following diagnostic tests **AND NO OTHERS** will have been performed on Specimens or on the donor. CLIA licensed medical laboratories are sub-contracted to perform laboratory tests on the donor's semen, blood and urine samples. These tests have been conducted in accordance with parameters recommended by various scientific and government agencies, while using FDA approved procedures and/or testing kits, to qualify the use of donor Specimens for therapeutic assisted reproduction procedures.

THE INITIAL EVALUATION TO CONSIST OF THE FOLLOWING TESTS:

Blood Group and Rh	Chemistry Profile	Complete Blood Count
Hepatitis C Virus Antibody	Hepatitis B Surface Antigen	Hepatitis B Core Antibody
HIV-1/2 screening	HTLV-I&II	Syphilis serology screen
Cytomegalovirus screen (CMV)	Chlamydia/PCR	Urinalysis
G.C. culture	Herpes Simplex Virus culture	B-Strep. Bacterial culture
Myco/Ureaplasma culture	B-Thalassemia screen	Tay Sachs screen
Sickle Cell screen	Cystic Fibrosis screen	HIV/HCV/HBV (NAT)
Karyotyping/Chromosome Analysis	Urine Drug screen (unscheduled randomized testing)	

IN ADDITION ALL DONORS ARE TESTED FOR THE FOLLOWING:

Gaucher Disease	Canavan Disease	Niemann-Pick Disease

AND ON A MONTHLY BASIS THE FOLLOWING TESTING MAY VARY WITH FREQUENCY OF SPECIMEN COLLECTION:

Hepatitis C Virus Antibody	Hepatitis B Surface Antigen	HTLV-I&II
Syphilis serology screen	HIV-1/2 screening	Cytomegalovirus screen (CMV)
Herpes Virus culture	Myco\Ureaplasma culture	Chlamydia/ PCR
G.C. culture	Beta-Strep. Bacterial culture	Chemistry Profile (Bi-annually)
Hepatitis B Core Antibody (Bi-annually)	Urine Drug screen (unscheduled randomized testing)	

NO TESTS ARE PERFORMED FOR cancer markers or multiple sclerosis.

All laboratory test results were within acceptable limits prior to the release of donor's Specimens.

WARNING: Even if the tests described in the preceding paragraph were found to be within normal limits, and even when properly administered, the tests have their own limitations and may not produce reliable results. Consequently, Physician/Medical Facility and its Patient(s) take the risk that certain Specimens will not be disease free even though the test results may indicate otherwise.

BioGenetics represents that **ALL SPECIMENS ARE QUARANTINED for 180 days** minimum and are released starting on the 210th day

DISCLAIMERS:
BioGenetics shall not be responsible for, and Physician/Medical Facility hereby releases BioGenetics, donor(s), agent(s), officer(s), director(s), employee(s) and consultant(s) from all liability of any kind or nature with respect to:

A. A failure of the Specimens to induce pregnancy.
B. The handling or supervision of the Specimens after they have left BioGenetics' premises.
C. Any birth defects or abnormalities of any kind, including genetic, chromosomal, environmental, metabolic, whether internal or external resulting from a pregnancy induced by the Specimens.
D. Any failure of the Specimens to produce the characteristics set forth in The "Donor Quarterly" to any child born as a result of therapeutic assisted reproduction with the Specimens.
E. Any missed cycle scheduled for therapeutic assisted reproductive procedure whereby Specimens from BioGenetics were obtained.
F. Survival of embryo(s) created from cryopreserved donor Specimens obtained from BioGenetics.
G. Successful implantation of embryo(s), which may have been created from cryopreserved donor Specimens, obtained from BioGenetics.
H. Any abortion, natural or induced, resulting from a pregnancy induced by the Specimens.
I. Any claim against Physician/Medical Facility which arises from, is connected with or is in anyway related to the Specimens and any therapeutic assisted reproduction which they are used; (including, without limitation, the parent or parents of any child born as a result of therapeutic assisted reproduction with the Specimens, any such child, or the sibling(s) or other relatives of any such child) which arises from, is connected with, or is any way related to any therapeutic assisted reproduction.
J. Performance or non-performance of any act to be performed (or not to be performed) by Physician/Medical Facility.
K. The failure of Physician/Medical Facility, or any Patient(s) of Physician/Medical Facility, to conform to applicable laws with respect to the Specimens or any therapeutic assisted reproduction in which the Specimens are used.
L. In addition Physician/Medical Facility, understands and will advise Recipient(s) of the same, that the use of the cryopreserved Specimens may involve several risks and is not limited to the following:
    1. Infection borne from virus, bacteria or other unknown elements;
    2. Development of sperm antibodies;
    3. Psychological disturbance as a result of therapeutic assisted reproduction being performed on Recipient, her spouse or partner, if any, or upon any other person;
    4. Anaphylactic or allergic responses of Recipient(s) to the sperm during or following implantation;
    5. Any abortion, natural or induced, resulting from a pregnancy induced by the Specimens;
    6. The occurrence of any congenital abnormality to the off-spring, including, but not limited to, genetic, chromosomal, environmental, metabolic, whether internal or external;
    7. Abnormalities relating to appearance and/or features of the newborn including, without limitation, ethnic or racial variation, skin color, eye color, hair color, and/or abnormalities related to these structures or to any other internal or external structures;
    8. Neuro-psychological or other aberrations of the offspring;
    9. Physical or mental abuse of the Recipient(s) spouse or partner, if any, or sibling(s) of the newborn or any other person(s);
    10. Subsequent diseases, whether foreseeable or unforeseeable;
    11. Potential psychological implications of offspring as a result of the therapeutic assisted reproduction with regards to the relationship with her spouse or partner, if any, the child or children, any other child or children, or any other relationship.

LIMITATION OF LIABILITY:

In the event of any breach of any warranty, representation or covenant on the part of BioGenetics, Recipient's recovery shall be limited to the return of any monies paid by Recipient for the "Specimen(s)" with respect to which the breach occurred.
The sole liability, if any, of BioGenetics for breach of the warranty set forth in the section entitled "Warranties" under paragraph D, (specifically. lines 1 thru 4 thereof, which includes subparagraphs D.1. and D.2) or any other breach of any other provision in this Acknowledgement shall be the return of monies paid by Recipient for the Specimen(s) to which the warranty or other provision of this Acknowledgement relates.
In the event the recipient wishes to make a claim for breach of warranty under this Acknowledgement, recipient must complete in its entirety, and submit to BioGenetics, a Product Complaint Report Form (available from BioGenetics). The Product Complaint Report Form is to be completed by the Physician/Medical Facility, on behalf of the Recipient. The Product Complaint Report Form must be submitted and received by BioGenetics within 48 hours of the incident giving rise to the claim.
Recipient's failure to assert a claim for breach of warranty strictly within the time limit and in the manner described above under this Limitation of Liability section of this Acknowledgement shall constitute a waiver of claim by Recipient with respect to the Specimen(s) to which the claim would have related. The mere making of a claim by Recipient, however, shall not establish that BioGenetics is liable in any way to Recipient.

Neither Biogenetics, nor Donor, shall have any liability to any person or entity with respect to any claim for child support, financial support of any kind, and/or money damages of any kind (whether based upon tort, contract, quasi contract, restitution or any other common law or statutory theory of liability) from (or pertaining to) any child or children conceived through therapeutic assisted reproduction with Specimen(s) provided by Biogenetics.

RELEASE AND INDEMNITY:

Recipient hereby agrees to release, hold harmless, and indemnify BioGenetics (and its agents, officers, directors, employees, advisors and consultants) and Donor from and against all losses, liabilities, damages and expenses (including reasonable attorneys fees) of any kind or nature which any of them may suffer or incur by reason of any claims of any kind by any person or entity including, but not limited to: claims for child support, or financial support of any kind, claims for money damages of any kind (whether based upon tort, contract, quasi contract, restitution or any other common law or statutory theory of liability) made by and/or for any child or children conceived through, or born as a result of, therapeutic assisted reproduction with Specimen(s) provided by Biogenetics; any claims made by or for the siblings or other relatives of the Recipient, or any child born as a result of assisted reproduction with the provided Specimen(s); any claims made by or for any executor, trustee, guardian, advocate or agent of any child which arises from, or is connected with, or is in any way directly or indirectly related to, the Recipient and/or therapeutic assisted reproduction with Specimen(s) provided by Biogenetics.

Unless Biogenetics enters into a separate written agreement to the contrary, Recipient shall not have the right to any additional information except as set forth in this Acknowledgement.

A child or children conceived by means of assisted reproduction with the provided Specimen(s) will have no claim or right to, the Donor's money, property (real, personal or mixed), personal assets, personal estate, rents or other source of income or wealth. Furthermore, a child or children, conceived by means of assisted reproduction with the provided Specimen(s) will not be considered an heir of the Donor. Furthermore, with the exception of any release of Confidential Information expressly authorized under this Acknowledgement, no child or children conceived by means of assisted reproduction with the provided Specimen(s) will have no claim or right to the Donor's intellectual property.

MISCELLANEOUS:

A. The initial term of this Agreement shall be for a period of one (1) year from the date first set forth below. Thereafter, this Agreement shall continue from year to year upon all of the same terms and conditions until terminated by either party on/or not fewer than fifteen (15) days or if changes have occurred which may significantly affect the terms of this Agreement.

B. This Agreement shall govern all purchases of Specimens from BioGenetics by Physician/Medical Facility or directly by their Patients(s) during the term of this Agreement without the requirement of any subsequent notice or incorporation by reference, even after BioGenetics' receipt of a notice of termination from Physician/Medical Facility. The terms of any purchase order or the forms supplied by BioGenetics shall govern the terms and conditions of any sale of Specimens to Physician/Medical Facility, even if those terms do not conflict with the terms of this Agreement or any forms supplied by BioGenetics.

C. All notices permitted or required by this Agreement shall be in writing and sent to the party entitled to receive the notice, at the address set forth in this Agreement or at such other address as the parties may advise each other from time to time by similar notice

D. This Agreement contains the entire Agreement between BioGenetics and Physician/Medical Facility. This Agreement is subject to changes without prior notice. This Agreement shall be construed and interpreted in accordance with the laws of the State of New Jersey applicable to agreements wholly performed therein. The parties hereto consent to the exclusive jurisdiction and venue of the state and federal courts located in Union County, New Jersey

IN WITNESS WHEREOF, The parties have cause this agreement to be executed as of the date first set forth below

_____ _____ Date: _____

Print Name Physician's/ Medical Facility Signature

BioGenetics _____ Date: _____