



Terms of Agreement

SOP14.110M

The agreement

This agreement (hereinafter referred to as the "AGREEMENT") has been made between Cryos International – Denmark ApS, VAT number DK-13130809, Vesterbro Torv 1-3, 5th floor, 8000 Aarhus C, Denmark (hereinafter referred to as "CRYOS") and the purchasing client (hereinafter referred to as the "CLIENT"). CRYOS and the CLIENT are jointly referred to as the "PARTIES".

The AGREEMENT is a condition for the CLIENT's order (hereinafter referred to as the "ORDER"). The ORDER can consist of the following:

Donor semen, hereinafter referred to as the "DONOR SEMEN".

Deposit of the CLIENT's own semen, hereinafter referred to as the "STORED SEMEN"

Deposit of the CLIENT's own eggs or embryos, hereinafter referred to as the "STORED EGG"

STORED SEMEN and STORED EGG are jointly referred to as the "STORED GAMETES"

CLIENTs of STORED GAMETES are also referred to as the "DEPOSITOR".

Other products, for instance clinical products, hereinafter referred to as the "PRODUCT"

DONOR SEMEN, STORED GAMETES and PRODUCT are jointly referred to as the "GOODS".

The AGREEMENT also applies to the PARTIES' agreement regarding delivery and transport of the GOODS as well as the PARTIES legal position in the event of damage to the GOODS packaging.

The AGREEMENT regulates the PARTIES' legal position unless the PARTIES have entered into another written agreement.

Written offers are valid for 30 days from the date of offer.

When the CLIENT submits an ORDER, CRYOS will send a confirmation by e-mail to the CLIENT. When the ORDER is confirmed the AGREEMENT is legally binding. It is recommended that the CLIENT prints out all received information on paper or another lasting media. If the CLIENT does not have an e-mail address, such information will be sent by ordinary mail.

General conditions

1. Prices

Prices are according to CRYOS' current price list as they appear on CRYOS' website (see www.cryosinternational.com/dk). CRYOS reserves the right to change prices without notice. Prices are exclusive of VAT. The CLIENT pays CRYOS the total purchase price for the GOODS including any VAT, transport and insurance costs, etc. when entering into the AGREEMENT.

2. Payment terms

Professional CLIENTs (hospitals, physicians, or other centres or persons who act for commercial purposes): 14 days net after date of invoice.

CRYOS reserves the right to refuse credit and ask for prepayment if the CLIENT's creditworthiness is not satisfactory.

Private CLIENTs: Prepayment by credit/debit cards, bank transfer, cheque or cash. For STORED GAMETES (see Professional CLIENTs).

3. Property right

Delivered GOODS remain the property of CRYOS until CRYOS has received full payment from the CLIENT of the total price of the GOODS as well as delivery, transport and packaging.

4. Delivery terms

DDU (Delivered Duty Unpaid) according to Incoterms 2000. This means door-to-door excluding any local customs formalities like customs clearance, import permits, duty and tax. If the GOODS are picked up at CRYOS, delivery is EXW (Ex Works).

5. Home delivery & pick up

Private CLIENTs declare that they will read the safety instructions about handling and hazards of shipping with liquid nitrogen (LN2) and/or dry-ice (CO2) which is supplied with the DONOR SEMEN and STORED GAMETES. CRYOS disclaims all responsibility for any damage caused by LN2 and CO2.

6. Delay

If the GOODS are not delivered on time and if the delay is due to circumstances for which the CLIENT bears the risk including delay from the carrier, CRYOS disclaims all responsibility in this connection and the CLIENT loses the right to claim damages for delay.

7. Faults and deficiencies

When the shipment is received from the carrier, the receiver is obligated to examine the GOODS for any fault and deficiencies which may have occurred during transport. If the GOODS have been damaged during transport, the receiver is obligated to complain about any such damages directly to the carrier.

If the GOODS have any faults or deficiencies which were not visible when the CLIENT received the shipment, the CLIENT must inform CRYOS within 7 days after the fault or deficiency has been discovered by the CLIENT and no later than 14 days after delivery has taken place. Otherwise the CLIENT loses the right to claim the fault or deficiency.

CRYOS is only responsible for damage to the GOODS if the damage is due to faults, deficiencies or neglect caused by CRYOS.

If the CLIENT has informed CRYOS, in writing and on time, of any existing faults or deficiencies for which CRYOS is responsible, CRYOS will replace the ORDER. If CRYOS replaces within reasonable time, the CLIENT cannot demand a reduction of the purchase price or cancel the AGREEMENT.

8. Nitrogen tanks/shipping boxes

The CLIENT must return any nitrogen tank and its shipping box without undue delay and within 3 working days after delivery has taken place. If the nitrogen tank/box has not been returned to CRYOS within 7 days after delivery has taken place, CRYOS is entitled to demand a weekly rent (at present EUR 100 per commenced week) from the CLIENT.

The CLIENT is responsible for returning the nitrogen tank/box on time to CRYOS and in the same condition as at the time of delivery.

Nitrogen tanks/shipping boxes shall remain the property of CRYOS.

CRYOS is entitled to claim an estimated amount for any damage to or loss of the nitrogen tank/box from the CLIENT.

The CLIENT is aware of the fact that frozen DONOR SEMEN and STORED GAMETES are fragile products and thus it is strongly emphasized that the durability of the frozen DONOR SEMEN and STORED GAMETES is dependant on the storage facility and that it may be damaged if not used immediately after thawing.

9. Other responsibilities

CRYOS does not guarantee that treatment with the DONOR SEMEN or STORED GAMETES will result in a pregnancy or if it does result in a pregnancy that the pregnancy will result in the birth of a healthy and viable child or children.

CRYOS disclaims all responsibility for any other circumstances including, but not limited to, fertility treatment, unwanted pregnancy, multiple pregnancies, spontaneous abortion, extra uterine pregnancy, stillborn, expenses for medicine, transport and travel expenses, accommodation, loss of profit, sales or income, loss of time and clientele, or ensuing costs or other direct or indirect losses or expenses which may be the result of delays, fault or deficiencies whether CRYOS is responsible for this or not. This also includes circumstances caused by force majeure or other circumstances which are beyond CRYOS' influence such as strikes,

lockouts, transport difficulties, detention, goods retained at customs, confiscation, war, martial conflicts or civil unrest, vandalism, terrorism, radioactivity or natural disasters.

CRYOS disclaims all responsibility for damage to real estate and personal and movable property including either finished goods produced by the CLIENT or goods involving produced parts.

CRYOS disclaims all responsibility for damage caused by frozen DONOR SEMEN and STORED GAMETES, CO₂, or LN₂ such as leakage, spillage, loss or damage caused by storage of LN₂ under pressure.

CRYOS disclaims all responsibility for any damage which may be the result of transmitted diseases or unwanted or unknown hereditary conditions contained in the DONOR SEMEN or STORED GAMETES.

10. Waiver of Claim and indemnification

The CLIENT expressly releases, indemnifies, defends and holds harmless CRYOS, its agents, employees, officer, directors, shareholders, representatives, independent contractors, customers, successors and affiliates to the fullest extent permitted by law from and against any claims, loss, damage, expenses, liabilities, demands, offsets, causes of actions and attorneys fees arising out of or in any way relating to this AGREEMENT, including, but not limited to the collection, freezing, sale, purchase, storage, shipping, release, loss, damage or destruction of the GOODS.

11. Disputes

Any dispute between the PARTIES which may originate from the AGREEMENT must be sought resolved by means of negotiation in which the PARTIES are obligated to try to find an amicable solution.

If the PARTIES cannot reach an agreement through negotiation no later than 6 weeks after commencement of the negotiations, each of the PARTIES is entitled to hand over the case for the decision of the ordinary courts.

It has been agreed between the PARTIES that the case will be decided according to Danish law regardless of the fact that international choice of law rules may give rise to another choice of law. It has also been agreed between the PARTIES that the District Court of Aarhus will decide this matter.

12. Authority to sign (only applicable for professional CLIENTs)

I declare that I am authorized to sign for the CLIENT.

13. Legal age (only applicable for Private CLIENTs)

I(we), the CLIENT(s), declare that I(we) am(are) of legal age.

DONOR SEMEN

14. Reservation of DONOR SEMEN

If the CLIENT's ORDER is a reservation of DONOR SEMEN the following applies: reserved DONOR SEMEN is reserved for the period of time ordered by the CLIENT. The reservation period can always be extended. An order confirmation e-mail will be sent to the CLIENT as well as a reminder before the reservation expires. If the CLIENT has no e-mail, all information will be sent by ordinary mail. If the e-mails are not received, whatever the reason is, this is not CRYOS' responsibility. However, CRYOS will always try to contact the CLIENT by ordinary mail before the reservation expires. CRYOS is entitled to charge a fee for ordinary mail service. If payments received are lower than the outstanding amount, CRYOS is entitled to reduce the selected period of time proportionally.

When the CLIENT wants reserved DONOR SEMEN delivered, the delivery is ordered online with the use of a username and password. A mandatory Delivery Statement form must be filled in and sent to CRYOS together with a copy of the CLIENT's ID card (passport, drivers license or similar). Payment for the shipment is at the cost of the CLIENT.

If all the reserved DONOR SEMEN has been delivered, the AGREEMENT is automatically terminated. Payment for any remaining storage period cannot be refunded.

When the CLIENT wants to terminate the reservation, the termination is ordered online with the use of a username and password. A mandatory Termination Statement form must be filled in and sent to CRYOS together with a copy of the CLIENT's ID card (passport, drivers license or similar).

When the reservation is terminated the purchase price, less the agreed percentage, of the reserved DONOR SEMEN still located at CRYOS will be refunded. In case of mass termination within a selected time period, CRYOS can postpone the payment till the end of the selected reservation period. Payment for the remaining reservation period will not be refunded in case of termination.

CRYOS will insure the value of the reserved DONOR SEMEN and the value of the reservation period. The insurance will cover the value in the event of thawing, fire, theft, and water damage. In other circumstances or accidents which CRYOS is or is not responsible for, CRYOS disclaims all responsibilities. CRYOS keeps an agreement in force with another licensed centre to take over the reserved DONOR SEMEN, if CRYOS, whatever the reason is, will not be able to continue storing the reserved DONOR SEMEN.

15. Parent declaration (only applicable for private CLIENTs)

The CLIENT guarantees to claim parenthood and to look after and consider the child/children, which may be the result of treatment with DONOR SEMEN according to the AGREEMENT, as their own legal child/children.

16. Anonymity

As CRYOS has guaranteed semen donors anonymity, the CLIENT guarantees that no attempts will be made to search for or to trace semen donors or other recipients or offspring related to the DONOR SEMEN purchased. If, regardless of this, the CLIENT initiates such a search or trace, the CLIENT is obligated to exempt CRYOS from any demand raised against CRYOS regardless of whether the search, directly or indirectly, has resulted in tracing the semen donor or other recipients or offspring related to the same semen donor.

The CLIENT understands and accepts that anonymous semen donors must remain anonymous forever.

If the semen donor is non-anonymous, CRYOS will disclose the identity to the child/children once they have reached the age of 18 if they can document, or render probable, that they are the result of treatment with semen from a specific non-anonymous donor from CRYOS (donor code must be informed).

The semen donors may have guaranteed to meet the child/children, but CRYOS has no responsibility if the semen donor rejects to meet the child/children.

17. Delay

If the delivery of DONOR SEMEN is delayed due to circumstances for which CRYOS is responsible and the CLIENT wishes to cancel the ORDER for that reason, the CLIENT has an obligation, if possible, to return the DONOR SEMEN immediately so that it is received frozen by CRYOS no later than 3 days for CO₂-shipments and no later than 7 days for LN₂-shipments after the DONOR SEMEN was shipped from CRYOS.

All shipments of DONOR SEMEN are sealed before they leave CRYOS. If the CLIENT has broken the seal, the CLIENT cannot make use of the right of cancellation. The CLIENT has been informed that DONOR SEMEN must be returned unthawed and undamaged, and, for safety reasons, the DONOR SEMEN cannot be returned if the seal has been broken.

18. Pregnancy registration

In order not to exceed the current quotas regarding the number of pregnancies/children/families per semen donor, the CLIENT is obligated to inform CRYOS within 3 months from date of delivery if pregnancies have occurred. Pregnancies are registered online with the use of a username and password. The fertility clinic where the treatment took place can also register the pregnancy on behalf of the private CLIENT. The private CLIENT is obliged to register online if the registration will be carried out by the fertility clinic.

The CLIENT must also inform CRYOS if the pregnancy is a sibling (the CLIENT already has a child with the same donor) and if the pregnancy is terminated (biochemically, spontaneous abortion, extra uterine pregnancy or stillborn). If the CLIENT does not have access to the internet, the information must be sent to CRYOS by letter or fax.

Professional CLIENTs, who have made fictitious registrations (reservations) of pregnancies, are obliged to cancel these reservations if treatment does not result in pregnancies. Fictitious registrations are primarily made by clinics in countries where the pregnancy quota is very low.

When entering into this AGREEMENT, the CLIENT accepts that CRYOS is entitled to continue contacting the CLIENT until the result of the treatment has been registered. If, due to the relationship of the CLIENT, it is not possible to register the result of the treatment, CRYOS is entitled to seek information from the clinic where the DONOR SEMEN was delivered, if any.

19. Reports and information regarding malformations

If the CLIENT receives information about malformations (including genetic diseases, syndromes, multiple and isolated malformations, associations, etc.) as a result of using DONOR SEMEN, the CLIENT is obliged to inform CRYOS about this immediately so CRYOS can take the necessary action in relation to other CLIENTs. The CLIENT accepts to provide the necessary information to CRYOS so CRYOS is able to make a diagnosis. If the CLIENT is a private person, the CLIENT hereby gives CRYOS the right to obtain relevant information from the CLIENT's and the child's medical files. The CLIENT also accepts to give blood samples in order to verify the diagnosis.

The CLIENT accepts that CRYOS may send information concerning reports of malformations and hereditary diseases as well as reports of any serious adverse events or reactions by the semen donor for confirmed ORDERS of DONOR SEMEN. For ORDERS of DONOR SEMEN such information will be send only up to two (2) years after date of order unless in cases where CRYOS finds special reason to prolong this period.

All information is send by e-mail. If the CLIENT does not have an e-mail address the information is sent by ordinary mail. CRYOS disclaims all responsibility if information does not reach the CLIENT.

CRYOS is not responsible for offering any advice or consultancy, but recommend that CLIENTs seek advice from medical/genetic specialists.

20. Right of cancellation (only applicable for private CLIENTs)

The CLIENT is entitled to cancel the ORDER no later than 14 days after the ORDER has been confirmed (only applicable for online ORDERS). Before the right of cancellation expires, the CLIENT must inform CRYOS in writing that the CLIENT wishes to make use of the right of cancellation as well as return the DONOR SEMEN, if delivered, to CRYOS in the same condition and quantity as when the CLIENT received the DONOR SEMEN.

All costs and the risk of damage and deterioration of the DONOR SEMEN during the return transport to CRYOS lie with the CLIENT.

If the CLIENT has started using the DONOR SEMEN, including but not limited to the instance where the CLIENT has broken the seal, the CLIENT cannot make use of the right of cancellation. The CLIENT has been informed that DONOR SEMEN must be returned unfrozen and undamaged, and, for safety reasons, the DONOR SEMEN cannot be returned if the seal has been broken.

CRYOS will repay the CLIENT, no later than 30 days after the DONOR SEMEN has been received by CRYOS and it has been established that the DONOR SEMEN has been received in the same condition and quantity as when the CLIENT received the DONOR SEMEN and that the seal has not been broken.

CRYOS is entitled to deduct any expenses from the amount repayable to the CLIENT including, but not limited to freight charges, transport insurance, etc.

21. Other responsibilities

CRYOS declares that DONOR SEMEN delivered is released for clinical use according to one or several Standards, as described in CRYOS' website. I.e. that semen donors or specimens are selected, screened and comply with the prevailing rules at the time of donation. If the Standard of the DONOR SEMEN ordered does not meet the requirements in the CLIENTs country/jurisdiction, CRYOS disclaims all responsibility. Despite the examination of an extensive number of conditions and diseases in both the donor as well as the DONOR SEMEN there is always a minimal risk that infectious or hereditary diseases such as HIV, hepatitis, syphilis, gonorrhoea, chlamydia, HTLV I/II, cytomegalovirus, Tay-Sachs, thalassaemia, cystic fibrosis, sickle cell, familial Mediterranean fever, Gaucher's disease, thalassaemia, Canavan's disease, familial dysautonomia, congenital adrenal hyperplasia, carnitine transporter deficiency are transmitted with DONOR SEMEN. However, it is CRYOS' assessment that the risk of transmission of hereditary diseases is always lower than in the general population.

In case CRYOS is informed about transmissible or heredity diseases or unknown or unwanted heredity conditions in the DONOR SEMEN after the ORDER has been confirmed (irrespectively of whether the ORDER has been delivered or not), and if this is not due to faults or deficiencies for which CRYOS is responsible, CRYOS disclaims all responsibility.

Information in the donor's extended profile as well as the baby photos are provided by the donor. It is CRYOS's sincere belief that the data is correct, but CRYOS disclaims any liability if the data is incorrect.

STORED GAMETES

22. Receipt of STORED GAMETES

CRYOS performs an analysis of each ejaculate of STORED SEMEN in order to evaluate the quality and the fertilization abilities. CRYOS will evaluate and recommend if more ejaculates should be stored. STORED EGGs are not analysed.

When the STORED GAMETES including all ejaculates are stored, a confirmation e-mail with the storage details and storage period will be sent to the DEPOSITOR.

23. Screening

In order to meet the requirements of the Danish Tissue Act (Vævsloven) the DEPOSITOR must be tested for certain infectious diseases (HIV and Hepatitis) in order to avoid cross contamination in the storage facility. These tests can be carried out by CRYOS for additional costs. Alternatively, the DEPOSITOR must present valid documentation to CRYOS that the necessary tests have been taken. If CRYOS have not received the tests or documentation within one (1) month from the confirmation e-mail has been sent, CRYOS is obliged to terminate the storage and to destroy the STORED GAMETES. The DEPOSITOR cannot claim any refund in such cases.

24. Renewal

The storage period can always be renewed. Prior to expiry CRYOS will send a reminder to the DEPOSITOR with information that the deposit is due to expire. The reminder will be sent to the registered e-mail address or, if necessary, by regular post. Renewal is done online with the use of a username and password.

If the DEPOSITOR has no e-mail, all information will be sent by ordinary mail. If e-mails do not come through, whatever the reason is, this is not CRYOS responsibility. However, CRYOS will always try to contact the DEPOSITOR by ordinary mail before the storage expires. CRYOS is entitled to charge a fee for ordinary mail service. If payments received are lower than the outstanding amount, CRYOS is entitled to reduce the selected period of time proportionally.

If proper payment is not received in due time CRYOS has the right to destroy the STORED GAMETES.

25. Disposition

The DEPOSITOR has the sole right of disposition of the STORED GAMETES.

If the DEPOSITOR passes away during the storage period and if CRYOS is made aware of this, the DEPOSITORs STORED GAMETES will, unless in case of testamentary disposition and only if CRYOS is informed about this, be destroyed without any undue delay and this AGREEMENT is terminated.

If the DEPOSITOR has made a valid testamentary disposition of the STORED GAMETES, and if CRYOS has received the testament, the beneficiary will take over the DEPOSITOR's rights and position according to this AGREEMENT. We refer DEPOSITORs who want to make testamentary disposition to seek legal advice. The heirs of the DEPOSITOR has no rights over the DEPOSITORs STORED GAMETES according to this AGREEMENT unless in case of a testament.

26. Delivery

When the DEPOSITOR wants the STORED GAMETES delivered, the delivery is ordered online with the use of a username and password. A mandatory Delivery Statement form must be filled in and sent to CRYOS together with a copy of the CLIENT's ID card (passport, drivers license or similar). Payment for the shipment is at the cost of the DEPOSITOR.

27. Termination

When the DEPOSITOR wants to terminate the storage, the termination is ordered online with the use of a username and password. A mandatory Termination Statement form must be filled in and sent to CRYOS together with a copy of the DEPOSITOR's ID card (passport, drivers license or similar).

If all the STORED GAMETES has been delivered, the AGREEMENT is automatically terminated. Payment for any remaining storage period cannot be refunded.

CRYOS keeps an agreement in force with another licensed centre to take over the STORED GAMETES, if CRYOS, whatever the reason is, will not be able to continue storing the STORED GAMETES.