

RECIPIENT SEMEN AND STORAGE AGREEMENT

This Recipient Semen and Storage Agreement (“Agreement”) is entered into between European Sperm Bank USA (“ESBUSA”) and the undersigned recipient of products and services provided by ESBUSA and, if applicable, her partner or spouse (collectively “Purchaser”).

- Donor Semen.** ESBUSA sells donated semen (“Donor Semen”) that is tested and screened for certain genetic and infectious diseases. To assist Purchaser in the selection of Donor Semen, ESBUSA provides a variety of information and materials about the donor and the testing process. Purchaser agrees that all such information is for Purchaser’s private use and not for public dissemination and that Purchaser is solely responsible for the selection of Donor Semen.
- Purchase of Donor Semen.** Orders for Donor Semen may be made only through ESBUSA’s website or by telephoning ESBUSA’s office. Payment must be made in full at the time an order is placed. All purchases are final and there are no refunds or exchanges except as otherwise set forth in this Agreement. Upon purchasing Donor Semen, Purchaser must either arrange for storage by ESBUSA (see Section 3) or arrange for shipping to an alternate location (see Section 4). Purchaser is solely responsible for all costs related to ESBUSA Donor Semen, including shipping charges and all charges related to or arising out of any treatment with Donor Semen.
- Storage of Donor Semen.** ESBUSA provides storage services for Donor Semen purchased from ESBUSA, as well as Donor Semen purchased from other sperm banks. Available Storage Periods range from 3 months to 10 years. Payment for storage must be made in full in advance of the commencement of the Storage Period. Prior to expiration of the Storage Period, Purchaser must elect to contract for a new Storage Period, request in writing that Purchaser’s Donor Semen be destroyed at the conclusion of the Storage Period, or request shipment of Purchaser’s Donor Semen to another location (shipping and handling costs will apply). Purchaser may also request that Donor Semen purchased from ESBUSA and stored by ESBUSA be returned to ESBUSA. Returns may or may not be accepted, at the sole discretion of ESBUSA, and subject to applicable fees imposed by ESBUSA.
- Release of Donor Semen.** Except as set forth in Section 5, ESBUSA will release Donor Semen to Purchaser, Purchaser’s health care provider, or any person designated by Purchaser in writing to receive Purchaser’s Donor Semen; *provided that*, written permission from Purchaser’s health care provider is required before ESBUSA can release Donor Semen directly to Purchaser, to another person designated by Purchaser, or to a non-clinical address. At the request of Purchaser, ESBUSA will ship Donor Semen via a commercial shipping service. In the event shipment is requested, Donor Semen shall be deemed delivered to Purchaser upon acceptance by the shipper for shipping and Purchaser shall accept all risk of loss to Donor Semen during shipping. ESBUSA will not be responsible for any damage or loss to Donor Semen or any delay that may occur after Donor Semen leaves ESBUSA’s facility. Purchaser shall pay all shipping and handling charges. Donor Semen can be picked up at ESBUSA after business hours.
- Changes Restricting or Preventing Donor Semen Release.** Changes to donor screening requirements or the discovery of new medical or genetic information about a donor may restrict or prohibit the release of Donor Semen. In the event ESBUSA is unable to release Donor Semen to Purchaser for these reasons, ESBUSA will provide Purchaser with a full refund for Donor Semen that cannot be released. In the event of a refund, Purchaser may elect to purchase additional Donor Semen at then current per vial rates.

6. **Quality of Donor Semen.** Purchaser understands that, in most circumstances, approximately 20 million motile sperm/cc will result from every post-thaw samples of Donor Semen. However, there can be cases where fewer motile spermatozoa are present. If Purchaser’s health care provider confirms in writing that a significantly lower number has occurred and, as a result Purchaser’s treatment has been cancelled, and if the deviation is not related to damage during transport or improper handling of the Donor Semen after release by ESBUSA, ESBUSA will provide, at no additional charge to Purchaser, replacement samples from the same donor, if available, or from a similar donor if the original donor is no longer available.

7. **Treatment with Donor Semen.** Purchaser will direct any questions regarding treatment with Donor Semen and limitations and risks associated with using Donor Semen to their treating physician or other health care provider, and acknowledges that ESBUSA has no responsibility to provide such information. ESBUSA is not responsible in any manner, and makes no representation or warranty related to the treatment process or risks or limitations.

8. **Reporting Pregnancies.** Purchaser agrees to report all pregnancies and pregnancy outcomes (miscarriages, births) arising out of the use of Donor Semen purchased from ESBUSA. Pregnancy and pregnancy outcomes shall be reported by the Purchaser or the Purchaser’s health care provider. Pregnancies shall be reported within no later than sixty (60) days following completion of the first trimester. Reports can be made anonymously but must include donor ID, Purchaser’s zip code and country. This information is used to ensure geographical spreading of possible half siblings.

9. **Protection of Donor Identity.** Purchaser agrees that Purchaser has no right to learn the identity of a donor and will not, directly or indirectly through a third party, make any attempt to contact a donor. Further, ESBUSA will not disclose identifying donor information or assist Purchaser in any way to contact a donor. In the event ESBUSA discovers that Purchaser is attempting to identify a donor by other means, ESBUSA will take all appropriate action to protect the anonymity of the donor. Notwithstanding the foregoing, all donors at ESBUSA sign an open donor contract. When a child born from an open donor turns 18, the child may apply to ESBUSA to obtain contact with the donor. ESBUSA does not provide this information to anyone other than a child and only after the child has turned 18. While all donors sign open donor contacts, ESBUSA cannot guarantee that all efforts to arrange contact with a donor will be successful.

10. **No Warranties.** Recipient and Recipient Partner should initial each item, indicating an understanding of ESBUSA’s disclaimer of warranties:

Purchaser(s) Initials

ALL ESBUSA PRODUCTS AND SERVICES INCLUDING, WITHOUT LIMITATION, DONOR SEMEN AND THE COLLECTION, TESTING, FREEZING, STORAGE, AND SHIPPING OF DONOR SEMEN, ARE PROVIDED “AS IS” WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Purchaser(s) Initials

Although a laboratory has performed certain genetic screening tests as required by federal law, it is not possible to screen for all genetic diseases or defects and laboratory tests are not always accurate. As such, ESBUSA does not represent or warrant that Donor Semen is free of all genetic defects or diseases.

Purchaser(s) Initials

Although a laboratory has performed certain infectious disease screening tests as required by federal law, it is not possible to screen for all infectious diseases and laboratory tests are not always accurate. As such, ESBUSA does not represent or warrant that Donor Semen is free of all infectious disease or that disease, illness or other maladies, including sexually transmitted diseases, will not result from treatment with Donor Semen.

Purchaser(s) Initials

ESBUSA does not warrant that a pregnancy will result from the use of Donor Semen and does not make any representations or warranties regarding the likelihood that a pregnancy will occur.

Purchaser(s) Initials

ESBUSA does not represent or warrant that a pregnancy arising out of the use of Donor Semen will result in the birth of a healthy, viable child and does not represent or warrant that a child born using Donor Semen will be free of all physical and mental disease or defects.

Purchaser(s) Initials

Donor information is obtained directly from donors. As such, ESBUSA does not warrant or make any representations in terms of its correctness, accuracy, reliability, timeliness, suitability or otherwise.

11. **Indemnification.** You agree to indemnify and hold harmless ESBUSA and its affiliates, and each of their directors, officers, employees, agents, representative, independent contractors, customers, successors and assign from and against any claim, loss, damages, liabilities, demands, offsets, causes of action and expenses, including attorneys' and experts' fees, arising out of or related to any third party action, proceeding or dispute involving ESBUSA products (including Donor Semen) or services. For the avoidance of doubt, any authorized recipient of your Donor Semen and any person who uses Donor Semen that you purchase from ESBUSA shall be considered a third party for purposes of this paragraph.

12. **Arbitration.** Except as necessary to obtain immediate injunctive relief, any dispute relating in any way to products or services obtained from ESBUSA shall be submitted to confidential arbitration in Seattle, Washington. Arbitration under this Agreement shall be conducted pursuant to rules established by the American Arbitration Association, by an arbitrator agreed to by the parties. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. The prevailing party in the arbitration shall be entitled to recover all costs for the arbitration, including, without limitation, attorneys' and experts' fees.

13. **Additional Provisions**

a. Purchaser represents that she/he is over the age of eighteen (18) and that Purchaser is purchasing ESBUSA's products and services for personal use and not for resale or other commercial purposes.

b. The undersigned recipient of the Donor Semen understands that she will be the legal parent of any child born using Donor Semen and will be responsible for their support and custody. Purchaser (including recipient's spouse or partner, if applicable) understands that neither ESBUSA nor the donor shall have any legal, moral or ethical obligation of support or custody for children born using Donor Semen.

c. This Agreement constitutes the entire agreement among ESBUSA and Purchaser related to the subject matter contained herein, and fully supercedes all prior or contemporaneous understandings of the Parties. This Agreement may not be modified or amended without prior written consent of the Parties. This Agreement shall be construed and controlled by the laws of the State of Washington and the parties consent to the exclusive jurisdiction and venue in the courts sitting in King County, Washington.



d. This Agreement must be executed by the recipient and, if applicable, the recipient's partner or spouse and accepted by ESBUSA before ESBUSA will release any Donor Semen from its facility. ESBUSA reserves the right, in its sole discretion and for any reason, to reject the Agreement prior to release of Donor Semen. In the event ESBUSA rejects the Agreement, it will notify Purchasers of the rejection. Purchasers acknowledge that ESBUSA will retain any fees (excluding prepaid donor semen and prepaid shipping fees) they may have paid to ESBUSA prior to any such rejection and Purchaser shall refrain from any claims against ESBUSA arising out of or in connection with a rejection.

PURCHASER(S):

Recipient

Recipient's Partner or Spouse, if applicable

Print Name: _____

Print Name: _____

Date: _____

Date: _____

EUROPEAN SPERM BANK USA

Print Name: _____

Date: _____