

Processing and Storage Agreement

I, _____, (the **CLIENT**), engage American CryoStem Corporation, and its affiliated Laboratory Processing Facilities and Cryopreservation Facilities, hereafter collectively "**ACS**" to process, cryopreserve and store stem cells obtained from adipose tissue collected by your surgeon/doctor on the following terms (this **Agreement**). This Agreement is entered into this _____ day of _____, 20____ (the **Enrollment Date**) and legally binds **ACS** and the **CLIENT**.

- 1) **Services of ACS; Processing, Cryo-storage.** ACS through its affiliated certified laboratory and cryopreservation facilities, processes, cryopreserve and stores stem cells obtained from adipose tissue (**Specimen**) collected independently by the CLIENT's surgeon/physician. ACS provides the administrative services to CLIENT and arranges for the delivery of collection materials from its owned or affiliated labs to the CLIENT's surgeon/physician for the collection of the Specimen at the surgeon/physician's facility. When ACS's laboratory facility receives the collected Specimen, they will perform a visual inspection, viability and sterility test (collectively, the **Testing**). If the Specimen is acceptable to ACS, ACS processes and stores the Specimen in a cryogenic cellular storage unit (a **Unit**) until the termination of this Agreement. ACS's obligations are expressly limited to the services described in this Agreement.
- 2) **CLIENT Responsibilities.** You agree that you will be responsible for the following:
 - Review of Medical Information. Before signing any agreements, reading all of the literature supplied by ACS, and discussing with your physician any questions that you may have regarding the nature of, the risks, potential complications and expected benefits of, and the alternatives to, the collection of your adipose (fat) tissue during liposuction or another surgical procedure.
 - Completion of Documentation. Reading, understanding and returning all of the necessary documents, including any and all: (1) Enrollment Forms; (2) Authorization for Tissue Collection and Release of Liability; and (3) Adipose Stem Cell Storage Pricing and (4) this Agreement.
 - Payment of Fees. Payment of the initial service and timely payment of all annual storage fees and other fees and expenses for any additional services that you may request, such as, for retrieval, preparation and shipment of your stored specimen as directed by you or an authorized representative.
 - Notifying ACS: ACS of any change in any information that you have provided, including but not limited to any change in your mailing address, email address, billing information, or other contact information on record with ACS.
- 3) **Term of Agreement.** This Agreement will continue for one year after the collection and storage of the Specimen and will automatically renew for successive one year periods unless terminated under Section 15, or, this Agreement will continue concurrent with any long term storage plan(s) as further defined in Section 5 herein.
- 4) **Storage Terms.** The Specimen will be stored as follows: (a) the Specimen will initially be stored in an ACS Unit in the laboratory processing facility designated for the CLIENT's geographic location, currently located in Mt Laurel, New Jersey. The Specimen will be transferred to our closest long term storage facility, currently the Bronx, New York. ACS reserves the right to relocate the Specimen to another location within the United States. If the Specimen is relocated, ACS will notify CLIENT within 60 days after such relocation, (b) the Specimen will be stored separately in its own cryostorage vial from all other specimens. (c) ACS may refuse Specimen storage for any reason. (d) The Specimen will be stored so long as all fees have been timely paid.
- 5) **Fees for Services.** At Enrollment Date you will receive 1 year of storage. Thereafter CLIENT must choose either the Annual Storage Plan or any long term storage plan offered by ACS by completing the Adipose Stem Cell Storage form at the time of your renewal. The fees for the storage plans, and any administrative fees, if applicable, are shown on the Adipose Stem Cell Storage Pricing form.
- 6) **Storage Plan.** In addition to the initial processing and administrative fees, (a) CLIENT will also be responsible to pay an annual storage fee. A ten percent (10%) late fee is charged for the Annual Storage Plan payment that is more than 45 days past due. (b) Long Term Plans: Pursuant to the Long Term Storage Plan(s), offered by ACS, CLIENT makes a one-time payment which covers the storage of the Specimen for the term of the plan selected. The Long Term Storage Plan(s) payment is nonrefundable. (c) Administration Fee. If CLIENT fails to deliver a Specimen to ACS, or if the Specimen is not accepted for processing or storage by ACS, CLIENT will nevertheless be responsible for the administration fees shown on the Adipose Stem Cell Storage Pricing. The administration fee is binding when an enrollment is completed entirely and received via internet, fax or hard copy.
- 7) **Representations and Warranties of CLIENT.** CLIENT represents and warrants that (a) he/she is of legal age; (b) CLIENT has had the opportunity to consult CLIENT's own legal counsel to review this Agreement and related forms and CLIENT has carefully read and understands all of the terms of this Agreement; (c) the decision to collect the Specimen, and process and store the Specimen is a completely voluntary act of CLIENT; (d) CLIENT has discussed this Agreement with a competent medical professional, who is not an employee of ACS; and (e) CLIENT understands the risks related to

- collection, preservation and possible future use of the Specimen. (f) CLIENT is required to disclose their infectious disease history (HIV, HEPITITUS ETC.) to ACS and represents that (a) he/she has no infectious diseases or (b) that CLIENT has/had an infectious disease and has disclosed this information to ACS on the attached Medical History/Information Form.
- 8) **Assumption of Risk by CLIENT.** CLIENT acknowledges that he/she has been fully informed of, accepts and agrees to the conditions, risks, limitations and costs of processing, testing and storage of the Specimen. CLIENT recognizes that the Specimen may not be acceptable for any medical use as determined by their designated recipient (physician, laboratory, hospital, etc.) upon a request for release of their specimen. CLIENT assumes all risks associated with the collection, preparation and delivery of the Specimen. The exercise of any rights and control over the Specimen will require written notice to ACS signed by CLIENT. If this Agreement is terminated by ACS in accordance with Section 15(c) or the term of this Agreement otherwise terminates, and CLIENT has not submitted to ACS a request form for retrieval of the Specimen, CLIENT relinquishes all rights in and to the Specimen and waives all claims to the Specimen, and ACS shall have the right, to utilize, donate for research, or dispose of the Specimen.
- 9) **Retrieval of Specimen.** The stored Specimen will normally be available for access or delivery within 48 hours after ACS's receipt of a written request from CLIENT. CLIENT may also request a summary of the processing (batch) record, the Certificate of Analysis can be delivered to their physician or associated medical facility for review prior to the release of their Specimen. The request must be made on a request form provided by ACS, must be signed by the CLIENT, and must provide the name and address of the medical professional to whom the Specimen is to be delivered and the date delivery is requested. CLIENT is required to pay any and all administrative, handling, transportation and delivery charges for the Specimen.
- 10) **Disclaimers.** Neither ACS nor any of its officers, directors, shareholders, executives, employees, agents or consultants have made any representations, guarantees, warranties or assurances, expressed or implied, to CLIENT regarding the success of the collection, transportation, testing, processing, cryopreservation, storage process or use of the Specimen. CLIENT acknowledges the following expressed disclaimers and releases ACS and the persons named from the same: (a) while members of the medical community advocate the storing of stem cells to be available for potential medical technology, ACS expressly disclaims any warranty or guaranty that the Specimen will ever be of therapeutic or other value. (b) ACS expressly disclaims any warranty or guaranty that the Specimen will be collected, or that there will be sufficient volume of Specimen for testing, processing and storage or subsequent use. (c) ACS expressly disclaims any liability if the personnel selected by CLIENT are unable to collect the Specimen or if such personnel are unable to collect a sufficient volume of Specimen for testing, processing and storage or subsequent use. (d) ACS expressly disclaims any liability for damage to, or destruction or loss of, the Specimen by the courier selected by ACS. (e) ACS does not perform any medical services, give any medical advice, or otherwise perform any functions other than those expressly indicated; ACS expressly disclaims any responsibility to provide any other services.
- 11) **Limitation of Liability.** CLIENT agrees that ACS's liability for any loss, harm, and damage or claim of any kind in connection with this agreement or the services provided by ACS shall be limited to the return of an amount equal to all fees paid by CLIENT to ACS. Notwithstanding and in addition to all other limitations of liability contained in this agreement, CLIENT specifically agrees to hold ACS harmless for any loss, harm, and damage or claim of any kind for the failure to process any specimen delivered to the processing laboratory for which full payment of the collection fee, processing fee and at least one year storage has not been made in advance of receipt of patients specimen by the processing facility of ACS.
- 12) **Waiver of Punitive Damages.** CLIENT agrees that other than provided for in paragraph 11 of this agreement, in no event shall ACS be liable to CLIENT or any party for any punitive, special, incidental, consequential or similar damages of any kind arising out of or in any way connected with this agreement or the services provided by ACS, and CLIENT expressly waives any/all rights to any such damages to the maximum extent permitted by law.
- 13) **Force Majeure.** CLIENT agrees that ACS shall not be liable for any loss, deterioration or destruction of all or any part of the specimen resulting from causes or circumstances beyond ACS's reasonable control, including, but not limited to fire, explosions or power outages, natural disasters, terrorist acts or acts of war.
- 14) **Indemnity and Hold Harmless.** CLIENT agrees that he/she is the person for whose benefit the Specimen is being stored and it is later provided, shall at all times and for all purposes be bound by this agreement. CLIENT indemnifies and holds ACS and their respective agents, employees, officers, directors, shareholders and affiliates (collectively, the "Indemnitees") harmless from any and all claims, liabilities, demands and causes of action asserted against Indemnitees (collectively, "Claims") by any person or entity (including any third party beneficiary of this agreement. This indemnity includes any and all Claims against the Indemnitees by the spouse, or by any parent, or legal guardian, of the person(s) for whom the Specimen is being stored, whether or not a party to this Agreement.)
- 15) **Termination of Agreement.** This Agreement may be terminated: (a) by CLIENT at any time prior to the shipping of collection material in writing; (b) by ACS if it has exercised its right to refuse Specimen for any reason; (c) by ACS if payment of storage and the processing fee is not received by ACS prior to the delivery of patient's Specimen to the designated processing laboratory or any storage payment due ACS is not timely paid and such failure to pay is not cured within 60 days after receipt of notice from ACS of such failure to pay; (d) by mutual agreement of CLIENT and ACS; or (e) by either party upon 60 days prior written notice to the other party hereto. If this Agreement is terminated pursuant to Sections 15(a) or (b), CLIENT will be responsible for and shall be required to pay any administration fees shown on the Adipose Stem Cell Storage Pricing. All fees paid by CLIENT to ACS shall be non-refundable. Notwithstanding the foregoing, if this Agreement is terminated by ACS pursuant to Section 15(e), and CLIENT has paid for a long term Storage Plan, ACS will reimburse to CLIENT a pro rata amount of the storage fee for the unused portion of the Storage Plan. Upon termination of this Agreement, CLIENT

waives all claims, and agrees that ACS has no further liability to CLIENT or with regard to the Specimen.

- 16) **Arbitration.** All disputes arising out of or relating to this Agreement will be resolved by arbitration as provided in this Section 16. CLIENT agrees that prior to arbitration; CLIENT and ACS will attempt to resolve the dispute through good faith negotiations. If CLIENT and ACS are unable to resolve a dispute. CLIENT or ACS may request arbitration by sending a written demand for arbitration to the American Arbitration Association ("AAA") and to the other party. The arbitration will take place in Red Bank, Monmouth County, New Jersey unless CLIENT and ACS otherwise agree. The laws of the State of New Jersey will apply to the arbitration unless CLIENT and ACS otherwise agree. All decisions of the arbitrator(s) are final, binding, and conclusive and arbitration constitutes the only method of resolving disputes to this Agreement. Judgment may be entered upon the arbitrator's final decision in any court having jurisdiction thereof. This arbitration paragraph and all rulings or decisions of the arbitrator(s), as well as, subpoenas authorized or issued by the arbitrator(s) shall be specifically enforceable in a court of law or by the arbitrator(s). The fees of the arbitration shall be shared equally by ACS and CLIENT.
- 17) **Governing Law, Jurisdiction and Venue; Attorney's Fees.** This Agreement is governed by, laws of the State [CAP "state"] of New Jersey. Subject to the compulsory arbitration provisions of Section 16, any judicial proceedings brought against either ACS or CLIENT under this Agreement will be brought in a court in Monmouth County, New Jersey. ACS and CLIENT consent to the exclusive jurisdiction of the aforesaid courts and waive any objection to venue therein and irrevocably agree to be bound by any judgment rendered thereby. The prevailing party in any such proceedings will be entitled to an award of its attorney's fees, paralegal fees, costs and expenses incurred in such proceedings.
- 18) **Future Laws.** The government may in the future change or adopt new laws and regulations affecting or restricting ACS's services. ACS is entitled to terminate this Agreement to the extent required by law without any liability or recourse to CLIENT. ACS is entitled to modify its procedures and take actions needed to comply with changes in or new laws, regulations, standards and procedures, without liability or recourse to CLIENT.
- 19) **Confidentiality; Consent to Release.** ACS acknowledges the confidential nature of the information provided by CLIENT and agrees to use its reasonable best efforts to maintain the confidentiality of the information except as required by law or as

permitted by this Agreement. CLIENT hereby agrees to the release of information to the hospital, laboratory or physician providing services to the CLIENT.

- 20) **Death or Disability.** In the event of CLIENT's death or incapacity, ACS may rely on instructions of CLIENT's guardian, conservator, the administrator or executor of CLIENT's estate, or other similar responsible person's or successors-in-interest.
- 21) **Assignment.** ACS may assign this Agreement to any individual or entity providing a similar service if ACS is acquired by or merged with or into another company, ACS shall require that the terms of this Agreement continue in full force and effect.
- 22) **Notice.** Any notice shall be deemed sufficiently given if delivered in person or sent by express mail, by registered or certified mail, postage prepaid. Notice to ACS must be delivered to American CryoStem Corporation, 188 East Bergen Place, Suite 204, Red Bank, and New Jersey 07701. Notice to CLIENT will be delivered to the address set forth after CLIENT's signature. CLIENT agrees to promptly notify ACS in writing of any change in CLIENT's name or current mailing address.
- 23) **Entire Agreement.** This Agreement and the documents hereto constitute the entire agreement between ACS and CLIENT. This Agreement supersedes any prior agreements or understandings, oral and written.
- 24) **Survival.** All provisions which by their terms require performance after the termination of this Agreement will survive the termination of this Agreement.
- 25) **Severability.** If any part of this Agreement is found to be invalid or unenforceable, such provision is deemed modified to the extent necessary to make it enforceable, and this Agreement shall otherwise remain in full force and effect.
- 26) **Headings.** The headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

You acknowledge that you have read and understand this Agreement, that you have had the opportunity to consult with your physician and other advisors prior to entering into this Agreement and that you agree to be bound by its terms.

Client: _____
(Printed Name)

Client: _____
(Signature)

Date: _____