

ACT Newborn Client Stem Cell Storage Agreement

1. **Overview of Agreement.** This is a legal agreement by and between American Cell Technology, LLC, a Florida Limited Liability Company (“ACT”) and each undersigned Client. This Agreement covers certain umbilical cord blood and/or cord tissue stem cell storage services to be provided to you by ACT. This Agreement takes effect when ACT has received a complete, signed copy of this Agreement.
2. **Definitions.** When used with an initial capital letter, the following words have the meanings given below:

“Agreement” means the agreement memorialized in this document, which has the title ACT Newborn Client Stem Cell Storage Agreement, and all attachments to this document that are identified below as being part of the Agreement.

“ACT” means American Cell Technology, LLC, a Florida Limited Liability Company.

“Client” means each person who has signed this Agreement in the client signature box below. References to “Clients” in the plural mean each Client (or if there is only one Client, that person). This Agreement also uses the terms “you” and “your” to refer to the Client(s).

“Child” means the person whose Cord Blood and/or Cord Tissue is collected and whose Stem Cells are to be stored under this Agreement.

“Healthcare Provider” means the health care provider who has primary responsibility for supervising the delivery of the Child.

“Stem Cells” means the mesenchymal stem cells (MSCs) isolated from the Cord Blood and/or Cord Tissue, and, if Clients choose to store the stem cells from the Placenta, the mesenchymal stem cells isolated from the Placenta.

“Placenta” means the mesenchymal stem cells contained in the placental tissue collected after the birth of the Child.

“MSCs” means mesenchymal stem cells.

“Cord Blood” means the Child’s umbilical cord blood as collected by the Healthcare Provider from the umbilical cord and/or placenta.

“Cord Tissue” means the umbilical cord tissue that contains mesenchymal stem cells.

“Enrollment Documents” means all of the forms in the enrollment packet provided to you by ACT that are applicable to your situation.

“Banking Kit” means a kit provided to you by ACT that is to be used by the Health

Care Provider to collect the Cord Blood, and, if applicable, the Cord Tissue and/or Placenta, when the Child is born.

“Basic Banking Plan” means ACT receives cord and/or placenta product, expands and isolates a basic number of MSCs to be available for future expansion when requested. Large numbers of expanded MSCs would **not** be available immediately from cryopreservation.

“Bio-Insurance Banking Plan” means that the cord and/or placenta product has been prepared for cell isolation and cell expansion as MSCs at ACT. The final product of MSCs would be stored in multiple lots of millions of MSC cells in vial as per request.

“Fees” means the fees for the Services that the Client has selected in the Enrollment Documents, and any release fees as described below in this Agreement.

“Services” means the Cord Blood and/or Cord Tissue processing, Stem Cell storage and related services provided by ACT to the Clients as further described in this Agreement, including its attachments.

3. **Provision of Services.** Subject to Client’s timely payment of the Fees and performance of its other responsibilities under this Agreement, ACT agrees to provide the Services to Clients until the date that this Agreement ends as specified in Section 17 (Termination).
4. **Fees.** Client agrees to pay the Fees¹ for the Services selected by the Client. Fees must be paid by the due dates and by the payment method indicated. Any taxes that may be due on the Fees (excluding taxes on ACT’s income) are the responsibility of the Client, and the Fees are expressed exclusive of taxes. Any Client delivering a Child outside of the continental U.S. shall be subject to the greater of the actual shipping fees incurred or a \$500 international shipping surcharge. If Client chooses to pay by credit card or direct debit, Client will update the credit card or direct debit information provided to ACT so that ACT always has valid account information in advance of the date that payment is scheduled to be charged or debited. Payments will begin at or around expected due date of Child birth and will continue until Client’s balance is paid in full. If Client’s payment is declined and Client fails to provide adequate alternative payment within 30 calendar days, Client may be responsible for an additional \$25 per month for every month over 30 days that there is a past balance due. If more than one, Clients understand and agree that they are jointly and severally liable for payment of the Fees, which means that all of the Clients are liable to pay the Fees, and each Client is jointly and severally liable for

¹ After 7 years, all fees may be adjusted to track changes in the Consumer Price Index, or another standard index used to adjust monetary transactions for inflation at ACT’s sole discretion.

any unpaid portion of the total fee. This applies even if Clients who are married or live together become divorced, separated, or otherwise estranged. Fees paid to ACT are non-refundable except as provided herein. Prior to your initial payment, which is processed at or around expected due date of Child's birth:

- Your Fees will be waived if ACT determines that the Cord Blood and Cord Tissue collected from your Child is not suitable for processing or that the Stem Cells isolated from the Cord Blood, the Cord Tissue, or the Placenta are not suitable for storage, except for the following applicable cancellation Fees;
 - A cancellation Fee that covers the quoted expense of expedited shipping Fees will be incurred if you cancel your Services and your Banking Kit was expedited to you via courier or other express shipment method at your request;
 - A \$250 non-refundable deposit per Child will be charged upon registration. This \$250 deposit will be credited towards your Banking Plan fees as described below in Section 5.
5. **Banking Plans.** You are responsible for a one-time initial banking cost based on your Banking Plan selection and will be charged once ACT receives the Child's sample. The Basic Banking Plan charges a one-time payment of \$4,500 and includes basic expansion of a limited number of MSCs for cryopreservation and suitable for potential future expansion. The Bio-Insurance 100 Banking Plan charges a one-time payment of \$8,075 and includes prepayment for one hundred million (100,000,000) bio-insurance Stem Cells. The Bio-Insurance 250 Banking Plan charges a one-time payment of \$13,600 and includes prepayment for two hundred fifty million (250,000,000) bio-insurance Stem Cells. The Bio-Insurance 500 Banking Plan charges a one-time payment of \$22,125 and includes prepayment for five hundred million (500,000,000) bio-insurance Stem Cells.
6. **Annual Storage Plans.** If you have not selected a pre-paid Annual Storage Fee Plan (defined below) in addition to any of the above described Banking Plans, Fees will be charged automatically to the credit/debit card on file on or around the Child's birthday for a period of no less than twenty-five (25) years; Client may elect to discontinue annual storage plan by providing ACT with written notice thirty (30) days prior to storage fee due date. If no pre-paid Annual Storage Fee Plan is selected, Annual Storage Fees are assessed each year for \$250 per Child. The first year of Annual Storage is included in all Cord Blood and/or Cord Tissue Banking Plans. ACT reserves the right to increase the annual storage Fee.
7. **Annual Storage Fee Plans.** If you have elected to prepay for an Annual Storage Fee

Plan, you will be charged upfront based on your plan selection. For the 10 Year Prepaid Annual Storage Plan, you will be charged a one-time fee of \$1,913. For the 18 Year Prepaid Annual Storage Plan, you will be charged a one-time fee of \$3,400. For the 25 Year Prepaid Annual Storage Plan, you will be charged a one-time fee of \$4,500. After Prepaid Annual Storage Plan expires, Annual Storage Fees are assessed each year for \$250 per Child or whatever Annual Fee exists at that time. Extended Annual Storage fees can also be purchased upon expiration of your current fee plan based upon the available fee plan prices. ACT reserves the right to increase the Annual Storage Fee to be adjusted to track changes in the Consumer Price Index, or another standard index used to adjust monetary transactions for inflation at ACT's sole discretion.

8. **Banking Kits.** When ACT receives your completed Enrollment Documents, ACT will send you or your designated physician the "Banking Kit" that is to be used by your Healthcare Provider to collect the Cord Blood, and, if applicable, the Cord Tissue and/or the Placenta, when your Child is born. It is your responsibility to store the Banking Kit properly as directed in the written documentation that accompanies the Banking Kit. **Do not open or break any seals to the Banking Kit that contains the Sample Collection Kit sterile materials, should you receive it, otherwise the Healthcare Provider will be unable to use it.**
9. **Collection Procedures.** You must coordinate with the Healthcare Provider that you want the Child's Cord Blood, and, if applicable, the Cord Tissue and/or the Placenta, collected. You should provide the Banking Kit with the collection instructions in advance of the delivery of the Child to the Healthcare Provider. The well-being of the mother who is giving birth and of the Child is, of course, the Healthcare Provider's top priority, and you acknowledge that circumstances may arise that result in the Healthcare Provider not collecting the Child's Cord Blood, Cord Tissue or the Placenta due to the exercise of the Healthcare Provider's professional judgment or other reasons. These circumstances could include premature delivery (in which case there may not be enough Cord Blood to collect) or delivery complications. You acknowledge that it is the responsibility of you and the Healthcare Provider to ensure that the collection and shipping preparation instructions are followed. If the Healthcare Provider charges a fee for collecting the Cord Blood or the Cord Tissue or the Placenta, that fee is the responsibility of Clients. You are responsible for contacting the pre-paid courier service pickup based on the phone number in your Banking Kit promptly after the Child's Cord Blood, and, if applicable, the Cord Tissue and/or the Placenta are collected to arrange for shipment to ACT in accordance with the instructions included with the Banking Kit.
10. **Blood Sample from Birth Mother.** A blood sample will be required from the birth mother (which, in the case of a birth involving a surrogate mother or gestational

carrier, means the surrogate mother or gestational carrier who carries the Child) to test for infectious diseases. The American With Disabilities Act (ADA) prohibits discrimination against individuals with disabilities in everyday activities, including receipt of medical services. Therefore, we cannot (nor do we wish to) discriminate against our clients who arguably have disabilities under the ADA due to having tested positive for various infectious diseases. Accordingly, we have adopted policies that allow us to provide care for patients/clients potentially infected by a variety of chronic viral conditions (e.g. HIV, Hepatitis, etc.), while ensuring that patients are fully informed of the potential consequences of storing and being treated with potentially infected cells. American Cell Technology requires infectious disease testing in order to protect the Child. There is no risk to our employees or risk of cross contamination due to our strict standard operating procedures and how we handle all cell samples at our facility. There is also no risk of re-infecting your Child with their own cells, since the majority of the diseases we require testing for cannot currently be cured. However, Hepatitis C can be cured and we are hopeful that many other diseases like HIV and Hepatitis B will have cures in the near future. Because of this, it is mandatory that, should the Child be treated and cured for an infectious disease after providing cell sample to us for storage and treatment, we are notified immediately. **We would not want to send back cells contaminated with a virus that the Child no longer has (which could put your Child at risk of being re-infected). Your future cooperation in keeping us updated is therefore very important for your Child's health.** If the birth mother is not one of the Clients, it is the Client's responsibility to obtain her written consent (using the informed consent form provided with the Enrollment Documents) to the collection and processing of her blood sample as required in order for ACT to process the Child's Cord Blood, and, if applicable, the Cord Tissue and/or the Placenta, in accordance with applicable regulations and ACT's standard procedures. The Banking Kit provides materials and instructions for scheduling your pre-paid blood sample through ACT's partnered mobile phlebotomist. Instructions on how to use the mobile phlebotomist service are included in your Banking Kit. ACT requires a blood sample from the birth mother in order to process sample. If a blood sample is not provided before ACT receives the sample, Client is required to submit the Infectious Disease Waiver.

- 11. Processing of Maternal Blood Sample, Cord Blood, and, if applicable, the Cord Tissue and the Placenta.** ACT requires a completed Infectious Disease Screening laboratory report for a blood sample from the mother. ACT will provide a list of the required tests. The screening will look for certain infectious diseases and conditions as required by ACT policy. These include the tests indicated on the informed consent form and may include, but not be limited to, Cytomegalovirus antibody test (CMV), Hepatitis B surface, core antibody, Hepatitis C, HIV Type I and II, Human

T-Cell Lymphotropic Virus (HTLV), Type I and II, Syphilis, ABO/RH, Antibody screen, NAT Testing for HIV I, and Hepatitis C.

ACT may also test the blood type of the Cord Blood and the birth mother's blood sample. ACT may obtain additional tests to confirm the initial results, at its sole discretion. If there is a positive test result for any of the tested diseases or conditions in the blood test, ACT will notify you and/or your Healthcare Provider of the blood test results. You acknowledge that ACT does not provide medical services and cannot consult with anyone concerning the blood test results. If you get a positive test result for any of the tested diseases or conditions, you should promptly consult a physician. You may want to repeat any positive test to be certain of its validity. If you believe you or the Child may have been exposed to any disease on the informed consent form, do not wait for testing as part of the Cord Blood and/or Cord Tissue intake process. Instead, consult immediately with a qualified healthcare professional who can advise you on testing and potential treatment. Either ACT or the testing laboratory, or both of them, may be obliged by applicable laws and regulations to disclose positive test results to other affected individuals, the public health authorities and/or to your physician, and you consent to such disclosure. You also consent to ACT's disclosure of the test results to the Child (after the Child reaches the age of majority) and to anyone who has a reasonable need to know the test results in connection with a proposed use of the banked Stem Cells. After isolation of the Stem Cells from the Placenta, the Placenta may be discarded or donated for clinical or non-clinical uses as permitted by law at ACT's discretion.

- 12. What Happens if the Cord Blood, Cord Tissue or Placenta is Rejected?** ACT reserves the right to reject the Cord Blood, and, if applicable, the Cord Tissue or the Placenta, if the Cord Blood sample, the birth mother's blood sample, or the Cord Tissue or Placenta test positive for any contagious disease as described, but not limited to, the above. ACT may also reject the Cord Blood or the Cord Tissue or Placenta if it fails to meet other standards for processing and storage, such as sufficient quantity or a flaw in the collection, handling or shipping steps that renders the Cord Blood or the Cord Tissue or Placenta unsuitable for processing or storage. If ACT rejects the Cord Blood and/or Cord Tissue, ACT will notify the Clients in writing of that decision and will refund any amounts paid prior to the rejection notice. A partial refund may apply at ACT's sole discretion. ACT will make any refund that is due to you by the same method as the method of payment that was used, or any other reasonable method that ACT may choose. (For example, if you paid by credit card, ACT may choose to refund your card or send you a check.) If the Cord Blood or the Cord Tissue or the Placenta is rejected, emergency or expedited medical shipping fees incurred by ACT in connection with the collection are not refunded. ACT will be entitled to dispose of the rejected Cord Blood or the

Cord Tissue or the Placenta in accordance with standard clinical practices and without further notice to the Clients. ACT will use commercially reasonable efforts to attempt to notify clients if rejection needs to be made and explain the reasons for rejection.

13. **Storage and Release of the Stem Cells.** If the test results and the Cord Blood and/or Cord Tissue specimen meet ACT's intake requirements, ACT will process the Cord Blood and/or Cord Tissue according to plan selected which may include isolation of the Stem Cells and storage of the Stem Cells in accordance with ACT's standard storage procedures. ACT will continue to store the Stem Cells for the Term provided that Clients comply with all provisions of this Agreement. If ACT ceases to provide cord blood and/or cord tissue banking services, ACT will arrange for the continued storage of the Stem Cells for the Term provided that Clients comply with all provisions of this Agreement. Each Client will have the authority to request that ACT release the Stem Cells to an appropriately licensed medical facility or laboratory, or to another licensed stem cell banking provider. The Clients acknowledge that ACT is not required to notify the Child or any other Client of the request, or to seek the consent of the Child or any other Client, and that, for purposes of this Agreement, each Client shall be deemed to be the agent of each other and the Child. ACT will release the Stem Cells as requested provided that Client has paid all Fees that are due. The Clients acknowledge that the statutory and regulatory requirements for the storage and release of Stem Cells is an evolving area and that ACT may impose additional conditions on the storage and/or release of the Stem Cells as may be required by law or regulation at the relevant time. Any released Stem Cells will be transported by an appropriate courier, and the transportation expenses will be the responsibility of the Clients. The Clients acknowledge and agree that ACT's responsibility for the Stem Cells ends when ACT transfers the Stem Cells to the courier.

14. **When Child Becomes an Adult.** Clients understand and acknowledge that the Stem Cells belong to the Child, and that when the Child reaches the age of legal majority in his or her jurisdiction (that is, becomes an adult in the legal sense), the Child has the right to decide if, or how, the Stem Cells will be used or continue to be stored. When the Child reaches the age of legal majority in his or her jurisdiction, the Clients must notify the Child that his or her Cord Blood and/or Cord Tissue was collected at birth and that his or her Stem Cells are being stored by ACT. (If the Clients have already told the Child these facts while the Child was a minor, the Clients must remind Child when he or she reaches the age of majority.) At that time, Clients must give the Child a copy of this Agreement or, if Clients' copy of this Agreement has been misplaced or is otherwise unavailable, must inform the Child that a copy is available from ACT. As an adult, the Child

may choose to terminate this Agreement or enter into an adult Stem Cell storage agreement with ACT, or to adopt this Agreement and continue to allow the Clients to exercise decision-making authority with respect to the use or continued storage of the Stem Cells. When the Child reaches the age of legal majority, the following will apply to the extent permitted by applicable law:

If the Child wants ACT to continue to store the Stem Cells, the Child must notify ACT in writing that he or she wishes to assume responsibility for the ongoing storage of the Stem Cells and must sign ACT's then-current terms and conditions of storage for an adult provider of Stem Cells. Upon the Child's signature of such terms and conditions and ACT's receipt of any required payments (which may include any past-due amounts under this Agreement), this Agreement will be deemed to be terminated. Any payments made by the Client that cover any period after the Child enters into a new agreement with ACT will be applied to Child's Fee obligations under the new agreement and will not be refunded to Client.

If the Child wishes to terminate this Agreement, Child must so notify ACT in writing, and this Agreement will be deemed to be terminated as of the date that ACT receives such notice.

ACT will notify the Clients of such termination by writing to the last address provided by the Client. If Child wishes ACT to release the Stem Cells to another licensed stem cell banking facility, the Child will be liable to ACT for the payment of the Release Fees set forth below in Section 16.

Alternatively, if ACT is not notified by the Child that the Child wishes to terminate this Agreement or enter into a separate adult provider stem cell agreement between Child and ACT, or if the Child affirmatively notifies ACT that the Child wishes the Client to continue to have decision-making authority with respect to the Stem Cells, the Child will be deemed to have adopted this Agreement, and accordingly ACT will be entitled to treat the Client as Child's agents and Section 14 (Storage and Release of the Stem Cells) shall continue to apply until ACT receives contrary written instructions from the Child or this Agreement is terminated or expires.

Also, alternatively, should the Child decide to terminate this Agreement, the Clients (generally, the parents) may choose to continue paying for storage in which case the cells will be maintained available even if the Child chooses termination. The Clients may maintain the Agreement in the event that the Child later changes their mind and wants/needs the cells for themselves.

15. Release Fees.

A. Release to Another Stem Cell Banking Facility. If the Client instructs ACT to release the Stem Cells to a licensed stem cell banking facility, ACT will charge a one-time processing and handling Fee of \$250. In addition, after the prepaid bio-insurance Stem Cells included (if applicable), ACT Charges \$500 for each 10,000,000 Stem Cells or fewer requested for release. ACT reserves the right to change (increase or decrease) these Fees for various reasons such as, but not limited to, increase in costs, inflation, or even competitive pricing.

B. Release to a Medical Facility or Laboratory for Use. If the Client instructs ACT to release the Stem Cells to an appropriately certified medical facility or laboratory for use, including to a physician for use in a medical procedure, Client will be responsible for any associated third-party fees. In addition, after the prepaid bio-insurance Stem Cells included (if applicable), ACT Charges \$500 for every 10,000,000 Stem Cells requested for release. ACT reserves the right to increase these Fees.

C. Other Release. If Client instructs ACT to release Stem Cells for personal use, Client will be responsible for any associated third-party fees or costs in connection with such release. In addition, after the prepaid bio-insurance Stem Cells included (if applicable), ACT Charges \$500 for every 10,000,000 Stem Cells requested for release. ACT reserves the right to increase these Fees.

16. Termination.

A. For Breach. This Agreement may be terminated by the Client if ACT materially breaches this Agreement and fails to cure the breach within 30 days after Client gives ACT written notice of the breach and their intention to terminate this Agreement if the breach is not cured. If there is more than one Client, notice to one Client will be deemed to be notice to all of the Clients. This Agreement may be terminated by ACT if any Client materially breaches this Agreement, including by failing to pay the Fees when due, and fails to cure the breach within 30 days after ACT gives Client written notice of the breach and its intention to terminate this Agreement if the breach is not cured.

B. Voluntary Termination by Client. This Agreement may be terminated by the Client for any or no reason upon 60 days' written notice to ACT, accompanied by complete instructions for the transfer or other disposition of the Stem Cells and the payment required under Section 16 (Release Fees) if applicable. If there is more than one Client, notice from one Client will be deemed to be notice from all of the Clients.

C. Voluntary Termination by ACT. This Agreement may be terminated by ACT upon 90 days' written notice to the Client, during which notice period, the Client may arrange for the transfer of the Stem Cells to another licensed stem cell banking facility, or any other disposition of the Stem Cells that is permitted by applicable laws and regulations. ACT may opt to transfer the Stem Cells to another licensed stem cell banking facility at ACT's cost, at ACT's sole discretion. If ACT terminates this Agreement voluntarily under this Section 16(C), no payment will be required from the Client under Section 15 (Release Fees) and no additional payment will be required from Client to ACT for any Fees covering the remaining storage period. If there is more than one Client, notice from one Client will be deemed to be notice from all of the Clients.

D. Termination upon Child Reaching Majority. This Agreement may be terminated as set forth in Section 14.

17. **Consequences of Termination.** If this Agreement is terminated, ACT will transfer the Stem Cells to another licensed stem cell banking facility if so requested by the Client in writing, provided that the Client has first paid all amounts due under this Agreement, including any Fees for the transfer under Section 15 (Release Fees). If the Client requests that ACT destroys or donates the Stem Cells for scientific or medical research, ACT will use commercially reasonable efforts to accommodate that request. IF THE CLIENT DOES NOT REQUEST THAT ACT TRANSFER, DONATE, DESTROY OR OTHERWISE DISPOSE OF THE STEM CELLS, OR NOTWITHSTANDING ANY REQUESTS OR INSTRUCTIONS OF THE CLIENT, THE CLIENT HAS NOT PAID IN FULL ALL AMOUNTS DUE HEREUNDER WITHIN 60 DAYS AFTER THE DATE OF TERMINATION OF THIS AGREEMENT, THEN TO THE EXTENT PERMITTED BY APPLICABLE LAW OR REGULATIONS, ACT SHALL HAVE THE RIGHT, AT ITS OWN EXPENSE AND WITHOUT FURTHER NOTICE TO THE CLIENT, TO DESTROY OR DONATE THE STEM CELLS, CONTINUE TO STORE THE STEM CELLS AT ITS OWN FACILITY AND CHARGE A REASONABLE FEE FOR THEIR RELEASE AT A LATER DATE, OR TRANSFER THE STEM CELLS TO ANOTHER LICENSED STEM CELL BANKING FACILITY, WHICH MAY CHARGE THE CLIENTS OR THE CHILD (IF OF AGE) FOR ANY SUBSEQUENT RELEASE OF THE STEM CELLS.

18. **Disputes and Court Orders Regarding the Stem Cells.** If the Client disagrees as to any proposed release, donation, transfer or other disposition of the Stem Cells while the Stem Cells are in the custody of ACT, ACT reserves the right to seek a declaratory judgment from any court of competent jurisdiction to determine ACT's obligations with respect to such disputed release, donation, transfer or other

disposition, and the Clients shall indemnify ACT on demand and in full for all costs, including attorneys' costs, incurred by ACT in seeking, obtaining and/or complying with such declaratory judgment.

19. **Confidentiality.** The Client, on behalf of the Client and the Child, consents to the use of the Client's and the Child's confidential information, including the information on test results, as set forth in this Agreement, including the Informed Consent, and acknowledges and agrees that ACT may retain and make further use of such confidential information for all lawful purposes as may be reasonably necessary for ACT's performance of its obligations under this Agreement or as otherwise may be required by applicable laws or regulations.
20. **Exclusion of Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, INCLUDING ITS ATTACHMENTS, ACT DOES NOT MAKE ANY WARRANTY, AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED OR ARISING OUT OF A COURSE OF CONDUCT OR COURSE OF DEALING, INCLUDING ALL WARRANTIES OF TITLE, PERFORMANCE, USE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE. NO ORAL OR WRITTEN STATEMENT BY ACT THAT IS NOT CONFIRMED IN THIS AGREEMENT SHALL CREATE ANY ADDITIONAL WARRANTY. ACT RESERVES THE RIGHT AT ITS SOLE OPTION TO TERMINATE THIS AGREEMENT ACCORDING TO SECTION 16(C). ACT DOES NOT WARRANT OR GUARANTEE THAT THE CORD BLOOD OR CORD TISSUE OR THE PLACENTA WILL BE SUCCESSFULLY COLLECTED OR PROCESSED, OR THAT THE STEM CELLS WILL BE SUCCESSFULLY PRESERVED OR BE SUITABLE FOR TRANSPLANT OR OTHER THERAPEUTIC USE, OR USE OF ANY OTHER KIND.
21. **Limitations of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ACT BE LIABLE FOR LOSS OF, OR DAMAGE TO THE CORD BLOOD OR CORD TISSUE OR STEM CELLS (EXCEPT TO THE LIMITED EXTENT DIRECTLY DUE TO ACT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCTS LIABILITY, OR OTHERWISE, EVEN IF ACT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM

EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ACT'S AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER, WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNTS PAID OR PAYABLE BY CLIENTS TO ACT HEREUNDER DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE OF THE EVENT GIVING RISE TO SUCH LIABILITY. THIS LIMITATION SHALL APPLY NOTWITHSTANDING ANY FAILURE OF PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. BECAUSE SOME JURISDICTIONS LIMIT OR DO NOT ALLOW CERTAIN EXCLUSIONS OR LIMITATIONS OF WARRANTIES OR LIABILITY, SECTIONS 20 AND 21 MAY NOT PARTIALLY OR ENTIRELY APPLY TO CLIENT. TO THE EXTENT THAT ANY SUCH LIMITATION OR EXCLUSION OF LIABILITY OR WARRANTY IS CIRCUMSCRIBED, IT SHALL BE LIMITED TO THE LEAST EXTENT POSSIBLE UNDER APPLICABLE LAW. THE CLIENT ACKNOWLEDGES THAT ACT'S WILLINGNESS TO PROVIDE THE SERVICES AT THE PRICES SET FORTH HEREIN ARE BASED IN SIGNIFICANT PART UPON THE EXCLUSIONS OF WARRANTIES AND THE LIMITATIONS AND EXCLUSIONS OF LIABILITY SET FORTH IN THIS AGREEMENT. FURTHER, CLIENTS ACKNOWLEDGE THAT NO LIABILITY SHALL BE INCURRED BY ACT IN THE EVENT THAT PERFORMANCE OF PROMISES UNDER THIS AGREEMENT IS PROHIBITED BY LAW, REGULATION, OR COURT ORDER.

22. **Indemnification.** The Clients acknowledge that ACT is entitled to rely on the Client's compliance with this Agreement, and particularly Client's compliance with Section 14 ("When Child Becomes an Adult"). The Clients agree that the Clients will, on a joint and several basis, defend and indemnify ACT and hold ACT harmless from any claim or action by the Child, any other Client, or any third party, based on or arising from (i) Client's failure to provide notice to the Child as required herein; (ii) the use of, damage to, or loss of the Stem Cells, (iii) any breach or alleged breach of any duty of any Client, including any breach of any fiduciary duty, or (iv) any other matter arising in connection with ACT's proper performance of the Services as set forth herein, and any losses, costs or liabilities arising from subclauses (i) through (iv), except to the extent such loss, cost or liability was due to the gross negligence or willful misconduct of ACT.

23. **Personal Use Only; Proprietary Information.** The Banking Kit and Services may contain or use proprietary information of ACT and/or third parties, or otherwise be subject to intellectual property rights of ACT and/or third parties. The Client acknowledges that the Banking Kit and Services are for the Client's personal use only and agree that Client shall not use, nor permit anyone to use, the

Banking Kit (including the documentation that accompanies the Banking Kit) or the Services for any business use or other use that is competitive with ACT's business.

24. If the Parties to this Agreement cannot resolve a dispute in an informal and expeditious fashion, prior to initiation of an arbitration proceeding, on request of either party, the parties agree to first attempt in good faith to resolve the dispute through mediation, administered by Judicate West Alternative Dispute Resolution ("**Judicate West**") before a single mediator who shall have experience in the subject matter of the dispute or by such other mediation procedure that the parties mutually agree to. The parties shall jointly select the mediator within fifteen (15) days following the commencement of such request for mediation. If the parties cannot agree upon the mediator within fifteen (15) days following the initiation of mediation, Judicate West shall appoint a mediator according to its rules. The parties shall share any fees or expenses of the mediator. If mediation is unsuccessful, the dispute may be submitted by either party to arbitration in Sunrise, Florida, before a neutral arbitrator appointed in accordance with the rules of the procedure of Judicate West. at the election of the party first demanding arbitration ("**Rules**"). The arbitration shall be governed by laws of Florida (including the right to provisional relief ancillary to the arbitration) and the Rules, to the extent consistent with Florida law. The arbitrator shall permit pre-hearing discovery as reasonably requested by the parties shall make a reasoned, written award and may not award punitive or consequential damages. The arbitrator's decision shall be exclusive, final and binding on all parties, their heirs, executors, administrators, successors and assigns, and may be entered and enforced in any court of competent jurisdiction. The arbitrator shall award the prevailing party its attorney and expert witness fees and costs. The provisions of this section shall survive the expiration or termination of this Agreement regardless of the cause of such termination.

By signing this Agreement, it is understood that the parties are agreeing to substitute one legitimate dispute resolution form (arbitration) for another (litigation), thereby waiving any right to have the dispute resolved in court. Both parties understand that they have the right to seek legal counsel and the advice of an attorney, to review this Agreement, explain it to them in its entirety, and its possible implications to either party.

25. **Miscellaneous.** At least one person who signs this Agreement must be a legal guardian of the Child, either by law (such as a birth mother or father whose rights have not been changed by a legal agreement or a court order, or a parent who has completed the legal adoption of the Child) or by court appointment (such as a guardian appointed by a court). Failure by ACT to insist upon performance of any term or condition of this Agreement shall not be construed as a waiver of such term

or condition and shall not affect the right of ACT thereafter to enforce each and every term and condition hereof. This Agreement and all disputes arising out of or related to this Agreement shall be solely and exclusively construed and governed in accordance with the laws of the State of Florida, USA, without applying any law that would result in the application of a different body of law. Any and all suits hereunder shall be brought and resolved solely and exclusively in, and the parties hereby irrevocably consent to the exclusive jurisdiction and proper venue of, the state and federal courts located in Sunrise, Florida, USA, and waive any objections thereto based on any ground including improper venue or inconvenience of forum.

Notwithstanding the foregoing, ACT shall have the right: (i) to enforce judgments; or (ii) seek declaratory or injunctive relief in any court of competent jurisdiction. The Clients may not assign or delegate this Agreement without the prior, express written consent of ACT. ACT may freely assign or delegate this Agreement to assignees whom they reasonably deem competent without the Clients' consent. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties, and their successors and permitted assigns. Any notice to be given hereunder by either party to the other shall be in English and in writing, and shall be hand-delivered or sent by overnight courier or registered, express mail to the shipping address provided during the enrollment process (or in the case of any Client, any updated address provided by the Client in writing to ACT, and shall be deemed to be effective two (2) business days after proof of delivery. If one or more provisions in this Agreement are ruled entirely or partly invalid or unenforceable by any court or governmental authority of competent jurisdiction, then: (i) the validity and enforceability of all provisions not ruled to be invalid or unenforceable shall remain unaffected; (ii) the effect of such ruling shall be limited to the body making the ruling; (iii) the provision(s) held wholly or partly invalid or unenforceable shall be deemed amended, and the parties shall reform the provision(s) to the minimum extent necessary to render them valid and enforceable in conformity with the parties' intent as manifested herein. As used in this Agreement, the words "include," "including" and their variants shall be interpreted as if followed by the words "without limitation." Any rights to accrued payments and Sections 2, 4, 5, 6, 7, 9, 13, 15, 16, 21, 22, 23 shall survive the expiration or termination of this Agreement.

The lab will process and store the contents received in the Banking Kit. Check the contents of your kit before handing it to the medical courier. ACT will update your account and bill you for all products that are validated by our lab.

Client acknowledges that it/he/she has been advised to seek counsel if it has any questions concerning the meaning or significance of all or any part of this Agreement.