

XTS

DEWAR RENTAL AGREEMENT

RENTAL INFORMATION	RENTAL START DATE: _____
RENTER NAME: _____	RENTAL END DATE: _____
ADDRESS: _____ _____	RENTAL/LATE FEE PER DAY _____
PHONE: _____	SECURITY TANK DEPOSIT: \$ <u>850.00</u>
Intended date to ship: _____ (To be determined by facilities upon confirmation of shipping details.)	AGREEMENT DATE: _____
Office at which tank is rented: Augusta, GA _____ Atlanta, GA _____ Other _____	SHIPPING DEWAR: # _____

1. Xytex Tissue Services, Inc., (“XTS”) or Xytex Corporation hereby leases to the renter named above (“Renter”), and Renter hires from XTS or Xytex upon the terms and conditions herein, the shipping dewar(s) identified above (“Dewar”). Renter will not use or permit the Dewar(s) to be used for any purpose other than the shipment of cryopreserved gametes or embryos. Renter agrees to pay the fees indicated.

2. Dewar is being rented for the following (checked) reason:

- A. 3-way shipment to transfer gametes from Current Facility to a New Facility with final return to Xytex Facility. Airbills are supplies with shipment. There will be a shipping fee and a security dewar deposit.
- B. Picking up a shipping dewar for use by a local patient in transferring frozen gametes to another facility and then returning to Xytex Facility. There will be a rental fee by day, tank prep fee and a security tank deposit. (If patient wishes Xytex facility to ship dewar to or from a facility, there is a local courier fee determined by zip code.)
- C. Semen sample frozen by Xytex and shipping to another facility and then dewar returned to Xytex. There will be sample processing fee, shipping fees and if international delivery, a security deposit.

3. Renter will cause the Dewars to be returned to facility where rented no later than 4:30 p.m. on the Rental End Date. Renter shall pay XTS or Xytex a Late Return Fee at the daily rate shown above for any Dewar not timely returned. If any Dewar is not returned within 4 days after the Rental End Date, then, in addition to the Rental Fees and all Late Return Fees, Renter will Forfeit the security deposit. Renter authorizes XTS or Xytex to debit Renter’s credit card for all amounts payable under this Agreement.

4. Renter will return the Dewars in substantially the same condition as originally shipped by XTS or Xytex (normal wear and tear excepted). Renter is responsible for any loss or damage to any Dewar from the time XTS or Xytex ships the Dewar until its return to Xytex Facility, up to the full replacement cost of the Dewar.(security deposit) If any Dewar is damaged during the rental period, XTS or Xytex may offset the reasonable cost of repairs (not to exceed actual replacement cost) against the Security Deposit. No interest shall accrue on any Security Deposit held by XTS or Xytex.

5. Renter agrees not to deface, obliterate, remove or cover any tag or name plate on any Dewar showing the serial number or identifying such Dewar as the property of XTS or Xytex. Title to the Dewar shall at all times remain with XTS or Xytex.

6. XTS or Xytex warrants only that the Dewar will be in a condition suitable for use in the transport of cryopreserved gametes and embryos at the time of shipment from Xytex Facility to the Current Facility. XTS OR XYTEX MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY DEWAR OR THE CONDITION THEREOF, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND XTS OR XYTEX EXPRESSLY DISCLAIMS SAME. Dewars are not intended to maintain gametes or embryos in a cryopreserved state for longer than 7 days, and XTS or Xytex recommends the transfer of all cryopreserved gametes and embryos to appropriate long-term storage equipment within 6 days after they are first transferred to a Dewar. Renter acknowledges that XTS or Xytex is not responsible for damage occurring to any Dewar after shipment by Xytex Facility or for any loss of or damage to any gametes or embryos during transit to the New Facility, except where directly caused by a breach of the foregoing warranty. Accordingly, Renter will cause the Current Facility to inspect the Dewar upon receipt and to notify Xytex Facility of any defect or damage.

For items 2.A. or 2.B. above, Renter acknowledges that Xytex Facility was not and will not be involved in:

- the collection, fertilization (if applicable) or cryopreservation of Renter's gametes or embryos to be transported
- the packing of such gametes or embryos in the Dewar
- the securing of the Dewars for transport
- the unpacking thereof and transfer of such gametes or embryos to storage equipment at the New Facility.

Renter's sole and exclusive remedy and XTS' or Xytex's sole liability under this Agreement, whether for breach of warranty or under any other legal theory, in tort or in contract, shall be limited to the rental fees actually paid by Renter to XTS or Xytex hereunder. IN NO EVENT SHALL XTS OR XYTEX BE LIABLE TO RENTER, WHETHER IN CONTRACT, TORT OR SIMILAR ECONOMIC LOSS, OR FOR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR SIMILAR DAMAGE ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, NON-DELIVERY, USE, CONDITION, OWNERSHIP, POSSESSION, OPERATION, TRANSPORTATION, MAINTENANCE OR RETURN OF THE DEWARS, OR FOR ANY CLAIM MADE AGAINST XTS OR XYTEX BY ANY OTHER PARTY, EVEN IF RENTER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM.

8. This Agreement shall not be amended except in writing signed by all the parties. This Agreement shall be governed by the laws of Georgia.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date shown above.

**XYTEX TISSUE SERVICES or
XYTEX CORPORATION**

RENTER

Name: _____
(signature)

Name: _____
(signature)

Name: _____
(printed)

Name: _____
(printed)

Title: _____

Social Security #: _____

Date: _____

Date: _____

Payment by credit card: (Name on Card)

Type of card: _____

Exp. Date: _____

Security code: _____

Security code: _____

Card #: _____

Facility Information

Current Facility

Facility Name: _____

Address: _____

Contact name: _____ Phone#: _____

New Facility

Facility Name: _____

Address: _____

Contact name: _____ Phone#: _____