Sophea Terms and Conditions

We want you and your spouse to be as informed as possible about your treatment. Please read these Terms and Conditions in conjunction with your and your spouse's consent for treatment. They outline the contract for services that Sophea and its staff deliver to you and the obligations that we have to you as a patient. Importantly, it also covers your obligations to Sophea and the limitations of our liability to you.

It is important that you are comfortable with these Terms, therefore please read them carefully, ask about anything you are unsure of and seek independent advice if you feel you need to.

1. General

1.1 These Terms and Conditions ('**Terms'**) apply to all the services that Sophea ('**us**') provide to you.
1.2 Any Service provided by us shall be subject to these Terms and you will be deemed to have accepted these Terms which will apply in respect of each Service provided to you, unless these Terms are amended by notice to you.
1.3 Unless we otherwise agree in writing, these Terms apply, and they are additional to any conditions arising from written consent as part of Treatment.
1.4 Any capitalised expression shall have the meaning in Clause 12 of these Terms.

2. Payment for services

2.1 Failure to make payment as per the invoice may result in the suspension or termination of services. We shall not be obligated to perform any further services until payment is received.
2.2 You are responsible for paying the fees applicable to the Services received, in accordance with Sophea's prevailing rates and package pricing. You also authorise the medical centre to utilise any excess funds, after full settlement of the current Services, to offset any outstanding amounts for prior Services rendered for which you are liable.
2.3 Please note that our indicative prices may be revised and updated from time to time. In respect of Services where the cost may vary according to the specific type of Service, we can give you a cost estimate. Whilst we will use our best endeavours to provide an accurate estimate, such estimate is not binding and is subject to change. The price stipulated in the invoice will prevail.
2.4 In the event Sophea institutes legal proceedings to recover monies due under the patient's account, you agree to pay the legal fees and expenses on an indemnity basis.
2.5 All our prices are in Malaysian Ringgit (RM).
2.6 If procedures are required on Sundays or Public Holidays due to unforeseen circumstances, an additional surcharge will apply.
2.7 Any outstanding payment shall be subject to interest of 3% compounded on a monthly basis, on the total outstanding amount.
2.8 Storage fee will commence upon gametes and embryo freezing (where applicable). The charges for the initial Storage Services will be charged six (6) months in advance. Subsequently, the storage fee will be invoiced and paid one (1) year in advance on an annual basis.
2.9 We accept payment by debit card, credit card and online banking transfers.
2.10 When Services are provided jointly to two people in a relationship, then each of you is responsible for payment of the Fees and all other amounts that may be owing to us. Both of you shall be jointly and severally liable for all the obligations and liabilities under this agreement. The invoice will be issued in the name of the female patient if both of you undergo the Services from us. If one of you receive Services from us, the invoice will be issued in separate names with individual receipts. If the patient is undergoing treatment as an individual, the invoice will be issued in the name of the patient only.
2.11 In the event that services are discontinued before all steps are completed, a partial refund may be available in some circumstances. Refunds will be processed via online bank transfer.
2.12 All Medications given to you are not returnable, exchangeable, and refundable.
2.13 If you apply for our Fertility Cover programme and are approved, fees and payment are covered by the Fertility Cover agreement you sign.
2.14 All prices are exclusive of 6% SST, which is applicable to non-citizens.

3. Most treatment requires written consent

3.1 We record your informed consent for treatment using a Consent Form. If the Consent Form is not fully and accurately completed, has expired or is withdrawn, or requires further verification, then we may be unable to provide the Service, and you may incur cancellation charges.

4. Our obligations to you

4.1 We will provide our Services with reasonable care and skill.
4.2 All fertility treatment services are performed by appointed fertility specialist at each appointment. While we will do our best to accommodate your fertility specialist preference, under special circumstances, the procedure may be performed by another trained fertility specialist in the best interest of the patient. Occasionally, a service may take more time than initially anticipated.
4.3 In the event of any cancellation of appointment by us, you will be given reasonable notice, and we will offer alternative times for your appointment to be re-scheduled.
4.4 The information we give you will usually include an estimated chance of a live birth for most types of Treatment, based on the most important factors that influence chance of success. You acknowledge that Treatment or the provision of any Services does not guarantee a live birth. We will not be liable to you if the Services do not result in a live birth.
4.5 If you use Pre-implantation Genetic Testing ('**PGT'**, we very strongly advise using prenatal testing to check any PGT diagnosis as no test is 100% accurate.
4.6 If your condition is such as to need more intensive medical/surgical treatment, you will be transferred to a hospital of your own or your family's choice and in some cases a hospital where your lead doctor has admission rights.
4.7 You will be charged the predetermined rates for any Medications, medical and surgical supplies which are prescribed and

provided by us accordingly. We reserve the right to review prices of all Medications, medical and surgical suppliers and other items from time to time as we deem fit.

4.8 We will aim to resolve any problems or complaints quickly and professionally and this will not affect your treatment in any way.

4.9 We will collect, hold, use and disclose your personal information in accordance with our privacy policy (PDPA) which is set out on our website. It is very important that you read and understand this policy. For the avoidance of doubt, any release and disclosure of personal information and/ or medical information (other than basic information concerning the patient) would be subject to your consent unless the disclosure is required by law.

5. **Your obligations to us**

5.1 All the information you give us must be true, accurate and complete. You agree to notify us immediately if any of this information changes, or if your personal circumstances change in a way relevant to treatment or eligibility for a Service (e.g. change in partner, change in marital status, new medical conditions, new telephone number or address, or similar).

5.2 Marital Status Declaration - You confirm and declare that you are legally married to each other under the relevant laws at the time of registration for treatment. You acknowledge that all information provided concerning your marital status is accurate and truthful. Sophea shall not be held liable for any misrepresentation, omission, or legal consequences arising from a false declaration. You accept full responsibility for any legal issues, disputes, or consequences that may result from such misrepresentation after the execution of this agreement.

5.3 You must comply with the laws of Malaysia. If any laws restrict or prohibit you from using our Services, you must notify us immediately.

5.4 You agree to regularly check the communication channels you have advised us to use, including mobile phone messages, texts, emails and messaging apps, and to respond promptly.

5.5 We expect our staff and doctors to be treated with respect and courtesy. Any verbal or physical abuse or harassment of our team will not be tolerated under any circumstances and continuation of Services could be impacted.

5.6 Please tell us of any religious needs, cultural needs, special needs or personal concerns or anxieties that are important to you so that we can do our best to accommodate you during your Treatment.

5.7 You will be liable for the cost or repair or replacement of our medical centre property which is wilfully damaged or removed by you, your relatives, your friends or your visitors.

5.8 You must pay your Fees on time and in full. We reserve the right to discontinue your treatment, if you are unable to pay your Fees. Please refer to Clause 2 above.

5.9 You are solely responsible for applying to extend and getting approval for your storage extension under Clause 2 above.

6. Conditions of storage

6.1 We will decide where we store your Material.

6.2 You may ask us to stop storing your Material at any time with prior written notice whereupon you must sign the Consent for Discontinuing Cryopreservation of Cryopreserved Specimen form.

6.3 The storage fee of embryos is not included in the IVF Treatment fee except for some packages. You are responsible for the cost of storage of your embryo(s), knowing that you will be charged the current storage fee for the next six (6) months, and thereafter an annual storage fee. You understand that Sophea may dispose of the embryos without further notice if your storage payments are six (6) months or more behind. You understand these fees are non-refundable and are not subject to prorated adjustment for partial cryopreservation intervals and may be subject to change without prior notice.

6.4 You agree it is your responsibility to promptly pay the storage fees on time to ensure continued storage of your embryos and understand that while Sophea will endeavour to contact you upon expiry of the storage of your embryos at your last known email address documented in our records of you, the onus is on you to ensure the payment of storage fee is up to date.

6.5 We are able to store Material for a maximum period of five (5) years ('**Expiry Date'**) and may be extended up to ten (10) years provided it is approved by the Ministry of Health under the ART Guidelines. It is entirely your responsibility to seek and obtain such approval to extend the storage period before the Expiry Date. After ten (10) years of storage, if you have not opted to move them to another country with different storage guidelines, we will dispose of your Material. You must also agree that in the event of you getting separated, divorced or one of you becoming deceased, one or the other (next of kin in the case of the deceased) cannot use the stored Material. The stored Material cannot be used independently by either one of the parties involved.

6.6 If you notify us in advance at least 30 days before the expiry date, and provide the full written consent of all parties, the Material can be returned to you, or you can personally collect the Material. If you do not request this or fail to provide the full written consent of all parties, or do not collect it at the time arranged, we will dispose of it in accordance with the instructions given to us at the commencement of the Service.

6.7 To the greatest extent permitted by law, we will not be liable to you, whether in contract, tort, negligence or otherwise, or under statute, for any loss of or damage to your stored Material arising directly or indirectly from any act or omission of or by us, any of our employees, agents, officers, contractors or vendors.

7. Stopping a Service

7.1 You may ask us to stop a Service, such as a treatment cycle, at any time by giving us prior notice in writing and/or verbal instruction.

7.2 You must pay in full for the parts of the Service we have provided.

7.3 In certain circumstances (as per our consent policies) or if you are in Default, we reserve the right to stop a Service immediately by giving you notice.

7.4 In the event of a Default where the Fees are not settled by the Due Date, we reserve the right to:

(i) cancel or suspend your egg collection ('**OPU**') or fresh embryo transfer ('**FET'**) procedures; and/or

(ii) withhold the results of your post OPU and Time-Lapse video; and/or

(iii) withhold the use of your embryo(s) for FET procedures or relocation of embryo(s) to any other location.

8. Force Majeure

8.1 We will promptly notify you if we are affected by a Force Majeure Event.

8.2 We are not liable to you for any breach or failure to fulfil our obligations due to a Force Majeure Event.
8.3 We may suspend any Service until the effects of the Force Majeure Event ceases to be applicable.
8.4 We may try to overcome or mitigate the effects of a Force Majeure Event, such as by offering treatment at an alternative location.

9. Exclusion and/or Limitation of liability

9.1 We shall not be liable for any loss, cost or damage, to any monies, jewellery, documents, clothing or other personal property belonging to you. Such property left in the lockers shall be at your own risk.
9.2 We shall not be liable for any injuries sustained by you or your visitors in or within our premises due to your or their act, negligence, omission or carelessness.
9.3 To the fullest extent permitted by law, we shall not have any liability to you whatsoever for any indirect, incidental, or consequential loss, or damages arising out of any matter or circumstance giving rise to a claim, including any punitive or exemplary damages or loss of opportunities.
9.4 Subject to these Terms, our maximum total liability to you arising from our performance or non-performance of the Services (whether in law, tort, negligence, contract or otherwise) shall not exceed the sum of RM200,000.
9.5 To the fullest extent permitted by law, we shall not be liable to you for any loss, cost or damage of any kind caused by any third party or by you.
9.6 We shall not be liable for any breach of this Agreement, in tort or at law, unless a notice of such a claim is given by you to us, setting out the full details of the specific matter in respect of which the claim is made, including an estimate of the amount of such claim, within 60 days after learning the loss, and any such claim shall be deemed to be withdrawn six months after the relevant time limit set out above unless legal proceedings in respect of it:
a) have been commenced by being both issued and served and
b) are being pursued with reasonable diligence

10. Notices

10.1 Any notice required by these Terms shall be in writing which may be sent to you by email, or any other form of electronic or written communication.
10.2 Any notice to us shall be sent to us by post or email to our address as set out on our website.
10.3 Any notice to you, shall be sent by post, email or other electronic communication to the most recent address you have notified us. We are also entitled to send notices to you using any App that we may use for communication with patients.
10.4 A notice shall be effective upon receipt and shall be deemed to have been received five days after it has been posted or on the same day it has been emailed or sent by other electronic communications if sent before 5pm, or the day after it has been emailed or sent by other electronic communication if sent after 5pm.

11. Changes to these Terms

11.1 We shall be entitled to amend these Terms at our sole and absolute discretion at any time, or as applicable.
11.2 You may not assign Your rights under these Terms. We may assign Our rights and obligations under these Terms without Your consent.
11.3 No exercise or failure to exercise or delay in exercising any right, power or privilege vested in us shall operate as a waiver thereof or of any other right, power or privilege, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
11.4 If any provision in these Terms shall be held to be illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the Parties.
11.5 These Terms shall be governed by and construed in accordance with the laws of Malaysia, and we and you irrevocably agree to the exclusive jurisdiction of the courts of Malaysia.

A list of Comprehensive lists of services we offer are outlined on our website.

12. Definitions In these Terms:

12.1 '**ART Guidelines**' means Guidelines on Assisted Reproductive Technology issued by the Malaysian Medical Council in 2006.
12.2 '**Client Information**' means all information provided by You on the Registration Form or as otherwise advised in writing to us.
12.3 '**Consent Form**' means a consent form signed by You, in relation to the provision of Services by us in a form we may require.
12.4 '**Cost estimate'** means any written estimate issued by us to You.
12.5 '**Due Date**' means the date under these Terms by which You must pay any outstanding Fees.
12.6 '**Default**' means if:

a. You fail to pay Fees by the Due Date;
b. You breach a warranty in these Terms or the Registration Form, or any Client Information or Consent Form is materially incorrect or misleading;
c. a change in legislation requires us to stop, suspend or change the Services;
d. in the opinion of a Sophea Professional, it is unsuitable or unsafe for You to receive the Service;
e. You withdraw or vary Your consent, or in our opinion You have not given valid consent, for any Services, or in the event of your death;
f. another person, whose consent is required for the relevant Services, withdraws or varies their consent, or in our opinion the consent is not valid, or they die and their consent ceases to be valid;
g. You display abusive, violent, or threatening behaviour which we, in Our sole discretion, consider it to be unacceptable;
h. You terminate the Services and these Terms in accordance with Clause 7.1; or
i. We are declared insolvent or are liquidated.

12.7 '**Sophea Professional**' means a doctor, nurse, health professional or senior manager employed by us.
12.8 '**Fees**' means any fees payable by You to us for the Services. The cost of Medication and Tests may be additional.
12.9 '**Sophea**' means [Sophea@Petaling Jaya and Sophea@Bangi] and its successors and assigns.
12.10 '**Force Majeure Event**' means any event or circumstance which is outside our reasonable control, including but not limited to war, terrorism, an earthquake or other act of God, disease, pandemic, acts of government or local authority whether lawful or unlawful, any binding order or requirement of any Court, any failure of plant and equipment or power outages, or strikes or other industrial disturbances.
12.11 '**Material**' means your own sperm, eggs, embryos, ovarian tissue or testicular tissue, or donated sperm, eggs or embryos allocated to you.
12.12 '**Medication**' means any medication, drugs, or other consumables required or recommended by us.
12.13 '**Registration Form**' means any registration and privacy form completed by You (online or in person) prior to the supply of Services.
12.14 '**Services**' means any services we provide to You in relation to the diagnosis or management of fertilizing and assisted reproductive techniques, which may include (but is not limited to) Storage Services, Tests, Treatment, and any of the services set out on our website.
12.15 '**Storage Services**' means storage of Your Material by us.
12.16 '**Terms**' means these terms and conditions as amended or varied by us from time to time.
12.17 '**Tests**' means blood tests, scans, and any other laboratory tests or services required or recommended by us.
12.18 '**Treatment**' means any medical or other treatments or services we offer You for the purpose of fertility treatment which include laboratory procedures, scanning, medical and surgical treatment or procedures or anaesthesia services.
12.19 '**You**' and '**Your**' means the person or persons recorded on the Registration Form to whom we will or do provide the Services to.
12.20 **'We', 'us'** or **'our'** means Sophea.
12.21 **References** to all legislation includes its successor or amending legislation. A reference to a clause or schedule is to a clause of schedule in these terms and conditions and the singular includes the plural and vice versa.