

Sparks Brain Preservation

3265 Marietta St SE, Salem, OR 97317 | Phone: (503) 585-2781 | Email: hello@sparksbrain.org

Brain Preservation Agreement, Pet

This agreement is between _____ (the “Owner”) and Sparks Brain Preservation (SBP), an Oregon nonprofit corporation.

The Owner represents that he/she is the legal Owner of _____ (the “Pet”). The Owner desires to have the brain of the Pet preserved by SBP.

The parties hereby agree that SBP shall preserve the brain of the Pet, and that the Owner will make payment for this service as described in this Agreement. The parties agree to perform other tasks as may be required in connection with the preservation in accordance with the terms and conditions set forth below.

I. Duties of SBP

A. SBP shall use its best efforts to preserve the Pet’s brain, using such methods as SBP determines in its good faith judgement are most likely to result in the highest quality of preservation, taking into account to the maximal extent possible the Owner’s expressed preferences, and given the resources available for the Pet’s case. SBP may adopt improved preservation, storage, or maintenance methods as they become available, without requiring additional consent, provided such changes are made in good faith to benefit the Pet’s prospects for future revival.

B. The only tissue that shall be preserved shall be the brain and possibly supporting tissues, such as the skull and soft tissues of the head. The remaining portion of the body shall not be preserved. Unless the Owner has specified alternative arrangements, the remaining portion of the body shall be cremated at the expense of SBP. These partial cremated remains will be returned to the Owner only if requested; otherwise, they will be scattered respectfully.

C. SBP shall not be responsible for performing procedures on the Pet except at locations at which SBP possesses facilities and equipment suitable for its procedures. The responsibility for transporting the Pet’s body from place of death to SBP’s facilities shall rest with the Owner and not with SBP. SBP may, at its sole discretion, aid in such transportation, upon payment of a reasonable fee requested by SBP for this assistance. SBP shall not be liable for preservation quality impacts resulting from problems in transportation, including delays.

D. SBP shall not be responsible for any problems arising by reason of any federal, state, or local statutes, regulations, ordinances, or governmental or judicial directives.

E. SBP shall not be responsible for any failure to preserve the Pet resulting in whole or in part from the Owner’s breach of any of his/her duties under this Agreement.

F. Any failure by SBP to perform its obligations hereunder, which failure results in whole or in part from the occurrence of a contingency beyond the reasonable control of SBP, and which contingency makes performance hereunder by SBP impractical (such contingencies to include, without limitation, fire, strike, terrorist action, act of nature, unanticipated disaster, or shortage of materials) is excused, and SBP shall be without liability therefor.

G. SBP will not publicly release the name of the Owner unless the Owner has given his/her permission in a separate signed agreement. Case reports are written after each preservation and are released publicly.

1. _____ (default) Reports regarding the preservation may be published in anonymized format, with reasonably identifiable information such as name, Owner name, age, and city removed, but with all procedures and medical details included.

2. _____ Reports regarding the preservation may include all biographical and medical details.

3. _____ Other instructions _____

In all cases, the Owner understands that brain preservation generates extreme public scrutiny and that information about the Pet may leak to the public from a number of sources. In no case shall SBP be liable for any public disclosure of information.

H. To best protect the Pet, SBP will retain custody of the preserved Pet indefinitely. However, if desired, the Owner may request transfer of custody to another preservation organization. Transfer fees will apply, and SBP is not liable for the quality of long-term preservation provided by any subsequent organization. This designation may be updated by the Owner at any time in writing. To elect this option, indicate below:

_____ (default) SBP retains custody indefinitely, with no possible interference by third parties.

_____ Optionally, the Owner or the following designated individual(s) may request transfer of custody:

Name(s): _____

Relationship: _____

I. The obligations of SBP shall otherwise be limited as indicated in other sections of this Agreement.

J. All decisions to be made by SBP under this Agreement shall be made by SBP in its sole good faith judgement, and SBP shall not be liable for the consequences of any such decisions made in good faith, whether or not negligent.

II. Payment

A. The Owner shall pay to SBP a Preservation Fee in consideration of the efforts of SBP to preserve the Pet's brain. The fees are posted on the website and may change from time to time.

B. SBP may increase the Preservation Fee to reflect any actual or probable increases in the cost of preservation, whenever SBP in its sole good faith judgement determines that such an increase is necessary. Such increase will be posted on the company website.

C. This Agreement is not, and shall bear none of the incidents of, a trust. Neither the Owner nor any of his/her heirs, successors, assigns, estate, or agents shall possess any equitable interest in the Preservation Fee after the payment thereof to SBP, or in any of the proceeds of SBP's investment thereof, and SBP shall owe no fiduciary duty to the Owner or to his/her heirs, successors, assigns, estate, or agents, in respect of this Agreement.

D. The parties agree that the Owner may make payments to SBP, to be applied to the Pet's Preservation Fee, in advance of the Pet's legal death. To the extent that part of the Preservation Fee has been paid in advance, the Owner shall be deemed to have complied with the requirements of payment. If the Owner terminates this Agreement, the payments made by the Owner in respect of the Preservation Fee shall be refunded to the Owner, less an amount equal to the sums expended by SBP in reliance on this Agreement.

E. The Owner's full and complete performance of his/her duties under this section shall be a condition precedent to SBP's performance of its duties under this Agreement.

III. Duties of the Owner

A. The Owner shall execute any further documents as may assist preservation.

B. The Owner shall work with his/her veterinarian to arrange prompt transport to SBP.

C. If and when the Owner or successor wants to retrieve and take possession of the Pet's brain for any purpose, it will be without refund and at the expense of the Owner or successor who is specified in a separate agreement. Any release directly to the Owner or successor is not guaranteed and requires SBP's prior written approval and execution of a separate release agreement.

Any failure by the Owner to perform these duties shall relieve SBP of its duty to preserve the Pet.

IV. Contingencies

A. If at any time the funds possessed by SBP do not permit continued preservation, SBP shall pursue alternative methods of preservation using its best judgement. Alternative methods may include, but are not limited to, removal of tissue, storage at higher temperatures, chemical preservation, or transfer to an alternate organization. SBP shall not be liable for such termination of the Pet's preservation, provided that SBP shall have performed its obligations under this Agreement.

B. If, in the best good faith judgement of SBP, the preservation of the Pet is impractical because of legal problems, transportation problems, or otherwise, SBP may pursue any alternative method of preservation, may fail to commence preservation, or may cease preservation. The Pet's body may be disposed of by burial or cremation, and SBP shall not be liable therefor.

C. If SBP does not preserve the Pet, SBP shall be entitled only to compensation for costs incurred. The remaining portion to which SBP is not entitled shall be returned to the Owner.

V. Warranties

SBP does not expressly warrant the quality of its efforts under this Agreement, and disclaims and excludes all warranties, express or implied, including all warranties of merchantability or fitness, except that SBP promises to use its good faith efforts to perform its obligations under this Agreement, as limited by the terms hereof. The warranties excluded and disclaimed hereunder include, by way of example and not limitation, the following:

A. SBP does not warrant that the Pet's preservation shall be successful; in particular, SBP does not warrant or represent that the Pet can or shall ever be revived or rehabilitated, that the cause of the Pet's death can be reversed, that future social institutions will permit the Pet's revival, or that the methods used to preserve

the Pet will or can be successful. All of these prospects are completely uncertain, and SBP and the Owner have entered into this Agreement with full knowledge of this uncertainty.

B. Because of the difficulty in evaluating methods of preservation and storage, SBP does not warrant that the method of preservation used with regard to the Pet shall be the most advanced or the most effective method available. SBP shall not be obligated to use any particular method of preservation, notwithstanding the judgements of any practitioners or commentators as to the superiority of any particular method.

C. SBP does not warrant that it shall treat the Pet with the aid of the most advanced equipment or the most highly trained personnel, but SBP shall use the best personnel and equipment whose use is economically practical and which are reasonably available to SBP under the circumstances, as determined in SBP's best good faith judgement.

D. SBP does not warrant that the Pet's preservation is legally valid or will be unimpeded by legal process.

E. SBP does not warrant or represent that the amount of the Preservation Fee shall be adequate to pay for the Pet's ongoing storage. The Owner acknowledges that the cost of ongoing storage remains unknown, and the calculation of the Preservation Fee represents only the best estimate by SBP of the probable cost of storage.

F. SBP does not warrant that its investment of the Preservation Fee will be sufficient to permit a return on investment equal to the amount of the Pet's maintenance expenses, or that the investment shall otherwise be adequate. The personnel of SBP are not financial experts, and SBP shall not be liable for any good faith errors in business judgement in making such investments, whether negligent or otherwise.

VI. Representations of the Owner

The Owner represents that he/she:

A. Understands that preservation is an unknown, untested process, and that no vertebrate has ever been successfully preserved and revived. The success of preservation depends on future advances in science and technology, and the probability of success is completely unknown.

B. Understands the following scientific issues:

1. Preservation of neural tissue has been performed in a lab setting which shows excellent preservation, but this does not always translate to good preservation in clinical settings.
2. There are damaging delays immediately after death due to logistical issues and the time it takes to cool the tissues.
3. There is damage during transportation, during surgical prep, and during the procedure itself.
4. Protective chemicals are frequently prevented from reaching the tissue in a timely manner. So, instead of the intended preservation, the result can be necrosis or ice crystal formation, and obliteration of structural information.
5. Preservation must be completed quickly. This rarely happens except in the very best local cases with full equipment and many skilled personnel. In most cases, there will be areas of poor preservation.
6. In any case where there are long transport times involved prior to preservation, the preservation may be low quality. The chance of successful revival with memories intact in these situations, however far in the future, may be lower than ideal cases, which itself is highly uncertain.
7. SBP will accept cases with poor prognosis as long as the owner understands the above issues.

C. Understands that SBP is a nonprofit corporation with limited resources.

D. Has carefully read and understands the disclaimers of warranty contained in this Agreement.

E. Has carefully read and understands this Agreement and has had an opportunity to consult with an attorney regarding the same.

F. Notwithstanding the foregoing, consents to the performance by SBP of the Pet's preservation pursuant to this Agreement, and the performance by SBP of its obligations under this Agreement, including its obligation to store the Pet according to SBP's sole good faith judgement and in accordance with the terms of this Agreement.

VII. Release

The Owner agrees to release SBP and its officers, directors, employees, servants, delegees, and assigns from all liability, loss, claims, expenses, or damage (collectively referred to herein as "losses") resulting from, alleged to result from, or related to the execution or performance of this Agreement or any failures by SBP to perform any of its duties hereunder for any reason whatsoever (except that the provisions of the Remedies section below govern the liability of SBP for damages to the Owner for breach of this Agreement), provided that SBP shall use its good faith efforts to perform its obligations hereunder.

VIII. Remedies

Upon SBP's breach of this Agreement, since any damages resulting therefrom are uncertain and speculative (because of the uncertainty of preservation), and subject to the limitations of liability contained in this Agreement, the Owner agrees that his/her recovery from SBP shall not exceed the Preservation Fee already paid to SBP, less the sum expended by SBP in the performance of the Agreement. Notwithstanding the foregoing SBP shall not be liable to pay any damages under any circumstances whatsoever where such payment will or may endanger the adequacy of the continuing preservation of other Pets or patients at SBP.

IX. Termination

A. Prior to the preservation of the Pet, the Owner may terminate this Agreement without cause, subject only to payment to SBP of the sums expended by SBP in reliance on this Agreement.

B. If the Pet has already been preserved, removal from storage at SBP can only take place if the following conditions are met: the Pet may be moved to permanent storage at another preservation organization, following the transfer of custody of the Pet to the receiving organization at the request of the Owner or other designated individual, as stated under Section I. SBP will work directly with the receiving organization and will require assurance ahead of time from that organization that funding will be adequate, which may require additional funding from the Owner.

X. Assignment

SBP may assign and/or delegate part or all of its rights and duties under the Agreement, but only if, after such assignment and/or delegation, SBP has substantial assurance that any delegee shall fully perform its obligations under this Agreement. SBP shall not be liable for the delegee's failures to perform its obligations to the Owner.

XI. Miscellaneous

- A. Invalidity of any section of this Agreement shall void only that section, not the entire Agreement.
- B. This Agreement states the entire agreement of the parties hereto and is intended to be the final, complete, and exclusive statement of the terms thereof.
- C. This Agreement is reasonably related to the state of Oregon, and the rights and obligations of the parties hereunder, and all performance hereunder, shall be governed by and construed in accordance with the laws of the State of Oregon. Any action brought relating to this Agreement shall be brought in a state court in Marion County or a federal court of appropriate jurisdiction located in the State of Oregon.
- D. Any modification or waiver of this agreement must be made in writing and signed by both parties.
- E. This Agreement shall bind the parties hereto and their agents, successors, and assigns, including the Owner's estate and the executor thereof.
- F. The headings in this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning of this Agreement.
- G. Whenever the singular number shall appear here, the same shall include the plural, and the neuter, masculine, and feminine forms shall include each other.
- H. This Agreement is executed in counterparts, each of which shall be deemed an original, and all of such counterparts, taken together, shall be deemed an agreement.
- I. Any notices required by the terms of this Agreement shall be made to the parties hereto at the following addresses (or such other address as a party shall later indicate):

To SBP:
Sparks Brain Preservation
3265 Marietta St SE
Salem, OR 97317

To the Owner:

XII. Preservation Options

_____ **Standard Brain Preservation** (default if no option is selected). Preservation with chemical fixation followed by indefinite storage at low temperature in liquid preservative solution.

If desired, the following optional service is available to the Owner at an additional cost beyond the standard preservation services:

_____ **Liquid nitrogen storage.** Standard preservation includes long-term storage in liquid preservative solution after chemical fixation. Liquid nitrogen storage following chemical fixation is available upon request as an alternative for those who desire it. SBP does not consider this a higher quality option compared to standard liquid preservative storage. However, if selected, SBP will perform this with the same level of care and procedural rigor as any other preservation service. Additional fees apply as posted on SBP's website.

XIII. Signatures

Name of the Owner: _____

Signature of the Owner: _____

Date Signed: _____

Name of SBP Representative: _____

Signature of SBP Representative: _____

Date Signed: _____

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Pet History and Information

Pet Name: _____ Age: _____ Weight: _____ Sex: _____

Breed: _____ Species: _____

Is euthanasia already planned? Yes No If yes, planned date/time: _____

Is your pet already legally deceased? Yes No

If so, what is the date and time of your pet's passing? _____

Any known tests or concern for transmissible diseases, such as rabies? Yes No Unknown

Details: _____

Does your pet have any known history of injury, trauma, illness/disease, surgery, etc., particularly of the brain, head, neck, or heart? Yes No Unknown

Details: _____

Any implantable devices (e.g. pacemaker)? Yes No Unknown

Any known neurological problems? Yes No Unknown

Details: _____

Is there anything else you would like us to know?

Owner Contact Information

Name: _____ Phone: _____ Email: _____

Address: _____
