

MPI # \_\_\_\_\_

**STATE OF NORTH CAROLINA**  
**COUNTY OF MECKLENBURG**

**AGREEMENT FOR DETERMINING  
DISPOSITION OF EMBRYOS NOT  
TRANSFERRED, CRYOPRESERVATION  
OF EMBRYOS, AND DECISIONS FOR FUTURE  
DISPOSITION OF CRYOPRESERVED EMBRYOS  
(PATIENT AND PARTNER)**

THIS AGREEMENT is made this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for good and valuable consideration, by and between **REPRODUCTIVE ENDOCRINE ASSOCIATES OF CHARLOTTE, P.C.** (hereinafter referred to as "REACH"),

\_\_\_\_\_  
(Print full names as on driver's licenses)

and \_\_\_\_\_ (if applicable, Partner).  
(Print full names as on driver's licenses)

At all times herein, Patient and Partner shall be collectively referred to as "Partners.")

**R E C I T A L S**

**WHEREAS**, REACH is a Professional Corporation organized, existing, and doing business within the State of North Carolina; and

**WHEREAS**, REACH operates a clinic in Charlotte, Mecklenburg County, North Carolina, in which its physicians, in pertinent part, provide reproductive assistance to its patients; and

**WHEREAS**, REACH offers its patients who participate in the IVF Program to preserve cryogenically normally dividing embryos which were not transferred to the uterus at the end of an IVF cycle; and

**WHEREAS**, participation in the Cryogenic Preservation Program is voluntary and dependent upon the availability of normally dividing embryos not transferred to the uterus at the end of the IVF cycle; and

**WHEREAS**, Partners have had the opportunity to be fully advised and counseled by persons of trust and confidence including, but not limited to, attorneys licensed to practice law with respect to the obligations assumed under this Agreement, and have considered the ramifications, consequences, obligations, and effects of this Agreement; and

**WHEREAS**, the law regarding cryopreservation and the ownership, control and disposition of cryopreserved embryos is not finally and fully developed. Inasmuch as the law regarding cryopreservation is evolving, the “rules” may change in the future. In some instances, there have been conflicting legal decisions in different jurisdictions. Therefore, the policies of REACH reflect its best, current understanding of the law, but such policies are subject to future changes; and

**WHEREAS**, presently, so long as practical, it is REACH’s policy that embryos produced by the joining of eggs and sperm are subject to disposition in a manner mutually agreed upon by the Partners. However, for various reasons described herein, the disposition of cryogenically preserved embryos may become the responsibility of only one of the Partners or REACH; and

**WHEREAS**, should the Partners decide to bank one or more embryos, then the terms and conditions set forth herein shall determine the authority to control the embryo(s) in the future and, in some cases, the ultimate disposition of said embryos; and

**WHEREAS**, the parties agree and stipulate that this Agreement shall be binding upon Patient and Partner as well as between the Partners and REACH.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, and with the intention of being fully bound, the Parties agree as follows:

1. **Agreement Authorizing Cryopreservation of Embryos.** By signing this Agreement, we understand that we are entering into a binding contract that will control the use, storage and disposition of embryos that are initially not transferred, and which may be cryopreserved during an ART cycle. We further understand that this contract will govern even in the face of future changes in circumstances. Any and all changes to this contract must be made in writing and executed by all parties with the same formality as required herein. In all cases below where the initials of the Patient and the Partner are both required, the initials of both Patient and Partner must be set forth on lines adjacent to one another so as to indicate a clear and unambiguous mutual consent.

\_\_\_\_\_  
Patient signature

\_\_\_\_\_  
Partner’s signature

\_\_\_\_\_  
Patient’s initials

\_\_\_\_\_  
Partner’s initials

2. **Cryopreservation And Storage Of Normally Dividing Embryos Not Transferred.**  
 (The embryo's capability of normal growth and development and suitability for cryopreservation will be determined by the embryologists at REACH.) With respect to normally dividing embryos which are not transferred to the uterus at this time:

**Patient**    **Partner**  
 (Initial (a) or (b) below.)

\_\_\_\_\_ (a) We choose to **cryopreserve all viable embryos; OR**

\_\_\_\_\_ (b)\* We choose to **discard all viable embryos** that are not transferred to the uterus at the conclusion of the IVF cycle.

*\*(In the event that (b) above is initialed, then please skip to Section 8 below and thereafter execute this Agreement by signing your name on page 7.)*

3. **Authority To Make Post Cryopreservation Decisions.** In the event that we have chosen to freeze one or more embryos not transferred to the uterus at the conclusion of the IVF cycle, the following provisions shall govern, control, and determine the disposition of such embryos:

(a) So long as we are both alive and competent, our embryos are subject to disposition only by a mutual agreement signed by both of us.

**Patient**    **Partner**  
 (Both partners must initial.)

\_\_\_\_\_

(b) In the event of death or an adjudication of incompetence of one of us, then we request that any and all cryopreserved embryos then in storage at REACH be:

**Patient**    **Partner**  
 (Both partners must initial **the same and only one** of the 4 choices below.)

\_\_\_\_\_ (1) Made the property of the surviving partner or competent partner who will have full authority regarding the disposition, which may include storage, disposal or use to establish a pregnancy; **OR**

\_\_\_\_\_ (2) Released to an outside embryo **donation** agency; **OR**

\_\_\_\_\_ (3) Donated for **research**; **OR**

\_\_\_\_\_ (4) **Discarded.**



5. Default Provisions Necessitating Disposition Of Cryopreserved Embryos.

Patient    Partner

(Both partners must initial all lines below.)

- \_\_\_\_\_    \_\_\_\_\_    (a)    In the event that embryo(s) have been in storage for five (5) years from initial storage date, it is the policy of REACH that a disposition of the embryo(s) should occur at that time (including confirmation / authorization to continue storage). While we may elect to undertake disposition of the embryo(s) prior to that time (which may include transfer to another ART program or storage facility, disposal, or donation to an outside agency, or donation to research), we agree to give instructions to REACH as to disposition of our embryos at some point within five (5) years from the initial storage date. We understand that REACH will provide us with notice of the fact that the five (5) years has elapsed, and such notice to be in the form of a letter sent by certified mail to our last known address as it appears in our medical records. We understand and agree that if within thirty (30) days from depositing the aforementioned notice with the US Postal Service we do not respond, or cannot be contacted, REACH is authorized to dispose of any remaining cryopreserved embryos in accordance with laboratory procedure.
- \_\_\_\_\_    \_\_\_\_\_    (b)    Should we fail to pay storage fees, or should we fail to notify REACH of a change in our address, REACH shall attempt to locate us by sending us a certified letter to our last known address as it appears on our medical records. If within thirty (30) days of depositing the aforementioned notice with the U.S. Postal Service, contact with us cannot be made, or if we refuse to pay storage fees, REACH is authorized to dispose of the remaining cryopreserved embryos in accordance with laboratory procedure.
- \_\_\_\_\_    \_\_\_\_\_    (c)    We understand that REACH may, in its sole discretion, cease to provide long-term cryopreservation storage services. If this occurs, REACH will provide us with thirty (30) days advance notice of the cessation of such services. Such notice shall be in the form of a certified letter to our last known address as it appears in our medical records. If we cannot be contacted, or if after contact we fail to make alternative arrangements for the storage of such cryopreserved embryos (within 30 days of depositing the aforementioned notice with the U.S. Postal Service), then REACH shall be authorized to dispose of all remaining embryos in accordance with laboratory procedure.

\_\_\_\_\_ (d) We understand that REACH may, under certain and unforeseen circumstances, need to transfer our cryopreserved embryos to another location (that remains in the control of REACH). REACH may transfer our embryos to such a location without additional authorization from us.

\_\_\_\_\_ (e) We understand that if we authorize the removal of our embryo(s) from a REACH-controlled embryo cryo-preservation facility said embryos may not be transferred back to REACH, pending review of pertinent medical records.

6. **Additional Applicable Provisions.** In electing to store cryopreserved embryos at REACH, we hereby agree to:

**Patient    Partner**  
(Both partners must initial all lines below.)

\_\_\_\_\_ (a) Pay long-term storage fees in a timely manner. These fees are applicable to all patients for the storage of embryos.

\_\_\_\_\_ (b) Promptly to notify REACH in writing of any change in our address during the entire period of time that any cryopreserved embryos are in storage. REACH shall place any such notification in our medical records.

\_\_\_\_\_ (c) For ourselves and for our successors and heirs, to reimburse, indemnify, and hold harmless REACH and its affiliates and subsidiary companies, their employees, and independent and dependent contractors, for any loss, expense, cost or damage (including reasonable attorney's fees) that any member of REACH may incur by reason of any dispute between the Partners regarding the disposition of the embryos.

7. **Limitations On Cryopreservation Services: Release Of Liability.** Although REACH maintains appropriate surveillance (quality assurance) for a variety of conditions affecting the storage of embryo(s), maintaining the embryo(s) at the very low temperatures necessary to sustain safely the cryopreserved embryo(s) for long periods of time is fraught with many opportunities for failure beyond the control of REACH.

**Patient   Partner**

(Both partners must initial all lines below.)

- \_\_\_\_\_   \_\_\_\_\_   (a)   We understand that loss or damage to the cryopreserved embryos may result from power failure of the cryopreservation containers, loss of liquid nitrogen supplies, mechanical failure, or accident, governmental interferences or regulations, acts of war or acts of God, among others.
- \_\_\_\_\_   \_\_\_\_\_   (b)   We understand that there is no guarantee that the embryos will survive the cryopreservation process or that a pregnancy will occur.
- \_\_\_\_\_   \_\_\_\_\_   (c)   We understand that some of the embryos may not continue to grow in the laboratory and therefore may not reach the stage of development where they can be cryopreserved. In addition, we understand that the embryos may not resume normal growth when they are thawed and may not successfully implant when they are transferred into the uterine cavity.
- \_\_\_\_\_   \_\_\_\_\_   (d)   Although there are theoretical risks of congenital malformations, we understand that the best available data from the U.S. and abroad suggests that the rate of birth defects in children born following the cryopreservation of embryos is the same as the rate observed in an age-matched group of pregnant women who conceived without assisted reproduction.
- \_\_\_\_\_   \_\_\_\_\_   (e)   We understand that to date, there are no known deleterious effects from long-term storage of cryopreserved embryos.

8. **Execution of Consent.** By signing this form below, we expressly indicate and certify the following:

- (1) That we have read and understand each and every provision herein;
- (2) That we have been given the opportunity to review this document with any and all third parties of our choosing;
- (3) That we have been given an opportunity to ask any and all questions;

- (4) That for each question we have asked, we have received a satisfactory answer;
- (5) That we know we may ask additional questions at any time in the future;
- (6) That we may discontinue this program at any time in the future;
- (7) That we are each over the age of twenty-one (21); and
- (8) That at all times herein, the words “the Partners,” “us,” and/or “we” shall collectively refer to the “Patient” and “Partner” set forth in the first unnumbered paragraph above.

\_\_\_\_\_  
Patient’s Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Partner’s Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
REACH Representative verifying completion of consent Date

**REPRODUCTIVE ENDOCRINE ASSOCIATES OF CHARLOTTE, P.C.**

If signed outside of REACH facility, then both partner signatures need notary attestation.

**STATE OF** \_\_\_\_\_  
**COUNTY OF** \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County  
and State of \_\_\_\_\_, certify that \_\_\_\_\_  
and \_\_\_\_\_

personally appeared before me this day and acknowledged the execution of the  
foregoing instrument consisting of \_\_\_\_\_ pages.

Witness, my hand and official seal, this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_