

MPI # _____

STATE OF NORTH CAROLINA

AGREEMENT FOR GESTATIONAL CARRIER

COUNTY OF MECKLENBURG

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”); and _____ (hereinafter referred to as “Gestational Carrier”). (At all times herein, REACH and Gestational Carrier shall be collectively referred to as “the Parties.”)

(Print full name as on driver’s license)

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 their patients; and

WHEREAS, one of the services provided by the physicians of REACH is to allow women to serve as gestational surrogates for couples who cannot otherwise have children; and

WHEREAS, Gestational Carrier is an adult citizen who desires to serve as a gestational surrogate and has entered into a private, written contract with a particular couple so that the couple may have a child biologically related to the Male/Second Partner (or a male sperm donor), and Female/First Partner (or a female egg donor). (At all times herein, the relevant couple (First/Female Partner and Second/Male Partner) shall be referred to collectively as “Parents”); and

WHEREAS, Gestational Carrier understands that the process contemplated herein is voluntary and that there is no medical benefit to the Gestational Carrier for participating in the program; and

WHEREAS, Gestational Carrier understands that she will not be paid, nor compensated, for this procedure by REACH. However, REACH, for the services it performs will be paid by the Parents; and

WHEREAS, Gestational Carrier (and her Husband, if married) and the Parents have executed a private, written contract which defines the rights, terms and obligations of their relationship. Although REACH is not a party to the aforementioned private, written contract between Gestational Carrier (and her Husband, if married) and Parents, Gestational Carrier agrees that REACH's assistance is essential to carrying out of the terms and conditions of that aforesaid private written, contract between Gestational Carrier (and her Husband, if married) and Parents; and

WHEREAS, Gestational Carrier has had an 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 affects of this Agreement.

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

1. **Consent By Gestational Carrier To The Procedure.** Gestational Carrier stipulates, agrees to, and understands the purpose of this Agreement, has read each and every provision of it, and agrees to go forward with the gestational surrogacy procedure contemplated by this Agreement.

2. **General Description of the Procedure Contemplated.** The parties agree and acknowledge that the following is a general summary of the medical procedure to be undertaken:

- (a) Each person participating in the procedure will undergo a comprehensive physical examination.
- (b) Each person participating in the procedure will provide to REACH a comprehensive medical history in order to ascertain the presence of disease and a detailed social history including, but not limited to, a history of substance abuse and previous sexual relationships;
- (c) Each person participating in this procedure will undergo certain screenings for infectious diseases and inheritable diseases;
- (d) Each person participating in this procedure will undergo a psychological evaluation to assess his or her ability to participate in the procedure contemplated herein;

- (e) Blood and urine tests will be performed to predict the time Gestational Carrier will ovulate;
- (f) Egg development will be monitored by blood tests and ultrasound to determine the Female/First Partner's (or a female donor's) estrogen level. If it is determined that the Female/First Partner (or female donor) has produced eggs, then those eggs will be surgically retrieved;
- (g) Sperm specimen(s) will be obtained from the Male Partner (or a donor – if specified) through masturbation. The sperm specimen will be subject to laboratory analysis to determine whether the sperm is suitable for fertilization. If sperm quality is determined to be poor, the Parents will be counseled on the possibility of spontaneous fertilization and may be offered special laboratory procedures involving sperm manipulation for the purpose of trying to improve the likelihood of fertilization;
- (h) So long as the eggs retrieved are determined by REACH to be suitable for fertilization, then REACH will designate the number of eggs which will be exposed to sperm for fertilization. The quality of the eggs retrieved can only be determined after the retrieval process has been performed;
- (i) Egg(s) and sperm will be placed together in the laboratory in an attempt to fertilize the egg. If fertilization of one or more eggs occurs, then the resulting embryo(s) will be transferred to a medium for growth and development;
- (j) The Gestational Carrier consents to the uterine transfer of embryos resulting from a recent IVF cycle as set forth above, or uterine transfer of cryopreserved embryos resulting from the Parents;
- (k) If in the opinion of REACH appropriate cell division and satisfactory development has occurred, one or more embryos will be placed into the Gestational Carrier's uterus using a catheter. The timing of the transfer will be determined by REACH; and
- (l) After the transfer has occurred, REACH will obtain additional blood samples from the Gestational Carrier, as needed.

3. **Discomforts and Risks.** The parties agree and acknowledge that the following are some of the risks and discomforts associated with the aforementioned various medical procedures:

- (a) **Blood Drawing.** Blood will from time to time be drawn and may result in mild discomfort. Further, the possibility of developing a painful bruise is not uncommon. The development of a nerve injury at the needle site or a

blood clot in the vein may also occur, but such occurrences are extremely rare.

- (b) Ultrasound. From time to time, an examination with the use of an ultrasound device will occur. This examination involves the use of a form of energy (sound waves) which at high energy levels may produce heat and tissue damage. At the extremely low energy levels utilized in diagnostic ultrasounds no adverse effects have been observed.

- (c) Medications. Most patients will be given an antibiotic, usually Tetracycline. The use of Tetracycline may result in nausea, vomiting, diarrhea, loss of appetite, rashes, and sensitivity to the sun. In addition, hypersensitivity reactions resulting in shock, or blood disease including reduced platelets or fractured red cells which occur with anemia or bleeding are rare events associated with Tetracycline.

- (d) Controversial Ethics. Certain aspects of the ethics of this treatment are controversial. Some members of the community, including your own family or friends, may not approve of this treatment. This disapproval may damage interpersonal relationships between you and your family and/or friends.

- (e) Multiple Pregnancies. Replacement of more than one embryo increases the chance of pregnancy while also increasing the chance of multiple pregnancy (twins, triplets, quadruplets, etc.). Although it is the goal for a fertility treatment cycle to result in a single baby, the chance of a multiple pregnancy resulting from an in vitro fertilization cycle may be as high as twenty percent to forty percent (20% - 40%) depending upon the age of the biological mother and the quality and number of the embryos transferred to the uterus. The majority of multiple pregnancies are twin pregnancies although the possibility of high-order multiple gestation (triplets, quadruplets, etc.) increases as the number of embryos transferred to the uterus increases. A discussion and agreement regarding the number of embryos to be transferred to the Gestational Carrier's uterus will take place between REACH, the Parents and the Gestational Carrier at the time when the embryos are ready for transfer. A procedure known as fetal reduction of pregnancy has been proposed for some women whose pregnancies involve three or more fetuses. More information on this controversial procedure is available on an individual basis.

Multiple pregnancies carry higher than normal risks for the gestational carrier for hypertension and other disorders. These pregnancies may lead

to emotional strain for the family. Deaths of babies around the time of delivery and the number of babies born with long-term handicaps are several times more common in multiple births than in single births. Multiples are commonly born before they are fully mature.

The following disorders are responsible for increased illness and death in multiple gestation infants: infection of the membranes sometimes due to premature rupture of the membranes; twin-to-twin transfusion syndrome; placental infarcts (portions of the placenta lose their blood supply); and premature separation of the placenta and compression of the umbilical cord. Also, higher numbers of birth defects occur in multiple gestation pregnancies for reasons not fully understood.

- (f) Transmission of Infectious and/or Inheritable Diseases. Despite strict adherence to the infectious disease prevention protocols, infectious and/or inheritable diseases may be transmitted in the processes of assisted reproduction. Specifically, infectious diseases may pass from the Female/First Partner (or a female donor) through her egg(s) and/or the Male/Second Partner (or a male donor) through his sperm to the Gestational Carrier or from the Gestational Carrier to the resulting fetus(es). In addition, inheritable diseases may pass from the Female/First Partner (or a female donor) and/or the Male/Second Partner (or a male donor) to the fetus(es).

- (g) Failure To Become Pregnant or Develop a “Normal Pregnancy.” The following is a partial list of reasons that the procedure contemplated herein may fail:
 - (i) The time of the Female/First Partner’s (or the female donor’s) ovulation may be misjudged or may be unpredictable, or ovulation may not occur at all in the monitored cycle, thus precluding any attempt at obtaining an oocyte;
 - (ii) An attempt at egg retrieval may be unsuccessful;
 - (iii) The egg(s), if obtained, may not develop normally;
 - (iv) It may not be possible to obtain a suitable sperm sample from the Male/Second Partner (or a male donor);
 - (v) The egg(s) may not fertilize;
 - (vi) The embryo(s) may not develop normally;

- (vii) Cleavage or cell division of the fertilized egg(s) may not occur;
 - (viii) It may not be possible to maintain the life of the embryo due to poor embryo quality;
 - (ix) Loss or damage of the embryo(s) may occur during the procedure;
 - (x) Implantation may not occur;
 - (xi) If cryopreserved, the embryo(s) may not survive the pre-freeze culture, freeze or thaw. Once thawed, the embryo(s) may not develop; and/or
 - (xii) Various other reasons.
- (h) Inability to Carry Fetus(es) To Term. The parties agree and acknowledge that following a successful establishment of pregnancy, there is a possibility that the Gestational Carrier will not carry the fetus(es) to full term as a result of abortion, miscarriage, ectopic pregnancy or stillbirth.
- (i) Ectopic Pregnancy. The parties agree and acknowledge that there is a small but significant risk that an ectopic pregnancy (an abnormal pregnancy located outside the uterus) may occur as a result of the transfer of embryos to the Gestational Carrier's uterus. Ectopic pregnancy may be treated with medicine or surgery. There is up to a one percent (1%) risk of death associated with an ectopic pregnancy. Having an ectopic pregnancy increases the chance that future pregnancies will also be ectopic.
- (j) Gestational Carrier's Participation in Sexual Activity. The Gestational Carrier shall be counseled and instructed to abstain from sexual activity during this procedure. Sexual activity at or about the time of embryo replacement may result in the Male/Second Partner (or a designated male donor) and Female/First Partner (or a designated female donor) not being the biological/genetic parents of any or all child(ren) born.
- (k) Prenatal Care. The parties agree that should pregnancy occur, then Gestational Carrier shall be advised as to the appropriate prenatal care. The Gestational Carrier agrees to follow the advice and instructions of her physicians including but not limited to the physicians associated with REACH, and acknowledges that failure to following the medical advice and instructions may adversely affect the Gestational Carrier's health and the health of the fetus.

- (l) Unpredictability of Future Behavior. The parties acknowledge that the psychological evaluation of the Gestational Carrier will not necessarily predict her future behavior and that reaction to participation in the gestational carrier program differs for each person. The Gestational Carrier agrees that REACH shall not be responsible or liable for her actions or omissions as a result of her participation in the gestational carrier program.
- (m) Negative Psychological Consequences. The Gestational Carrier acknowledges that her spouse, children and/or other family members, if any, may experience negative psychological consequences as a result of Gestational Carrier's participation in the gestational carrier program. The Gestational Carrier agrees that REACH shall not be responsible or liable for any negative psychological consequences that her spouse, children, other family members, if any, or she shall experience.
- (n) Unknown Complications. There may be other complications with have not been listed that may occur.

4. **Economic Considerations.** The Gestational Carrier agrees and acknowledges that insurance coverage may not be available for some or all of the expenses incurred during the gestational carrier program. These expenses may include, but are not limited to, preliminary screening fees, hospital and anesthesia charges, laboratory charges, physicians' professional fees, and IVF program fees. The Gestational Carrier agrees that she has contracted with the Parents to determine each participating party's respective financial responsibility for participation in the program, including financial arrangements in the event that either the Gestational Carrier or Parents decide to discontinue participation in the program before a pregnancy results.

5. **Consideration.** The parties agree and acknowledge that the Parents, REACH and Gestational Carrier are all integral parties to the gestational carrier program. The parties hereto represent and agree that execution of this Agreement and each of the covenants, terms and provisions contained herein are essential to participation in the gestational surrogacy program. The Parties hereto agree and acknowledge that execution of this Agreement is a precondition to participation in the gestational surrogacy program and constitutes good and valuable consideration binding the parties here in.

6. **Legal Rights.** The Gestational Carrier agrees and acknowledges that REACH, nor any of its physicians, employees or agents have advised the Gestational Carrier of her legal rights with regard to the gestational carrier program, but REACH has instructed Gestational Carrier to seek legal representation in this matter before executing this Agreement.

7. **Agreement between Gestational Carrier and Parents.** The Gestational Carrier warrants that she has entered into a private, written contract with the Parents which resolves between Gestational Carrier and Parents, and includes discussion of, the following issues:

- (a) In the event that the presence of multiple fetuses places the Gestational Carrier and/or the embryos at risk, whether selective embryo reduction an acceptable option;
- (b) In the event that an abnormality in the fetus(es) is/are identified through prenatal testing, whether termination of the pregnancy an acceptable option;
- (c) The Gestational Carrier and Parents' respective liabilities including, but not limited to, financial responsibilities in the event of the following: (1) a miscarriage, stillbirth or ectopic pregnancy, and (2) the elective termination of the pregnancy for any reason;
- (d) Confirmation that the Gestational Carrier and Parents absolve REACH, its physicians, employees, and agents from any and all liability, if any, which may result in the event the pregnancy is electively terminated for any reason;
- (e) Custody of the child;
- (f) Naming rights with respect to the child; and
- (g) Prenatal care.

8. **Statement of Voluntary Participation.** Gestational Carrier agrees and acknowledges that she has had an opportunity to ask questions of her physicians and to have those questions answered. Gestational Carrier represents and agrees that she has received sufficient information to participate in the gestational carrier program. Gestational Carrier agrees and acknowledges that medicine is not an exact science and that no guarantees have been made with regard to the results of participation in this program.

9. **Acknowledgment Of Advice.** Each Party acknowledges that she, they or it fully understands this Agreement and its legal effect, having had the opportunity to review this Agreement with all persons of confidence, and having discussed each and every provision in detail with all the possible ramifications which may be associated with these provisions. Each Party acknowledges that she or it is signing this Agreement freely and voluntarily, being fully informed of its possible ramifications, and that no Party has reason to believe that the other did not freely and voluntarily execute this Agreement.

10. **Integration.** This Agreement and its Exhibits, if any, set forth the entire Agreement between REACH and Gestational Carrier and her husband (if any), with regard to the subject matter hereof. All agreements, covenants, representations, and warranties, expressed or implied, oral and written, by and between REACH, Gestational Carrier and her husband (if any) are contained in the four (4) corners of this Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements and representations, covenants and warranties with respect to the subject matter hereof are waived, merged herein and superseded hereby. This is an integrated Agreement. However, from time to time, the Gestational Carrier

may be asked to execute, and shall execute, additional consent documents which shall be binding and enforceable.

11. **Duplicate Copies.** This Agreement may be executed in two (2) or more counterparts, everyone of which shall be an original, but all of which shall constitute one and the same instrument.

12. **Modifications, Revisions, Or Amendments.** Any future revision, modification, amendment, or waiver of any of the provisions of this Agreement shall be effective only if made in writing, dated, signed, and executed with the same formality as this Agreement. Any such provision, modification, or amendment will specifically provide that it is intended to revise, modify, or amend this Agreement. No oral revisions, modifications, amendments, or waivers will be effective to revise, modify, amend or waive any terms or conditions of this Agreement. Failure of either Party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default of the same or similar nature.

13. **Alternate Dispute Resolution.** Any controversy or claim arising out of, or related to, this Agreement shall be submitted to mediation. A neutral shall be agreed upon by the Parties. Each party agrees to participate in good faith in mediation to reasonably, timely, and cost effectively resolve all disputes.

If after mediation, the Parties are unable to attain a resolution to all of the issues between them, they agree to have the unresolved issues determined in binding arbitration through the American Arbitration Association. The unsuccessful party shall pay the entire cost of the arbitration as well as the other party's attorney fees, unless the arbitrator should determine otherwise.

14. **Jurisdiction and Controlling Law.** This Agreement will be governed by, construed, and enforced with the laws of the State of North Carolina.

15. **Dispute Between Parents and Gestational Carrier.** Gestational Carrier agrees and stipulates that REACH is not a party to the underlying private, written contract between Gestational Carrier and the Parents. REACH was not in any way involved in the drafting, nor in specifying, the terms of that private, written contract. Gestational Carrier agrees that execution of the contract with the Parents was a free and voluntary act performed without duress, and without coercion from any Party. Further, Gestational Carrier agrees that she shall not bring any action in any jurisdiction and waives any and all actions and rights, if any, against REACH for any issue with respect to the private, written contract between Gestational Carrier and Parents, including, but not limited to, issues concerning prenatal care of the child, birth of the child, custody or placement of the child, or any other direct or indirect aspect of the underlying

agreement. Gestational Carrier agrees and stipulates that she shall indemnify and hold REACH harmless for any and all claims and disputes that arise by and between Parents and Gestational Carrier (and her Husband, if any), or their respective representatives, agents, or assigns, and which are in any way related to prenatal care of the child, birth of the child, custody or placement of the child, or any other direct or indirect aspect of that private, written contract between the Parents and Gestational Carrier (and her Husband, if any).

16. **Definition of Child.** At all times used herein, "Child" shall mean, denote, and include one (1) or more child(ren), fetus(es), or embryo(s) which result from the medical implantation procedure described herein.

Gestational Carrier 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 _____

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: _____