

This Agreement for Storage and Disposition of Frozen Embryos (“*Agreement*”) is made and entered into by and between the Genetics & IVF Institute, Inc. (“*Institute*”), on the one hand, and the undersigned individuals (“*Clients*”), on the other hand. Each of the Institute and Client is a “*Party*,” and together they are the “*Parties*” to this Agreement.

WHEREAS, Clients have cryopreserved embryos (“*Embryos*”) that were frozen by the Institute’s embryology lab and would now like to store the Embryos at the Institute’s storage facility; and

WHEREAS, the Institute has the experience and capacity to store the Embryos.

NOW, THEREFORE, the Parties agree as follows:

1. **Embryo Storage.** The Institute will store the Embryos at its facility in accordance with applicable law and its standard policies and procedures.

2. **Financial Terms.** The financial terms of this Agreement are set forth on the attached *Billing Addendum to Storage Agreement*, which must be completed and returned with this Agreement.

3. **Embryo Transfer.** The conditions and procedures for the transfer of the Embryos to another facility will be those established by the Institute, and are designed to comply with legal requirements, protect Clients’ rights to and interests in the Embryos, and assure a reliable chain of custody. Clients acknowledge that the Institute may modify the transfer requirements in its sole discretion to reflect changes in industry practice, laws or regulations. Clients will comply with all release conditions and procedures. The Institute’s *Agreement to Ship Embryos* may be obtained by contacting the Institute.

4. **Disposition of Embryos Upon Death or Divorce.**

Patient has completed the Embryo Disposition and Storage Instructions section in CON-500B (Informed Consent for In Vitro Fertilization Signature Packet), a copy of which must be filed with this agreement

OR

Patient has not completed an Embryo Disposition and Storage Instructions document at the Institute. This section **MUST** be completed

**If the patient is not undergoing treatment with a partner, embryos are presumed to be owned solely by the patient.** If the patient is undergoing treatment with a partner: embryos are presumed to be owned jointly by the patient and partner. Upon the death of one patient/partner, ownership of embryos will pass to the surviving partner. The surviving partner will have complete control over the embryos, including the ability to use the embryos for any purpose, including transfer of the embryos to achieve pregnancy; donation for research; donation to another person or couple; or destruction of the embryos.

Clients have reached a mutual decision and are in agreement about the disposition of the Embryos in certain circumstances, as provided below, and Clients acknowledge that the Institute will require no additional notice, consent, waiver or instructions in complying with the following:

4.1 In the event of the death of one Client, as evidenced by a certified copy of the death certificate, the surviving Client will have ownership and control of the Embryos.

4.2 In the event of the death of both Clients, as evidenced by certified copies of the death certificates, it is the Clients' intention that the following individual or entity will have ownership and control of the Embryos:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_

If the above-named individual or entity does not or cannot assume ownership and control of the Embryos, the Embryos will be disposed of by thawing with no further action, which will render the Embryos permanently and irretrievably unusable for any purpose.

4.3 In the event of legal separation or divorce of the Clients, ownership and control of the Embryos stored with the Institute are to be specified in a divorce decree or other legally binding document, a certified copy of which will be provided to the Institute. Absent such documentation, ownership will remain with both Clients.

**4.4 Clients may change these instructions in the future only by providing the Institute with new written instructions bearing the notarized signatures of both individuals.**

5. Termination. This Agreement will terminate and the Institute's responsibility for storage will cease upon the occurrence of any one or more of the following events:

5.1 The use of all of the Embryos for Client's treatment at the Institute, or the transfer of all of the Embryos to another facility by written authorization of Client as provided in Section 3, or the disposition of all of the Oocytes as provided in Section 4.

5.2 The Institute's receipt of a signed and notarized *Irrevocable Consent for Embryo Disposal* covering all of the Embryos. The *Irrevocable Consent for Embryo Disposal* is available from the Institute upon request.

5.3 Clients' failure to provide all of the documentation reasonably required by the Institute to fulfill its duties under this Agreement, or upon the Institute's determination that the Embryos are not suitable for storage.

5.4 Clients' failure to pay storage or other fees within one hundred eighty (180) days after their due date. **It is imperative that Client notify the Institute of any change in address or other contact information.** Institute will send written notice, via U.S. Mail, of non-payment to the Client at Client's latest address on file at Institute. If a notice is returned for insufficient address or similar reason, or if no written response is received from either the Client or the Client's authorized representative, it is agreed that this Agreement is terminated.

5.5 One Party notifies the other Party that it wishes to terminate this Agreement, for any reason or for no reason. The notice must be given in writing at least thirty (30) days prior to the termination date.

6. Effect of Termination. Upon termination of this Agreement for any reason:

6.1 All past due or current storage and other fees that have accrued through the date of termination will be payable by the Clients. If Clients have an annual or multi-year contract, the storage fee will be prorated over the storage period used based on the current monthly storage rate then in effect, an administrative fee applied, and the remainder, if any, will be refunded to the Clients.

6.2 If any Embryos are then in storage, Clients will make arrangements for transfer or other disposition of the Embryos, within thirty (30) days of the notice by either Party that this Agreement will terminate. Storage fees will continue to accrue until the Embryos are actually shipped or otherwise disposed of. The Institute will reasonably cooperate with the Clients in the transfer of the Embryos but will not be required to ship to another facility until Clients' outstanding balance, if any, has been paid in full.

6.3 If Embryos are then in storage and Clients do not make arrangements for transfer or other disposition of the Embryos within the specified period, or make payment of any outstanding balance when due, then the Embryos will be deemed "abandoned" by Clients, and automatically become the sole and exclusive property of the Institute, all right, title, claim and interest therein being transferred, conveyed and delivered to the Institute by the execution of this Agreement. Abandoned Embryos may be discarded or used or donated for scientific or research purposes but will not be used to cause a pregnancy.

7. Governing Law; Dispute Resolution. The validity, performance and all matters relating to the effect of this Agreement and any amendment hereto shall be governed by the laws of the Commonwealth of Virginia and the federal laws of United States of America, without regard to any conflict of law rules. Any dispute arising under this Agreement will be resolved through binding arbitration by JAMS under the JAMS Streamlined Arbitration Rules and Procedures, conducted in Fairfax County, Virginia, the location of the Institute, and in accordance with the laws of the Commonwealth of Virginia, including, but not limited to standard of care issues, causation issues, damage issues, qualification of experts and rules of evidence. The decision of the arbitrator(s) will be binding and final and shall be enforceable in any court of competent jurisdiction. Any arbitration costs shall be borne equally between the Institute and the Clients. If, notwithstanding the Parties' agreement to arbitrate, any dispute becomes subject to a judicial proceeding, the Parties agree to waive trial by jury.

8. Retention of Information; Confidentiality. Clients acknowledge that the Institute may keep information about Clients and Clients' storage account on file indefinitely. Any information obtained during the term of this Agreement that may identify Clients will remain confidential and will only be disclosed to a third party with Clients' written permission or as required by law. Clients understand that if Clients requests transfer of the Embryos, the Institute will also transfer the accompanying Documents to the recipient. Clients acknowledge that the Institute is regulated by governmental agencies, and that representatives of those agencies may have the legal authority to inspect Clients' records. Clients acknowledge that photographs or videotapes may be taken of them or the Embryos as a permanent record and for identification.

9. Termination of the Institute Business. If the Institute terminates the operation of its storage facility, it will provide written notice to the Clients, and Clients will have at least thirty (30) days to make arrangements to transfer the Embryos and associated Documents to another storage facility, or to use or dispose of the Embryos in another way. If the Institute has not received instructions from Clients within the specified period, then the Institute will transfer its obligations and the Embryos and Documents to a similar storage facility. The Institute will provide Clients with the name and address of the new facility.

10. Release, Limitation of Liability and Indemnification.

10.1 Risks of Handling and Storage. Clients acknowledge that there are risks associated with handling and storing the Embryos, including without limitation monitoring system malfunction or failure, tank failure, and/or breakage or damage to the embryo container(s) or tank(s), all of which may result in damage to or complete loss of the Embryos. Having been advised of these risks, Clients agree to assume all such risks.

10.2 General Release. Clients assume all risks associated with the condition of the Embryos (other than the risk of the Institute's negligence, which is addressed in Section 10.3), pregnancy and pregnancy outcomes and the physical, mental or other characteristics of any child or children born as a result of the use of the Embryos, and hereby release the Institute and its owners, directors, officers, employees, affiliated entities and other representatives, together with their predecessors, successors and assigns (collectively, the "Affiliates") from all responsibility or liability related thereto.

10.3 Limitation of Damages. Clients and the Institute agree that in the event of loss or destruction of the Embryos by any cause whatsoever, damages as a result thereof would be highly conjectural and speculative and would be difficult to determine. Accordingly, pursuant to § 8.7-204(2) of the Virginia uniform commercial code, the Clients agree that if the Embryos are lost or destroyed by virtue of negligence by the Institute, Clients will be entitled to damages in the amount equal to the storage charge for the particular year in which the loss occurs, plus \$400.00 per Embryo lost, up to an aggregate maximum amount of U.S. \$2,000.00.

10.4 Indemnification. Clients will indemnify, defend and hold harmless the Institute and the Affiliates from any and all third party claims, demands, causes of action, charges, costs, expenses, obligations, damages and similar losses asserted against the Institute and arising out of the Institute's receipt, storage, shipping, handling, thawing, disposition and release of, and any other action taken or not taken in accordance with the terms of this Agreement and affecting, the Embryos.

11. Notices. Any notices to be provided to Client hereunder shall be sent to the address set forth beneath Client's signature on this Agreement or such other address as Client may request in writing be used for that purpose. Notice to the Institute shall be sent to the address on the Institute website. Notices will be deemed given when sent first class US mail with postage prepaid. **It is Client's responsibility to notify the Institute of any change of address; the Institute has no obligation to "track down" a Client who has moved, even if a notice to Client is returned as undeliverable.**

12. Headings. The headings used in this Agreement are for convenience only and shall not be used to interpret the intent of the Parties.

13. Severability of Provisions. If any provision of this Agreement is found to be invalid or unenforceable by any court or arbitrator, that provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions hereof, unless such invalidity and unenforceability would defeat an essential purpose of this Agreement.

14. Entire Agreement; Modification. This Agreement supersedes all prior agreements among the Parties and constitutes the entire agreement among the Parties with regard to the subject matter hereof. This Agreement cannot be amended, modified or assigned except by a written instrument executed by the Parties (and notarized, where applicable).

15. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their legal representatives, successors and permitted assigns. This Agreement may not be assigned by Clients without the written consent of the Institute.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of \_\_\_\_\_, 20\_\_\_\_\_.

**CLIENT:**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

**JOINT OWNER:**

N/A

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

**The Institute will complete:**

The Institute Representative signs below agreeing to provide all services referred to in the agreement.

\_\_\_\_\_  
Institute Representative Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date