



This AGREEMENT, made between REPROTECH LLC (“Reprotech” and/or “RTL”), a Delaware limited liability company (hereinafter referred to as “the Company”), and the persons named below (“Clients” or “Signatory Clients”) regarding their cryopreserved embryo(s)/donor embryo(s) (“Embryo(s)” or “Reproductive Tissue Specimens” or “Specimens”).

## SECTION 1 — CLIENTS’ INFORMATION

*In this section Clients will fill in their personal information. Each client will supply their own information.*

### Client A

Legal First Name
Legal Last Name
<input type="checkbox"/> Yes <input type="checkbox"/> No -- My preferred Name is different from my Legal Name
Preferred Name
Email (Email will be used for billing & correspondence)
Date of Birth (mm/dd/yyyy)
Pronouns
Sex at Birth
Cell Phone Number
Home/Alt Phone Number
Social Security Number
Mailing Address
Mailing City
Mailing State
Mailing Zip
Mailing Country

### Client B

Client B’s Address is the same as Client A
Legal First Name
Last Name
<input type="checkbox"/> Yes <input type="checkbox"/> No -- My preferred Name is different from my Legal Name
Preferred Name
Email (Email will be used for billing & correspondence)

Date of Birth (mm/dd/yyyy)
Pronouns
Sex at Birth
Cell Phone Number
Home/Alt Phone Number
Social Security Number
Address
City
State
Zip
Country

## SECTION 2 — TISSUE STATUS

*In this section clients will answer questions about their tissue status. Clients A & B will answer the questions; Client A will complete 1-4; Client B will complete 1-2.*

1. Have you or your partner ever **had a positive test result** for HIV, Hepatitis B, Hepatitis C or any other disease?

<b>Client A</b> ___ No	<b>Client B</b> ___ No
___ Yes	___ Yes
If yes, please specify	If yes, please specify

2. Have you or your partner ever **had a positive test result, lived, or traveled** where the CDC has issued a **travel alert or warning** due to risk of disease transmission for Zika Virus, Ebola, or other disease?

<b>Client A</b> ___ No	<b>Client B</b> ___ No
___ Yes	___ Yes
If yes, please specify	If yes, please specify
Where	Where
When	When

3. Were donor eggs or donor semen used to create your embryos?

___ No
___ Yes
If yes, please specify tissue type(s)

4. Reason for Banking (select one)

**SECTION 3 — DIRECTIONS FOR DISPOSITION OF EMBRYOS IN CASE OF DEATH OF CLIENTS OR TERMINATION OF CLIENTS' RELATIONSHIP**

*In this section, Clients will make choices for what happens to Clients' Specimens if one or both Clients pass away while the embryo(s) are still in storage at the Company's facility. There is a section for choices if one of the two Clients pass away, and a section for choices if both Clients pass away simultaneously. Clients must make only one choice in each section.*

**In the event that none of the options provided below are fully executed, Clients direct then, upon the death or deaths of the Clients, the Embryo(s) will be discarded and not used for any other purpose.**

**Death of Client(s) is established by evidence deemed sufficient by the Company.** The Company will not proceed with Client Disposition Directions until this evidence is received and confirmed by the Company. It is the responsibility of the surviving Client or Clients' estate to contact the Company to provide this evidence.

**DEATH OF ONE CLIENT**

Client A will select one of the two following options by marking the selection, signing and dating below Clients' choice. Client B will sign and date Client B's agreement with the selection made by Client A.

**\_\_\_ Discard**

If one of the Clients dies, the Company will discard all stored embryo(s), and the embryo(s) will not be used for any other purpose. The term "discard" as used in this Agreement means that the Company will thaw and discard the stored Embryo(s) in a professional and ethical manner, as determined solely by the Company. Discarded Embryo(s) cannot and shall not be used for reproductive purposes by or on behalf of any person or persons.

<b>Client A Signature</b>	<b>Date</b>
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**\_\_\_\_\_ Sole Ownership of Embryo(s) to Surviving Client**

If one of the Clients dies, the Clients hereby acknowledge and agree that, upon the death of one of them, the surviving Client will have sole ownership and control over the Embryo(s). This means that the following Paragraphs i, ii, iii, and iv will apply. The Conditions of Release of Embryo(s) from Storage can be referenced in full in Section 8 – Terms and Conditions of Embryo Couple Cryostorage Agreement.

<b>Client A Signature</b>	Date
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- i. If the surviving Client elects to participate in an embryo donation program, all conditions of Paragraph E of the Conditions of Release of Embryo(s) from Storage must be met (other than the signature of the deceased Client).
- ii. If the surviving Client seeks to be the person who will carry the gestation of the embryo(s), all conditions of Paragraph A of the Conditions of Release of Embryo(s) from Storage must be met (other than the signature of the deceased Client).
- iii. If the surviving Client seeks the transfer of the embryo(s) in a gestational carrier (“Carrier”), all conditions of Paragraph B of the Conditions of Release of Embryo(s) from Storage must be met only by the surviving Client.
- iv. If the surviving Client dies without completing a new Embryo Cryostorage Agreement, the embryo(s) will be discarded. If the surviving Client has completed a new Embryo Cryostorage Agreement, the Company will comply with the Directions for Disposition section of that agreement.

**Client B**

My signature below confirms I have read and understood the directions for disposition choices defined above for the death of one Client. I approve the selection signed above by Client A and I agree to abide by the terms outlined in our choice. I confirm \_\_\_\_\_ as our choice for the death of one Client. (Client B must fill in number and description of the choice in the space above as confirmation of the selection choice signed by Client A.)

<b>Client B Signature</b>	Date
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**DEATH OF ALL SIGNATORY CLIENTS**

Client A will select one of the two following options by marking the selection, then signing and dating below Clients’ choice. Client B will sign and date Client B’s agreement with the selection made by Client A.

**\_\_\_\_\_ Discard**

If all Signatory Clients die at or about the same time, the Company will discard all stored embryo(s) and the embryo(s) are not to be used for any other purpose. The term “discard” as used in this Agreement means that the Company shall thaw and discard the stored Embryo(s) in a professional and ethical manner, as determined solely by the Company. Discarded Embryo(s) shall not be used for reproductive purposes by or on behalf of any person or persons.

<b>Client A Signature:</b>	Date:
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\_\_\_\_ **Transfer of Ownership to Designated Owner** (Please NOTE: Designated Owner must be eighteen (18) years of age or older and CANNOT be the client or their partner).

In the event all Signatory Clients die at or about the same time, Clients direct that upon their deaths, ownership and control of the embryo(s) shall be intended as follows:

We designate the following individual as the designated owner of our embryo(s) upon their execution of a new Embryo Cryostorage Agreement.

**Designated Owner Contact Information**

Name
Address
City
State
Zip
Phone Number
Email

Clients acknowledge and agree that the embryo(s), upon becoming the property of Designated Owner through their execution of an agreement with the Company, may be discarded or used for any allowed option below at the direction of Designated Owner.

If Designated Owner does not elect to take ownership of the embryo(s) or is unresponsive to the Company's contact or is unable to be located, the Company shall discard the embryo(s). The Company will follow established contact protocols using the most recent contact information for Clients' Designated Owner prior to discard. It is solely the responsibility of Clients to keep Clients' Designated Owner's contact information current.

**Clients must select at least one or more of the options below if a Designated Owner is identified above;**

\_\_\_\_ used for the purpose of procreation, including but not limited to transferring into a gestational carrier, pursuant to federal and state regulations and AATB Standards, not including donation to another party or agency;

\_\_\_\_ used for the therapeutic treatment of Designated Owner(s) or designee. Prior to release, all conditions of Paragraph D of the Conditions of Release of Embryos from Storage must be met; and/or

\_\_\_\_ donation to another party or agency to be used for the purpose of procreation pursuant to federal and state regulations and AATB Standards.

<b>Client A Signature:</b>	<b>Date:</b>
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**We wish to (select one of the two options below):**

**Confirm** that Reprotech will insure the specimens while in transit by selecting Specimen Shipping Liability Protection at the Thirty-Five Thousand (\$35,000) Dollar level as described in the Shipping Liability Protection Flyer. (Note the fees are subject to change.) We understand that this added liability protection is for actual procedure replacement costs up to Thirty-Five Thousand (\$35,000) Dollars and that it only covers the tissue against loss or loss of integrity due to an event that occurs during the shipment. By making this selection, we elect coverage under the Specimen Shipping Liability Protection for our tissue shipment and agree to the related fee. We understand that payment must be made according to the agreement's terms and is required before any claim can be filed.

**Decline** Specimen Shipping Liability Protection. In addition, we agree to hold RTL harmless for any claims for tissue loss, tissue integrity or the viability of reproductive tissue specimens due to an event that occurs during shipment.

### **NUMBER OF SHIPPING TANKS**

*In this section Clients will read information about shipping tank options for Clients' shipment, and Clients shall choose one or two tanks for shipment. If specimens are transferred by RTL Staff (in-person delivery), only one tank will be used for shipment and Client will not be billed for second tank, even if they choose the 2 tank option.*

**You must select ONLY ONE of the following two options for shipping tanks by placing a mark in the box adjacent to your choice.**

**1 Tank** We request one (1) shipping tank, and we understand and accept the potential risks of using only one (1) shipping tank. We decline the use of two (2) shipping tanks..

**2 Tanks** We request two (2) shipping tanks and we further request that our reproductive tissue specimens be divided between those two (2) tanks for additional safety during shipment. We understand and accept that shipping by way of two (2) tanks WILL INCUR ADDITIONAL SHIPPING AND HANDLING FEES as per storagefees.com. We understand and accept the potential risks of our containers of reproductive tissue specimens requiring additional handling to be divided between two (2) shipping tanks. We acknowledge this option is only available if the reproductive tissue specimens are cryopreserved in more than one container.

## **SECTION 5 — PAYMENT**

*In this section Clients will supply their credit card number for auto-pay enrollment and provide enrollment information for fertility benefits programs if applicable. Clients will also choose the billing interval for the first and continued storage billing. Specimens remain in storage to be billed at the established interval until the Conditions of Release of Embryo(s) from Storage have been executed.*

**Fertility Benefits Programs** (Reprotech will confirm participation and active)

Fertility Program Name

Account # (if applicable)

**Billing Interval Selection:** Clients indicate choice of **billing interval** for storage fees. Storage fees are prepaid and non-refundable. Visit storagefees.com for pricing.

Choose from the drop down below:

Interval Choices: QTR = Quarterly, YEAR = Annual, up to 10 Years

**Credit Card Account Information**

Account Number
Name on Card
Expiration Date
Billing Zip Code

**SECTION 6 — MEDICAL DATA RELEASE**

*This section confirms medical data release of Clients' medical data to the Company from the Facility where the specimens are currently in storage.*

By signing the agreement, We authorize the Facility listed below to release to Reprotech medical data, including but not limited to: personal biographical data, serology/virology testing data, and specimen processing/cryopreservation data. This includes information about human immunodeficiency virus-HIV, acquired immunodeficiency syndrome-AIDS, and AIDS related complex-ARC, as defined by Department of Community Health rules (1989 Public Act 174). We further understand that the failure to sign/submit this authorization or the cancellation of this authorization will not prevent me from receiving any treatment or benefits I am entitled to receive, provided this information is not required to determine if I am eligible to receive those treatments or benefits or to pay for services I receive.

**Address of Facility where specimens are currently located or will be created**

Name
Phone
Address
Address 2
City
State
Zip
Country

**SECTION 7 – CRYOSTORAGE AGREEMENT SIGNATURES**

**The signatures in the selection below affirm Clients have read and agree to be bound by all the Terms and Conditions of Embryo Couple Cryostorage Agreement contained herein.**

By signing below, Clients agree to with the following:

Clients hereby certify that all the information provided herein (and on any other accompanying or required documents) is correct, accurate, and complete to the best of their knowledge.

Clients affirm the dispositional choices as indicated above. Clients acknowledge and agree that if none of Clients' choices are available, the Company may discard their frozen embryos in its sole discretion. Clients further acknowledge and agree that they may update their disposition choices at any time by completing and signing a new Cryostorage Agreement with the Company.

Clients confirm acceptance of Reprotech's privacy and security practices ([rtlhipaa.com](http://rtlhipaa.com)) and affirm that all information provided on this document is true and accurate.

Clients confirm they have read and understood the Conditions of Release of Shipment of Embryo(s) to the Company and hereby authorize the Facility to release Client's embryos to the Company.

Clients affirm they have read and understood the policies and optional fees on the Specimen Shipping Liability Protection Flyer and hereby authorize the Facility listed above to release their Specimens to the Company.

Clients confirm they have reviewed and understand the following: before signing this cryostorage agreement, if they have any questions concerning the meaning and effect of this agreement relative to their legal rights concerning the storage of their cryopreserved reproductive specimens, that they should consult with independent legal counsel. Clients understand that The Company cannot advise clients of their legal rights with respect to the terms and conditions of cryostorage agreement.

Clients authorize the Facility to coordinate with Reprotech directly for both specimen selection and shipment logistics for transfers of specimens between Reprotech and the Facility.

Clients understand that in the event that employer-sponsored program coverage is denied that they are responsible for all storage fee payments.

Clients understand that their credit card authorization will remain in effect until it is cancelled in writing according to the terms of the Credit Card Authorization.

**By marking an X in the client section and signing below**, I acknowledge that I have read, understand, and accept the Terms and Conditions of Embryo Couple Cryostorage Agreement and agree to be bound by them. I confirm I have read, reviewed, and agreed to all items in the agreement and all included attachments. I understand that I shall receive a copy of the Terms and Conditions of Embryo Couple Cryostorage Agreement upon execution of this document.

<u>    </u> <b>Client A</b>	<u>    </u> <b>Client B</b>
Printed Name	Printed Name
Signature	Signature
Date Signed	Date Signed

## **SECTION 8 —TERMS AND CONDITIONS OF EMBRYO COUPLE CRYOSTORAGE AGREEMENT**

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*This section includes terms and conditions for tissue specimen storage, including storage fees and records, account in default, credit card authorization, conditions of release of embryos to ship to the company, embryo receipt and storage, potentially infectious specimens, conditions of release of embryos from storage, termination of account, the responsibilities and liabilities of the company, and additional terms.*

### **STORAGE FEES AND RECORDS**

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*This section describes how storage fees are billed and how records are kept.*

Clients agree to pay the storage fees for each Storage Period in advance of the Storage Period commencing. A "Storage Period" commences on the first day of the month of the Company's original receipt of Specimens for long-term storage through the last day of the month of the chosen billing interval. Storage Periods renew automatically at the same billing interval chosen for initial storage. All subsequent storage fees are due in full on the first day of the commencement of the new Storage Period ("Renewal Date"). Unused Storage Fees are non-refundable. Clients may revise their Storage Billing Interval within thirty (30) days of the renewal date by contacting the Company via phone, email, or in writing.

The Company, in its sole discretion, reserves the right to adjust storage fees. These adjustments may be due to market changes or any other reason as determined by the Company. Current storage fees are maintained on the Company's web site.

Clients shall keep all contact information, including addresses, telephone numbers, and email addresses, current and up to date with the Company. It is solely the responsibility of Clients to update all contact information in writing to the Company within thirty (30) days of any change in contact information. This contact information will be used for billing purposes and any other matter requiring notice to Clients. The Company shall keep Clients' contact information and any other records relating to the subject of this Agreement on file.

### **ACCOUNT IN DEFAULT**

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*This section describes what happens if an account is not paid in full by the due date of an invoice. It includes the rights of the Company for collections of accounts in default, and final discard of Specimens for default accounts.*

Clients' account is in "default" if, at any time after sixty (60) days from the first day of the commencement of any Storage Period, the Company has not received payment in full for all amounts due to the Company by Clients.

In the event of default, the Company may, at its sole discretion, refer the Clients' account to any attorney or collection agency for collection. Clients agree to pay all costs of such collection, including but not limited to, any reasonable fee charged by the collection agency and reasonable attorney's fees.

If Clients' account remains in default at the close of the Company's established Account Default protocols, the Company will send a final notice, advising Clients of the final due date to pay the storage fee in full. Notwithstanding the foregoing, this final notice shall include emailed notification and mailed contact notification that is returned unopened.

If, at the end of the Company's established Account Default Protocols, payment in full is not made by the due date stated in the notice, and/or if Clients have not responded, in writing, to communications from the Company, Clients agree to release ownership and custody of the Embryo(s) to the Company. Clients remain responsible for all delinquent storage and collection fees, including any storage or collection fees that continue to accrue, regardless of release of ownership and custody.

The Company will discard all stored Embryo(s) whose ownership and custody has been transferred solely to the Company. The term "discard" as used in this Agreement means the Company will thaw and discard the stored Embryo(s) in a professional and ethical manner, as determined solely by the Company. Discarded Embryo(s) cannot and will not be used for reproductive purposes by or on behalf of any person or persons.

## **CREDIT CARD AUTHORIZATION**

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By signing this agreement, Clients agree they are enrolling in Reprotech's autopay program. They agree to notify Reprotech LLC in writing of any changes to their credit card account information or to terminate this authorization at least 15 days prior to the next billing date. Clients certify they are the authorized user of this credit card/bank account and will not dispute the scheduled transactions with the bank or credit card company; so long as the transactions correspond to the terms indicated on this card authorization and Cryostorage Agreement.

## **CONDITIONS OF RELEASE OF SHIPMENT OF EMBRYO(S) TO THE COMPANY**

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*This section outlines all the terms and conditions for the release, transfer, and shipping of specimens from the physician/clinic to the Company.*

It is understood that the Facility acknowledges and agrees with the request to transfer Client's Embryo(s) to the Company and will assist with this transfer. Furthermore, it is recognized by Clients that events beyond the control of the Company and the Facility may occur during transfer and it is understood by all parties that neither the Facility nor the Company are responsible for any losses in connection with or related to the shipment of the Embryo(s).

Clients hereby authorize the transfer of their Embryo(s) from the Facility to the Company for continued long-term storage.

Clients to hold RTL harmless for any claims for damage to the Embryo(s) arising from acts or omissions prior to the Company's possession of such specimens.

Clients agree that the Company shall not be liable for errors, including specimen labeling errors, which occur prior to the Company's acceptance of the Embryo(s) for storage.

## **EMBRYO RECEIPT AND STORAGE**

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*This section describes how specimens are transferred to the Company.*

The Company shall receive Clients' Embryo(s), which have already been cryopreserved, from Clients' physician and/or clinic (the "Facility" or "Clinic") for long-term storage with the assistance of Clients.

All specimen transfers for long-term storage will be in accordance with state and federal regulations and the procedures for identification and testing established by the Company and set forth on the Company's website. Testing and screening includes, but is not limited to, testing for sexually transmitted diseases. Any Specimens received that are missing all or some test results may be subject to higher fees and will require additional consents when Clients are ready to ship their Specimens. All procedures established by the Company may be modified at any time and in the sole discretion of the Company to reflect changes in industry practices, laws, or regulations.

Embryo(s) will remain in storage at the Company until this Agreement is terminated as outlined below in paragraph Termination of Agreement.

## **IF APPLICABLE—STORAGE OF POTENTIALLY INFECTIOUS SPECIMENS**

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*This section specifically outlines storage and fee information for clients who, they themselves or their donor gamete providers, have undergone testing and/or screening that showed a potential for an infectious disease.*

The storage of Embryo(s) from potentially infectious clients requires certain additional safeguards and procedures. Clients acknowledges and agrees that their Specimens will be stored in a separate vapor storage tank which is designated for potentially infectious specimens only as follows:

Specimens from Clients with potentially infectious conditions for any relevant communicable disease shall be stored in a separate storage tank and Clients specimens will be physically segregated by use of canisters specific to their reactive test or risk.

Clients further acknowledges and agrees that because of additional required precautions, storage fees and shipping fees may be higher than the fees charged to clients whose specimens do not have a potentially infectious risk. Clients acknowledge and agree that all shipping fees must be pre-paid by Clients prior to any shipment and that the shipping fees are non-refundable. In addition, Clients acknowledge and agree that the results of any testing for infectious

diseases will be disclosed to the receiving physician and/or clinic and the person who will carry the gestation of the embryo ("Recipient") as part of an informed consent procedure before the specimens are used.

## **CONDITIONS OF RELEASE OF EMBRYO(S) FROM STORAGE**

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*This section outlines the release criteria to allow the Company to send Embryo(s) to another facility. It outlines these conditions for all Clients, alive or deceased. The release criteria are dependent on who will carry the gestation of the embryo, and therefore each scenario is defined separately.*

### **During the Lifetime of Clients**

Release of embryo(s) from storage may occur:

- (A) for transfer in the Client;
- (B) for transfer in a gestational carrier designated by Clients;
- (C) for research use;
- (D) for therapeutic use of embryos; or
- (E) for transfer in another person, through embryo donation.

All of the aforementioned releases are contingent upon all storage fees and any additional applicable fees being paid in full. The resulting gestation can be carried by Client or Clients' designated gestational carrier or surrogate.

**A. If the gestation of the embryo(s) is carried by Client, or the specimens are being sent for continued storage at another long-term storage facility,** the embryo(s) will be released:

- i. to a licensed physician or long-term storage facility only; and
- ii. upon the express notarized authorization of all Signatory Clients; and
- iii. upon the authorization of the Carrier/Recipient's clinic; and
- iv. upon completion of serology/virology tests required by the Company and/or relevant state or federal law.

**B. If the gestation of the embryo(s) is carried by Clients' designated gestational carrier or surrogate,** the embryo(s) will be released:

- i. to a licensed physician only; and
- ii. upon the express notarized authorization of all Signatory Clients; and
- iii. upon the authorization of the Carrier/Recipient's clinic; and
- iv. upon receipt of the following documentation for each gamete provider:
  - a. for all gametes retrieved on or after May 25, 2005, documentation of compliance with all FDA regulations, and
  - b. for all gametes retrieved before May 25, 2005, a Special Circumstance Release Documentation executed by licensed physician as documentation that compliance with all FDA regulations is not required.

**C. Use of embryo(s) for research,** the embryo(s) will be released:

- i. to a facility selected by Clients from a list of Company-approved research facilities, and
- ii. upon the completion of required Company's and research facility's forms/consents; and
- iii. only if the embryo(s) WILL NOT be used to create an offspring.

**D. Therapeutic Use of Embryos (i.e., for the treatment or curing of disease),** the embryo(s) will be released:

- i. to a facility identified by either Clients or a designated owner as documented by execution of a form and/or consent provided by the Company; and
- ii. only if the embryo(s) WILL NOT be used to create an offspring.

**E. In all other cases, the embryo(s) are donor embryo(s) and will be released:**

- i. only to a licensed physician, and
- ii. upon the express notarized authorization of all Signatory Clients, and

- iii. only with documentation of completion of the testing and screening for donor reproductive tissue for both gamete providers, whether the tissue is tissue retrieved from Clients or the egg and/or sperm donors; or
- iv. with confirmation from the receiving facility to accept the Specimens in quarantine.

**After the death of Clients (as evidenced by receipt of a certified copy of the death certificate or otherwise established by evidence deemed sufficient by the Company).**

If the Recipient is the surviving spouse or designated owner identified in this Agreement, the Embryo(s) will be released:

- i. After the surviving spouse or designated owner fully executes a subsequent Cryostorage Agreement for continued storage of Embryo(s), and
- ii. only to a licensed physician who has authorized the shipment, and
- iii. upon the express notarized authorization of the surviving spouse or designated owner and the Carrier/Recipient's physician as documented by execution of all consents required by the Company.

## **TERMINATION OF AGREEMENT**

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*This section describes the exact terms and conditions required to close and/or terminate this Agreement and storage for Embryo(s) with the Company.*

This Agreement will terminate and the Company's responsibilities for storage of Embryo(s) hereunder will cease in the following instances:

- 1) upon the release of all Embryo(s) stored by the Company in accordance with the Conditions of Release; or
- 2) upon the disposition of all Embryo(s) stored by the Company either on the basis of a Default outlined under the Account in Default section contained in this Agreement herein or authorized by the Directions for Disposition upon Death of Clients section contained in this Agreement; or
- 3) upon the notarized execution of the Company's separate Termination of Account agreement and final disposition forms.

## **RESPONSIBILITIES AND LIABILITIES OF THE COMPANY**

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*This section describes the limitations of the responsibilities of the Company regarding the storage of cryopreserved specimens and defines the liabilities of the Company. In addition, it outlines Clients' recognition of these limitations and responsibilities.*

Clients acknowledges and agrees that they have been fully advised on the state of the art of cryopreservation of embryo(s) and understands that there can be no assurance or guarantee of normal embryonic development. In addition, Clients acknowledge and agree that the Company verifies quantity and labeling of embryo containers, but the Company does not make any guarantees as to the contents of embryo containers. The Company can only provide data reported by the originating clinic as to the quantity and/or quality of the Embryos held in a specific container. Clients acknowledge and agree that the viability of the Embryo(s) and the results from subsequent implantation depend almost entirely upon the inherent quality of the Clients' semen and egg(s) and resulting embryo(s) and the effectiveness of the cryopreservation procedures of the Clinic.

Accordingly, Clients acknowledge and agree that the Company's responsibility and liability are limited hereunder solely to the adequate cryostorage of embryos consistent with the state of the art at the date of entering into this Agreement. Clients agree to hold the Company harmless for any damage sustained while the embryo(s) are not in the possession and control of the Company.

Limitation of Liability. Client agrees that in the event of loss or destruction of the Specimens by any reason whatsoever, damages as a result thereof would be highly conjectural and speculative and would be difficult to determine. Accordingly, pursuant to 5A Del. C. 1953, §7-204 of the Delaware Uniform Commercial Code, Client agrees that in the event that one or more of the Specimens is lost or destroyed by virtue of negligence of the Company, the total liability of the Company for failure to meet any of its responsibilities to Clients will be limited to the prorated cost of the procedure that generated the embryo(s). The parties acknowledge and agree that any claims arising out of this Agreement will be brought in the state courts of Delaware. Below is an example of how the proration cost would work for reference:

Ten (10) embryos are produced. Of those ten (10), six (6) were used and four (4) were compromised due to gross negligence while in the custody of the Company, resulting in the loss or damage of the remaining

embryos at the Company. In this scenario, the Company's liability would be limited to forty (40) percent of the cost of the procedure that generated the embryos.

In the event the Company ceases the operation of its storage facility, it may assign and transfer its obligations hereunder to the Embryo(s) held on behalf of Clients to a similar storage facility thirty (30) days after written notice to Clients at their last known address.

## **ARBITRATION**

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*This section outlines arbitration terms for the Agreement.*

Client and Company agree that any dispute or controversy arising out of, relating to, or in connection with this Agreement or the transactions contemplated hereby (a "Dispute") shall be arbitrated pursuant to the Delaware Rapid Arbitration Act, 10 Del. C. § 5801, et seq. (the "DRAA"). The parties agree to take all steps necessary or advisable to submit any Dispute that cannot be resolved by the parties for arbitration under the DRAA (the "Arbitration") and each party represents and warrants that it is not a "consumer" as such term is defined in 6 Del. C. § 2731.

By executing this Agreement, (i) each party hereby waives, and acknowledges and agrees that it shall be deemed to have waived, any objection to the application of the procedures set forth in the DRAA, (ii) consents to the procedures set forth in the DRAA, and (iii) acknowledges and agrees that it has chosen freely to waive the matters set forth in subsections (b) and (c) of Section 5803 of the DRAA. IN CONNECTION THEREWITH, EACH PARTY UNDERSTANDS AND AGREES THAT IT SHALL RAISE NO OBJECTION TO THE SUBMISSION OF THE DISPUTE TO ARBITRATION IN ACCORDANCE WITH THIS SECTION AND THAT IT WAIVES ANY RIGHT TO LAY CLAIM TO JURISDICTION IN ANY VENUE AND ANY AND ALL RIGHTS TO HAVE THE DISPUTE DECIDED BY A JURY.

This Arbitration provision shall be governed by the laws of the State of Delaware, without regard to principles, conflicts of law, and regardless of whether the laws of Delaware govern the parties' other rights, remedies, liabilities, and powers and duties.

## **INDEMNIFICATION**

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*This section outlines indemnification terms for the Agreement.*

Client acknowledges and agrees that they will indemnify and hold the Company harmless from any loss and/or expenses incurred in connection with the defense or payment of any claim by any other party relating to the subject of this Agreement. This Agreement shall be binding upon Client and their assignees, heirs, executors, and administrators.