

# EMORY

## REPRODUCTIVE CENTER

Of The Emory Clinic, Inc.  
550 Peachtree St. NE, Suite 1800, Atlanta GA 30308

## Disposition of Embryos Agreement and Declaration of Intent

Date: \_\_\_\_\_

### Intended Parent A:

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ ID# \_\_\_\_\_  
Email: \_\_\_\_\_ Cell phone: \_\_\_\_\_

### Intended Parent B:

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ ID # \_\_\_\_\_  
Email: \_\_\_\_\_ Cell phone: \_\_\_\_\_

This "Disposition of Embryos, Agreement and Declaration of Intent," ("Agreement") is effective as of the \_\_\_\_ day of \_\_\_\_, 20\_\_ (the Effective Date) and is entered into between the Intended Parent(s) named above (collectively "We/I" or "You" or "Yours" or individually "Intended Parent A" or "Intended Parent B") and The Emory Clinic, Inc. by and through its EMORY REPRODUCTIVE CENTER (the "Clinic") to document consent, decisions, releases and agreements about what will be done with any frozen pre-implantation IVF embryos ("Embryos") that remain after the Intended Parents' currently planned implantation treatment cycle ("embryo disposition").

This Agreement presents document contemplates several situations in which You will make choices regarding disposing of any frozen embryos. As reproductive medicine is rapidly evolving legally and medically, the Clinic cannot guarantee what the available or acceptable disposal choices will be at any future date. You may wish to consult with a lawyer, together or individually, for each of You to understand your legal rights and any law that may apply to this Agreement or to your disposition choices.

**If any choice You select is not available in the future for any reason, by signing this Agreement You are authorizing the Clinic to thaw and discard any currently frozen embryos under this Agreement.**

**This document applies to your embryo while it is stored on site at the Emory Reproductive Center. If your embryos are transferred off-site, the receiving clinic or storage facility will have its own consents and policies.**

## Situations Triggering a Disposition Choice

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Situations may arise when You cannot use the Embryos as You initially intended. These possible situations include:

1. **Death of Intended Parent A.** If Intended Parent A dies before using all the Embryos.
2. **Death of Intended Parent B.** If Intended Parent B dies before using all the Embryos.
3. **Simultaneous death of Intended Parent A and Intended Parent B.** If Intended Parents A and B die at the same time and Embryos remain in storage.
4. **Divorce or Dissolution of the Intended Parents' relationship.** If the Intended Parents are legally divorced or dissolve their non-marital relationship and Embryos remain in storage.

NOTE: If there is any future question about disposing of Embryos in the case of a divorce or dissolution of relationship, the Clinic may require a valid, final, non-appealable court decree by a court of competent jurisdiction and/or settlement agreement (as determined in the Clinic's sole discretion), which specifically tells the Clinic how to make a final disposition of the Embryos.

5. **IVF Treatment Ends (for the named Intended Parent(s)).** If the Intended Parent(s)' treatment at the Clinic ends for any reason, including both agree to stop fertility treatment as a couple, age limitation or freezing limitation is reached, and Embryos remain in storage.

## Disposition Choices

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The following describes the available disposition choices:

1. **Give control of the Embryos to the other Intended Parent.** This choice means that the named Intended Parent will have complete control over the Embryos, for any purpose, including to achieve a pregnancy for themselves (in any person), donation to achieve pregnancy for someone else, donation for medical research or training, or destruction and discard. This may mean keeping the Embryos in storage, and requires the named Intended Parent complete a new "Disposition of Embryos Agreement" and be responsible for all related financial obligations regarding the Embryos.
2. **Discard the Embryos.** This choice means that all embryos will be permanently disposed of and will not result in the birth of a child.
3. **Donate the Embryos for medical research purposes.** This option includes possible embryonic stem cell research (where allowed) and clinical training of embryology staff. Embryos are ultimately destroyed and will not result in the birth of a child. See further information in the section below on *Donation of Frozen Embryos for Research Purposes*.
4. **Donate the Embryos for clinical training purposes.** This option allows the use of embryos for clinical training of embryology and other laboratory staff as allowed by applicable law. Embryos are ultimately destroyed and will not result in the birth of a child.
5. **Donate the Embryos to a specific person or couple so they can try to have a child.** This choice may be carried out as a Directed Donation, defined below. If You choose a Directed Donation, You will enter into a legal agreement between You and the recipient(s) and provide the Clinic with a

LEGAL CLEARANCE LETTER from a 3<sup>rd</sup> PARTY Assisted Reproductive Attorney ("ART"), stating that a contract for the Directed Donation has been executed by You and the recipient with the assistance of independent ART experienced legal counsel for each party. This choice may mean You need repeat infectious disease testing and screening due to federal and/or state requirements, or undergo psychological counseling. *(Also, see the Note below on donating embryos created with donor gametes as this may impact your disposition choice.)*

**Directed Donation** (known) – Donating the embryos to a person or couple that You choose (someone that is known to You) to try to have a child. This choice requires You to name the person or couple and provide specific contact information.

**Dispositional Choices:** COMPLETE THE FOLLOWING INFORMATION BY INDICATING YOUR DISPOSITION CHOICE NEXT TO EACH SITUATION IN THE TABLE BELOW.

By completing the following table with my initials and signing this Agreement (below) I understand and agree that:

1. Both Intended Parents must initial the same box for the choice to be valid;
2. **YOU SPECIFICALLY AUTHORIZE THE CLINIC TO DISCARD THE EMBRYOS IF:**
  - A. **YOUR SELECTED DISPOSITION CHOICE IS NOT AVAILABLE OR BECOMES NOT AVAILABLE IN THE FUTURE,**
  - B. **IN THE CLINIC'S SOLE DISCRETION THE DISPOSITION CHOICE IS NOT PRACTICAL TO IMPLEMENT,**
  - C. **YOU DO NOT PAY ALL STORAGE OR ADMINISTRATIVE FEES RELATED TO THE EMBRYOS,**
  - D. **IF BOTH INTENDED PARENTS FAIL TO INITIAL THE SAME CHOICE FOR DISPOSITION RENDERING THE CHOICE INVALID, OR**
  - E. **YOU FAIL IN ANY OTHER WAY TO PRESERVE THE DISPOSITION CHOICE YOU MADE IN THIS AGREEMENT.**
3. Subject to any agreement with any donor, coordinating program, bank or entity, You are free to jointly revise the choices You made here at any time by each of You completing, dating and signing another Agreement, having it notarized, and delivering it to the Clinic ("SUBSEQUENT AGREEMENT"). This Agreement supercedes all prior agreements involving the same or similar subject matter entered between You and the Clinic. All Subsequent Agreements supercede this Agreement; and,
4. Unless You have provided the Clinic **with a more recent Agreement** regarding the Embryos, that has been properly and jointly signed by each of You, and notarized, the Clinic is authorized to act on the choice(s) You select below.

Situation	Decision of Intended Parent(s)	Initials	
	<i><b>Initial</b> only <b>one choice</b> per scenario. For a choice to be valid both Intended Parents (if applicable) must initial the same choice</i>	<i>Intended Parent A</i>	<i>Intended Parent B</i>
<b>Death of Intended Parent A</b>	1. Give control of the Embryos to Intended Parent B (if applicable)		
	2. Discard the Embryos		
	3. Donate the Embryos for medical research		
	4. Donate the Embryos for clinical training.		
	5. Donate to a named individual for procreation. (Directed Donation)** REQUIRES LEGAL CLEARANCE LETTER from a 3 <sup>rd</sup> PARTY ART ATTORNEY, that contract has been executed by the parties with the assistance of independent ART experienced legal counsel for each party		
<b>Death of Intended Parent B</b>	1. Give control of the Embryos to Intended Parent B (if applicable)		
	2. Discard the Embryos		
	3. Donate the Embryos for medical research		
	4. Donate the Embryos for clinical training.		
	5. Donate to a named individual for procreation. (Directed Donation)** REQUIRES LEGAL CLEARANCE LETTER from a 3 <sup>rd</sup> PARTY ART ATTORNEY, that contract has been executed by the parties with the assistance of independent ART experienced legal counsel for each party		
<b>Death of both Intended Parents (at same time)</b>	1. Discard the Embryos		
	2. Donate the Embryos for medical research		
	3. Donate the Embryos for clinical training.		
	4. Donate to a named individual for procreation. (Directed Donation)** REQUIRES LEGAL CLEARANCE LETTER from a 3 <sup>rd</sup> PARTY ART ATTORNEY, that contract has been executed by the parties with the assistance of independent ART experienced legal counsel for each party		
<b>Divorce or Dissolution of Intended Parents' Relationship</b>	1. Give control of the Embryos to Intended Parent [insert name]		
	2. Discard the Embryos		
	3. Donate the Embryos for medical research		
	4. Donate the Embryos for clinical training.		
	5. Donate to a named individual for procreation. (Directed Donation)** REQUIRES LEGAL CLEARANCE LETTER from a 3 <sup>rd</sup> PARTY ART ATTORNEY, that contract has been executed by the parties with the assistance of independent ART experienced legal counsel for each party		
<b>Intended Parent(s)' Treatment ended</b>	1. Discard the Embryos		
	2. Donate the Embryos for medical research		
	3. Donate the Embryos for clinical training		
	4. Donate to a named individual for procreation. (Directed Donation)** REQUIRES LEGAL CLEARANCE LETTER from a 3 <sup>rd</sup> PARTY ART ATTORNEY, that contract has been executed by the parties with the assistance of independent ART experienced legal counsel for each party		

*\*\*Requires a legal clearance letter or separate legal agreement and completion of pre-screening and testing as may be required by the FDA or other agencies.*

## Additional Information on Disposition Choices

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### *Donation of Frozen Gametes/Embryos to Another Person/Couple*

If You selected the option to “donate to a specific person/couple (Directed Donation),” You are both giving up any and all rights in and responsibilities for the embryos and any child that may be born from the embryos. Before and during the donation process, You may need to complete additional laboratory testing and documents before this choice can be effective. This may include additional costs to You. Donating embryos to a specific person/couple gives them complete control over the use of the embryos. You may want to seek legal and mental health counseling to help You better understand your position regarding this choice of donating embryos.

If You wish to donate embryo(s) to a specific person or couple, You must complete the information below, and continue to provide the Clinic with updated contact information as changes occur. **You must also complete a separate legal agreement and provide a separate legal clearance letter stating that the contract has been executed by the You and the recipient with the assistance of independent ART experienced legal counsel for each party.**

You wish to donate the frozen gametes/embryos to the person, or couple (“Recipient(s)”) named below. You understand that this means keeping the gametes/embryos in storage either at the Clinic or transfer to a long-term storage facility and requires both 1) payment by You or the named Recipients of all storage fees and other payments due the Clinic, and 2) the Clinic’s ability to carry out this choice. You also understand that any future disposition of any unused embryos is under the sole control of the recipient(s) that he, she, or they wish.

#### *Intended Recipient(s)*

Name(s): \_\_\_\_\_  
\_\_\_\_\_

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

Cell Phone(s): (\_\_\_\_) \_\_\_\_\_  
(\_\_\_\_) \_\_\_\_\_

Email(s): \_\_\_\_\_  
\_\_\_\_\_

**Note for Embryos created with donated gametes:** If Your Embryos were created with gametes (eggs and/or sperm) from a third-party donor, Your choice to donate these embryos to another couple or individual must be consistent with all applicable agreements made with, or written authorizations from, the gamete donor(s) and/or gamete bank. If donor gametes were used, the gamete donor must give or have given prior written authorization to You or to any gamete program or bank. This authorization must allow You to donate the embryos on after Your use. Without this prior written authorization, the Embryos will be discarded.

**Note for Embryos donated for medical research:** If You select this option, be aware of the following:

- Donating embryo(s) for research may not be possible or may be restricted by law. While efforts will be made to abide by your wishes, no guarantees can be given that embryo(s) will be used for research or donated to another couple. In these instances, if after 5 years no recipient or research project can be found, or your embryos are not eligible, your embryo(s) will be destroyed and discarded by the lab in accordance with laboratory procedures and applicable laws.
- The embryos may be used to derive human pluripotent stem cells for research and the cells may be used, at some future time, for human transplantation research.
- All identifiers associated with the embryos will be removed prior to the derivation of human pluripotent stem cells.
- Donors to research will not receive any information about subsequent testing on the embryo or the derived human pluripotent cells.
- Derived cells or cell lines, with all identifiers removed, may be kept for many years.
- It is possible the donated material may have commercial potential, but the donor will receive no financial or other benefit from any future commercial development.
- Human pluripotent stem cell research is not intended to provide direct medical benefit to the embryo donor.
- These embryos will not be transferred to a woman's uterus, nor will the embryos survive the human pluripotent stem cell derivation process. Embryos will be handled respectfully, as is appropriate for all human tissue used in research.
- If the donated embryos were formed with gametes (eggs or sperm) from someone other than You, the gamete donor(s) may be required to provide a signed, written consent for use of the resulting embryos for research purposes.

## Nonpayment of Frozen Embryo Storage Fees

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Intended parent(s) who have frozen embryo(s) must pay fees associated with the storage of their embryos in accordance with the Clinic's storage and payment protocol as well as remain in contact with the Clinic on at least an annual basis to inform the Clinic of their wishes. **This section applies to embryos that are stored onsite at The Emory Reproductive Center.**

In situations where the Intended Parents fail to pay fees for and associated with embryo storage for a period of 5 years and the Clinic has made reasonable efforts to contact Intended Parent(s) in accordance with its established protocols without success, or the Clinic has reached one or both IPs who have failed to pay such fees.

You expressly understand, agree, and authorize the Clinic to discard our Embryo(s) in accordance with its normal laboratory procedures and applicable law without further notice to, or consent required by, You. In such circumstances, You also acknowledge that You relinquish (give up) any and all claims or rights to the Embryos or to any additional notice from the Clinic as to its ultimate disposition of the Embryos.

## Time-Limited Storage of Embryos

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The Clinic will store frozen embryos on-site for a period of 1 year, *or until the younger of You reaches the age of 52 whichever comes first*. After that time, You must elect one of the options, below **(check one box only)**:

- ☐ Transfer to a storage facility at your expense and risk. You understand You will be required to execute documents as provided by or approved by the Clinic and any storage facility.

- ☐ Donate the Embryos for medical research purposes. This option includes possible embryonic stem cell research (where allowed) and clinical training of embryology staff. Embryos are ultimately destroyed and will not result in the birth of a child. See further information in the section above on *Donation of Frozen Embryos for Research Purposes*, or
- ☐ Donate the Embryos for clinical training purposes. This option allows the use of embryos for clinical training of embryology and other laboratory staff as allowed by applicable law. Embryos are ultimately destroyed and will not result in the birth of a child, or
- ☐ Discard the frozen embryos
- Should You wish to make any other dispositional choice, You will be required to jointly execute a new dispositional agreement and be current in all storage and related fees.

## Age-Limited Storage of Embryos

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The Clinic will not transfer embryos to any woman recipient, who is beyond age 52 years, to produce a pregnancy. When either both Intended Parents, or the Intended Parent planning to carry the pregnancy reaches age 53, You must elect one of the following options **(check one box only)**:

- ☐ Transfer embryos into one of us that has not reached that age, or into a gestational carrier, or
- ☐ Donate the Embryos for medical research purposes. This option includes possible embryonic stem cell research (where allowed) and clinical training of embryology staff. Embryos are ultimately destroyed and will not result in the birth of a child. See further information in the section above on *Donation of Frozen Embryos for Research Purposes*, or
- ☐ Award for research, including but not limited to embryonic stem cell research, which may result in the destruction of the frozen embryos, but will not result in the birth of a child, or
- ☐ Donate the Embryos for clinical training purposes. This option allows the use of embryos for clinical training of embryology and other laboratory staff as allowed by applicable law. Embryos are ultimately destroyed and will not result in the birth of a child, or
- ☐ Discard the embryos, or
- ☐ Transfer to a storage facility at my/our expense and risks. We/I understand We/I will be required to execute documents as provided by, or approved by, the Clinic and any storage facility.

## Legal Considerations and Legal Counsel

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The law regarding embryo freezing, subsequent thaw and use, and the parent-child status of any resulting child(ren), including but not limited to children born following the death, divorce, or separation of any Intended Parent and their spouse/partner is, or may be, unsettled in the state in which either Intended Parent, or any donor or ultimate recipient(s) currently or in the future lives, or the state in which the Clinic is located.

You acknowledge that the Clinic has not given You legal advice, that You are not relying on the Clinic to give You any legal advice. You have been informed that You may wish to individually and/or jointly consult a lawyer(s) experienced in the areas of family and reproductive law and embryo freezing and disposition if You have any questions or concerns about the present or future status of your Embryos, your individual or joint access to them, your individual or joint parental status as to any resulting child, or about any other aspect of this Agreement.

Your wills and any other estate planning documents should also include your wishes on disposing of any embryos and be consistent with this Agreement or any subsequent Agreement. Unless the Clinic is advised of any changes to the disposition selections You made in this Agreement, the Clinic may act upon this Agreement. Any inconsistencies may need to be resolved by a court of competent jurisdiction.

## CONSENT

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You understand the risks of embryo disposition and wish to proceed as designated by You in this Agreement. You have read this Agreement and have thoroughly reviewed the written information Emory has provided You. You have had the opportunity to ask any questions and have had these questions answered to Your satisfaction. You understand and accept the conditions, risks and limitations of embryo disposition as described herein. You therefore voluntarily consent and agree to disposition of the embryos as designated herein.

## RELEASE

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You agree to absolve, release, indemnify, protect and hold harmless Emory Healthcare and the Emory Clinic, Inc., its officers, directors, agents and employees from any and all liability for any adverse outcome, however remote, arising from embryo disposition including but not limited to the risks outlined herein related to the disposition, and transportation of embryos. Additionally, You release, discharge and agree to indemnify Emory Healthcare and The Emory Clinic, Inc. its officers, directors, agents and employees from any and all liability in connection with subsequent disputes arising between Intended Parents A and B or any third party in connection with the control and/or disposition of embryos.

### **RELEASE and RISK of SHIPPING to ANOTHER FACILITY**

The Clinic does not offer long-term embryo storage, and will ship your embryo to another facility after a period. In the event the embryos are lost, damaged, or destroyed during transport, are otherwise unavailable for further treatment or implantation, or fail to result in a pregnancy, You hereby agree not to sue and agree to hold harmless, the Clinic, Emory Healthcare, Inc. and its affiliate hospitals and any of the Clinic's and Emory Healthcare, Inc.'s physicians, employees, or agents; except in the event of willful misconduct or gross negligence on the part of the Clinic, Emory Healthcare, Inc. or any of the Clinic's or Emory Healthcare, Inc. physicians, employees, or agents.

**Your signature below certifies the disposition choices You have made above. You understand that You can change your choices in the future, but must do so by mutual and written agreement, properly signed, notarized, and delivered as outlined above. You also understand, acknowledge and agree that in the event none of our elected choices is available, the Clinic is authorized by each of You, without further notice from or consent by You, to and discard your frozen embryos.**



**X**

**Intended Parent A Signature**

Date

Intended Parent A Name

Date of Birth

Notary Public (if signed out of office)

Sworn and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Signature

Date

**X**

**Intended Parent B Signature**

Date

Intended Parent B Name

Date of Birth

Notary Public (if signed out of office)

Sworn and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Signature

Date

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If signed in the Clinic, a Notary Public signature is not required

Clinic Witness (must be employee of Clinic and at least 18 years of age)

Witness Name:

Witness Signature:

Date: