



# Kiran Fertility Services Pvt Ltd

## Surrogacy in Kenya

THIS SURROGACY AGREEMENT is made and entered into as of \_\_\_ day of \_\_\_\_\_, by and among Mrs. / Miss.

\_\_\_\_\_ (herein referred to as "Surrogate") and Mr.

(Herein referred to as Intended Parent/ Genetic Father) and Miss / Mrs.

(Genetic Mother)

residing at : \_\_\_\_\_

\_\_\_\_\_ and Kiran Fertility Services private limited represented by Managing

Director Dr. Samit Sekhar located at 6-2-966/4, Street Number 10, Khairatabad, Hyderabad, India.

### RECITALS

- a. **Genetic Parents, Mrs.and Mr.** \_\_\_\_\_ aged \_\_\_ &.....years, desires to have child or children biologically related to him which has not been possible. In these circumstances, the **Genetic Father and Genetic Mother** have decided to have a child through designated surrogate mother under the terms of this agreement.
- b. **Surrogate** \_\_\_\_\_ is at least twenty-one (21) years of age, citizen of the country of Mombasa, Kenya; she is capable of conceiving and bearing a healthy child. **Surrogate** is \_\_\_years of age and wishes to assist **Genetic Parents** in achieving their goal of conceiving a child. **Surrogate** does not wish to add to her family. The sole intention of the **Surrogate** in entering into this Agreement is to assist **Genetic Parents** in creating or adding to their own family.
- c. **Genetic Parents** desire to have a child by in-vitro fertilization and for the **Surrogate** to carry and deliver the **Genetic Parents's** biological child or children as a result of in-vitro fertilization.
- d. The parties understand that **Surrogacy** exists in an unsettled; little established area of the law, therefore, no warranties can be made or have been made as to the outcome of judicial proceedings which could result from the conduct contemplated within this Agreement. No warranties can be made as to the ultimate obligations; liabilities or expenses of the parties should a judicial action result from actions contemplated in this Agreement.

WHILE THE PARTIES ARE ENTERING INTO THIS AGREEMENT WITH THE INTENTION OF BEING FULLY BOUND BY ITS TERMS, ALL PARTIES HAVE BEEN INFORMED BY THEIR INDEPENDENT LEGAL COUNSEL AND UNDERSTAND THAT THIS AGREEMENT IN WHOLE OR IN PART MAY BE DECLARED VOID UPON THE BASIS OF BEING AGAINST PUBLIC POLICY OR HELD UNENFORCEABLE IN WHOLE OR IN PART. ANY PORTIONS OF THIS AGREEMENT WHICH ARE HELD TO BE UNENFORCEABLE ARE SEVERABLE. FURTHER, NO ASPECT OF THIS AGREEMENT MAY BE ENFORCED IF SUCH ENFORCEMENT VIOLATES ANY NON-WAIVABLE CIVIL OR CONSTITUTIONAL RIGHT OF ANY PARTY TO THIS AGREEMENT.

IT IS EXPRESSLY UNDERSTOOD BY ALL PARTIES TO THIS AGREEMENT THAT THIS AGREEMENT IN NO WAY REQUIRES OR PROVIDES FOR ANY PAYMENT FOR A CHILD, OR PAYMENT TO INDUCE THE SURROGATE'S RELINQUISHMENT OF PARENTAL RIGHTS, IF ANY, TO A CHILD, OR CONSENT TO AN ADOPTION.

**Kiran Fertility Services, Hyderabad, India | Surrogacy Agreement**

Signature of: Genetic Father \_\_\_\_\_ Genetic Mother \_\_\_\_\_

Doctor \_\_\_\_\_

THEREFORE, in consideration of the Recitals, which are incorporated herein by this reference, the representations, warranties, promises, covenants, and agreements of the parties contained herein, and the mutual benefits to be derived by the parties hereunder, and with the intention of being legally bound by the terms and conditions of this Agreement, the parties agree as follows:

## **SECTION ONE – DEFINITIONS**

1. **DEFINITIONS.** Certain words used in this Agreement have the following meanings:

- 1.1. **Child.** “Child” means the child or children conceived, carried, and delivered by the mutual cooperation of the parties pursuant to the provisions of this Agreement.
- 1.2. **Embryos.** “Embryos” here refer to the embryos created through IVF using **Genetic Father’s** sperm and Oocytes of the Genetic Mother.
- 1.3. **PHYSICIAN-** trained Physician appointed by Kiran fertility services private limited at Mombasa, Kenya.
- 1.4. **In-vitro Fertilization.** “IVF” means In Vitro Fertilization of **Genetic Mother’s** ova by a qualified physician using a method of assisted reproduction that involves surgically removing one or more eggs from **the** ovaries after ovulation stimulation and induction and combining it with **Genetic Father’s** sperm and, after fertilization, replacing the resulting embryo(s) in Surrogate’s uterus.
- 1.5. **Cryopreservation.** A technique used to maintain the viability of cells or tissue by storing at very low temperatures (freezing) - used to preserve and store embryos or sperm for their future use in AI or IVF procedures.
- 1.6. **Pregnancy.** For the purposes of this agreement the first day of pregnancy shall be considered as the Last menstrual period of the surrogate mother and Confirmation of pregnancy shall be considered ultra sound detection of a fetal heart beat by the attending physician.
- 1.7. **“Genetic Parents”** refers to the biological/genetic Parents of the child providing the genetic material for IVF.  
**The Genetic Parents are the designated legal parents and guardians of the child. Genetic Mother refers to wife or partner of genetic Father.**
- 1.8. **Currency:** The currency controlling all amounts in this Agreement shall be the US Dollar.

## **SECTION TWO - PARTIES OBLIGATIONS**

2. **PSYCHOLOGICAL EVALUATION.** **Surrogate**, declares that prior to commencement of the IVF cycle, she has undergone a psychological evaluation and **Surrogate** expressly waives the privilege of confidentiality and permits the release of the report or other information obtained as a result of the evaluation to **Genetic Parents**.
3. **PHYSICAL EVALUATION.** **Surrogate**, represents that prior to executing this Agreement she has undergone required physical examination/testing performed by the attending physician including testing for AIDS and sexually transmitted diseases and that she has provided information regarding her medical history that is true, correct and complete to the best of her knowledge. **Surrogate** expressly waives the privilege of confidentiality and permits the release of the report or other information obtained as a result of said evaluation to **Genetic Parents**. **Genetic Parents** agree to pay for all medical and laboratory costs incurred for such physical examination / testing.

**Genetic Parents** represent that prior to executing this Agreement, they undergone required physical examination/testing performed by the attending physician including testing for AIDS and sexually transmitted diseases. **Genetic Parents** expressly waive the privilege of confidentiality and permits the release of the medical report or other information obtained as a result of the reports of the evaluation that may be necessary to ensure the **Surrogate’s** safety, to **Surrogate** and **Surrogate’s** obstetrician.

4. **IN VITRO FERTILIZATION.** As part of her obligations under this Agreement, **Surrogate** shall carry a child with **Genetic Father’s** sperm and **the Genetic Mother’s** egg, she may be required to submit to an IVF protocol in order to have resulting embryos transferred into her uterus.
  - 4.1. **Embryo Transfer-** Procedure shall be performed by a Physician appointed by Kiran Fertility services.
  - 4.2. **In-Vitro Fertilization** shall be performed by a physician from Kiran Fertility services pvt ltd. **Surrogate** shall attend monitoring appointments and take all the medication prescribed to her in order to prepare for the embryo transfer, including injections she may be required to be administered. **Genetic Parents** and **Surrogate** agree that no more than **2 Blastocyst embryos** or 4 cleavage stage embryos per cycle may be transferred into her uterus.

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**Signature of: Genetic Father** \_\_\_\_\_ **Genetic Mother** \_\_\_\_\_  
**Doctor** \_\_\_\_\_

5. **MEDICAL INSTRUCTIONS/ MEDICAL CARE.** *Surrogate will be one who would have given birth to a healthy child*, agrees to adhere to all medical instructions given to her, including abstention from sexual intercourse or any activity that might result in semen being introduced into her body during the cycling period or as instructed by the attending physician. *Surrogate* further agrees to adhere to schedule and prenatal medical examinations set by the attending physician. *Genetic Parents* agrees to not engage in any hazardous sexual activity that may cause them to contract a disease that they could pass on to the *Surrogate* and Child, for the duration of the contract and specifically during the Ivf procedure.
6. **MAINTENANCE OF PREGNANCY.** Upon becoming pregnant *Surrogate* shall adhere to all medical instructions from her treating physician appointed by Kiran fertility services private limited, which may include, but shall not be limited to, following pre-natal examination schedules; taking recommended or prescribed medications and vitamins; and, submitting to ultrasound scans, CVS testing, alpha-foetal protein testing and other necessary or advisable testing.
- 6.1. *Surrogate* agrees that she will carry the embryo/foetus (referred to as "child") until delivery except as set forth herein.
- 6.2. *Surrogate* agrees to consult with a designated high-risk obstetrician during her pregnancy from time to time and upon the advisement of her obstetrician.
- 6.3. **Invasive testing.** *Surrogate* agrees to undergo an amniocentesis or other invasive testing to detect fetal genetic and congenital defects if *treating* obstetrician concurs that such testing is medically appropriate.
- 6.4. **Abortion/Selective Reduction.** *Surrogate* hereby acknowledges that she is aware of her rights as a Surrogate Mother and her constitutional right to decide whether to abort. She also acknowledges that she has been made aware of the Laws relating to Abortion in Mombasa, Kenya. If *Surrogate* wishes to abort, *Surrogate's* decision to abort must comply with constitutional guidelines. If *Surrogate* undergoes an elective abortion in the absence of circumstances set forth below, she will be deemed in breach of this Agreement, and the *Surrogate* shall be liable to *Genetic Parents* for all costs incurred under this Agreement, including but not limited to medical expenses and legal fees. *Genetic Parents* recognizes that some Genetic and Congenital Abnormalities may not be detected by amniocentesis or other testing, if performed. It is the intent and understanding of the parties that *Surrogate* shall undergo a therapeutic abortion or selective reduction under the following circumstances:
- 6.4.1. If her own health is threatened in the opinion of *Surrogate's* Obstetrician/Emergency Health Care Provider and communicated to **Physician**.
- 6.4.2. Upon the on-going development of more than two fetuses there will a selective foetal reduction.
- 6.4.3. Upon knowledge of a Genetic or Congenital abnormality including but not limited to Down syndrome, Klinefelter syndrome within 24 weeks of Pregnancy which is incompatible with life of good quality of life and after obtaining consent of the Intended Parents.
- 6.5. **Information Updates .** *Kiran Fertility Services* agrees to notify *Genetic Parents* of the status of pregnancy, expected delivery date and changes thereto. *Kiran Fertility Services* shall promptly inform the Genetic Parents of any medical problems, conditions, or concerns that may arise during the pregnancy and also agrees to provide the *Genetic Parents* with prompt notification of the date and time of the delivery of the child, as known, Delivery shall take place at *a designated Medical Facility by Physician*. *Physician* in the process agrees to provide the *Genetic*  
*Father* the following information updates on time schedules provided below:
- 6.5.1. Beta HCG values: 12 days after embryo transfer; repeated on day 15 post embryo transfer.
- 6.5.2. Trans-Vaginal USG: Day 21 to detect a Gestational Sac;
- 6.5.3. Day 31-scan to detect Heart Beat.
- 6.5.4. From Day 31 till birth- Trans-Vaginal USG every 10 to 15 days.
- 6.5.5. Test to rule out Down 's Syndrome: Week 12- Double Test followed by Week 18 Triple Test
- 6.5.6. Test to detect any gross anomalies: Week 22 to 24: 4-D scan(TIFFA - Targeted Image Fetal Anomaly scan)
- 6.6. **Lifestyle Prohibitions.** While *Surrogate* executes this Agreement, and until the Agreement is terminated either by the birth of a child as contemplated herein or by termination of the Agreement as otherwise set forth in this Agreement, *Surrogate* shall be residing at the Premises arranged by Kiran Fertility services and will be monitored daily by Doctor and nurses from the date of IVF till the date of delivery or a date specified by the consulting Physician and agrees to **refrain from:**
- 6.6.1. Getting tattoos; participating in any dangerous sports or activities as advised by the attending physician.
- 6.6.2. Smoking, drinking alcohol and using any illegal drugs (controlled substances);
- 6.6.3. Using any non-prescription drugs or prescribed medication without the prior written approval of the attending physician.
- 6.6.4. Undergoing x-rays (except in the event of a medical emergency) or chiropractic treatment without the prior written approval of the attending physician.
7. **BIRTH LOCATION.** *Surrogate* acknowledges that she has the absolute duty to give birth within **Mombasa, Kenya** and in the facility as advised by the Physician under the care of an obstetrician in a hospital or appropriate clinic setting.

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**Signature of: Genetic Father** \_\_\_\_\_ **Genetic Mother** \_\_\_\_\_  
**Doctor** \_\_\_\_\_

**7.1 PATERNITY AND MATERNITY/TERMINATION OF RIGHTS.** Following the birth of the child, **Surrogate** agrees to fully cooperate with any paternity proceedings necessary to establish parentage on behalf of the **Genetic Parents** and to have the name of **Genetic Parents** entered on the child's birth certificate as the legal Parents of the child.

**8.1. Termination of parental rights.** **Surrogate** shall voluntarily cooperate in the lawful and prompt termination of her parental rights, if any, to the child, and any legal action that may be deemed necessary to overcome any legal presumption of maternity or determine **Genetic parent's** parentage. **Surrogate** agrees to sign all affidavits and attend any scheduled court hearing(s) to finalize the proceedings.

**8.2. Legal counsel.** During the term of pregnancy and after the birth of the child, **Genetic Parents** shall obtain and be solely responsible for legal counsel and any and all representations for **Genetic Parents** in all necessary, desired and lawfully permissible legal proceedings contemplated by this Agreement, including but not limited to adoption or parentage proceedings.

**8. CUSTODY DETERMINATION.** **Surrogate** shall voluntarily surrender sole and exclusive custody, parental responsibility, decision-making, care and control of the child to the **Genetic Parents** immediately upon the child's birth, acknowledging that it is in the best interests of the child to do so. When and as requested by the **Genetic Father** and Genetic Mother she shall execute any and all documents, including but not limited to, Power of Attorney, to enable the **Genetic Parents** to make any and all decisions regarding the life, health, well being and any other matter relative to the child.

**9.1. Adoption or Parentage determination.** **Surrogate** shall facilitate the adoption or determination of parentage of the child by **Genetic Parents** if required;

**9.2. Genetic Parent's recognition.** **Surrogate** shall cooperate and take all actions necessary to have **Genetic Father's and Genetic Mother's** name lawfully placed upon the child's birth certificate and any other official record's.

**9.3. Necessary demarches.** **Surrogate** shall sign any and all necessary affidavits, consents, petitions, or other legal documents, and attend all court hearings required to further the intent and purposes of this Agreement.

**10. CUSTODY ACCEPTATION.** **Genetic Parents** agree to immediately accept custody and assume full legal responsibility for all and any child born to **Surrogate** pursuant to this Agreement. **Genetic Parents** shall take custody of and responsibility for the Child as soon as possible after the Child's birth and after the necessary releases and/or consents have been signed by **Surrogate** regardless of whether the Child is healthy or ill, male or female, handicapped, retarded, etc., and regardless of whether more than one child is born.

**10.1. Parenting a Handicapped Child.** Both Parties understand the responsibility to Parent a Handicapped Child and, with regards the purpose and intent of this Agreement, have concurred that the following dispositions shall prevail:

**10.1.1. Handicap discovered after a therapeutic abortion is deemed impracticable or reputed illegal or discovered after Birth.** In the event an abnormality is detected too late in the pregnancy and that qualified medical doctors will not conduct an abortion or that by state law it is illegal to abort or if there is no forewarning of such abnormality until birth occurred. In the event a child is born with physiological abnormalities, the **Genetic Parents** shall take custody of and be responsible for the child. **Surrogate** shall not be responsible for reimbursement of her expenses or any monies received by the family, unless it is established that her actions were responsible for the handicap of the child.

**11. GUARDIANS OF CHILD.** In the event of the death of **Genetic Parents** prior to the release of custody of the child to him, custody of the Child born pursuant this Agreement shall be given to the guardian named by **Genetic Parents** in their will. In this case, it is \_\_\_\_\_, resident of, who is \_\_\_\_\_ of the Genetic Father. (Signature \_\_\_\_\_ Attached Identity Proof# \_\_\_\_\_)

**EXPENSES INCURRED IN THE PERFORMANCE OF THIS AGREEMENT.** **Genetic Parents** shall pay costs and fees of **Surrogate's** expenses including procedures, diets, screenings, prescriptions deemed necessary by Physician from Kiran Fertility services that are related to the IVF procedure and/or pregnancy. Both the parties herein have agreed onto an amount of **\$ 45,000(USD Forty Five Thousand Only)** for the entire Surrogacy package with self gametes

## 12.Services Offered

- Arranging the Surrogacy Agreement between all parties concerned.
- Psychological-Social-Physical Screening, Travel, Stay, Food, all Medications, other expenses & Compensation for the Surrogate.
- ICSI, Blastocyst transfer and Assisted Hatching- if required.

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**Signature of: Genetic Father \_\_\_\_\_ Genetic Mother \_\_\_\_\_**  
**Doctor \_\_\_\_\_**

- 1 IVF/ICSI procedure with embryo transfer to surrogate mother including Embryo Freezing. Medication and egg retrieval process for a maximum of 1 time for the Intended Mother. If this does not result in a pregnancy and if you have frozen embryos then you get 1 more embryo transfer with frozen embryos
- Delivery/Caesarian Section for the surrogate.
- Doctor's fees for 9 months till delivery.
- Blood work, Semen Analysis
- Legal help: Arranging the Surrogacy Agreement between all parties

• Guidance and legal help with obtaining of Passport and Exit-Visa for the new born. We shall assist with this if required at no additional cost.

The Package includes everything from A TO Z with regards to the surrogate mother and donor but does not cover

Multiple pregnancies (twins) - additional \$8000.

Paediatric charges if baby needs admission- 150 us\$/day- approximate

### Payment terms

- \$20,000 US in Advance
- \$5000 US at 6 Weeks of Pregnancy
- \$5000 US at 12 Weeks of Pregnancy
- \$5000 US at 18 Weeks of Pregnancy
- \$5000 US at 24 Weeks of Pregnancy
- \$5,000 US at 30 weeks of pregnancy

12.1. **Legal Representation: Genetic Parents** shall pay for all court costs, filing fees and copying fees for a judicial declaration of paternity post his departure from Mombasa, Kenya.

12.2. **Paternity testing.** All costs and fees of medical service providers for paternity testing pursuant this Agreement, if needed by the Embassies is to be borne by the intended parents.

12.3. **Multiple Births. Genetic Parents** shall pay an amount of **\$.8000** (Eight Thousand US Dollars only) in excess of the above mentioned package in case of a twin pregnancy.

12.4. **For Emergency Procedures or Surgeries not including Caesarian Section** performed on the surrogate during the term of pregnancy or within One Month of the delivery, deemed to be as an event related to the pregnancy the costs of which shall be limited to a maximum of US\$ 5000 shall be borne by the **Genetic Parents. ICSI, Blastocyst transfer and Assisted Hatching- if required is done at no additional cost. PIGD – Pre Implantation Genetic Diagnosis shall be done at an additional \$10,000**

12.5. By entering into the surrogacy program you agree that you are aware that Kiran Fertility services private LTD is responsible for the Medical care of the surrogate mother during the entire duration of treatment. You consent to Kiran Fertility services releasing the surrogate mother compensation paid by you to the surrogate mothers and who in turn from time to time as per her demand. You understand that Kiran Fertility services private limited is only facilitating payments to your surrogate mother as per the amount and terms and conditions decided by yourself and the surrogate mother.

### SECTION THREE - CONTRACTUAL CONSIDERATIONS

13. **REPRESENTATIONS AND WARRANTIES.** The parties are making the following representations and warranties:

13.1. **Surrogate**, represents and warrants to the **Genetic Parents** the following:

13.1.1. **Surrogate** enters into this Agreement with the clear intention to assist the **Genetic Parents** in his parenting the child conceived and born pursuant to this Agreement, and she has no intention or interest in parenting the child or assuming the responsibilities inherent in parenting.

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**Signature of: Genetic Father** \_\_\_\_\_ **Genetic Mother** \_\_\_\_\_  
**Doctor** \_\_\_\_\_



- 13.1.2. To the best of **Surrogate's** knowledge and belief, she is capable of conceiving and bearing a child;
- 13.1.3. **Surrogate** has had a normal menstrual period within the last month and she is not currently pregnant;
- 13.1.4. All personal information provided to **Genetic Parents**, has been complete, and true to the best of her knowledge, including, but not limited to, medical information and information about previous arrest records or child abuse charges.
- 13.1.5. **Surrogate** obligations set forth in Section 2 of this Agreement are in the best interests of any child conceived as a result of the actions contemplated in this Agreement.
- 13.1.6. In the event of a dispute over custody of the child, the best interests of the child shall control; **Genetic Parents** shall have standing to seek sole custody of the child.

13.2. **Genetic Parents** represents and warrants **Surrogate** the following:

- 13.2.1. **Genetic Parents** enter into this Agreement with the clear intention to parent the Child conceived and born pursuant to this Agreement, and assume all obligations and responsibility for the Child regardless of whether the Child is healthy or ill, male or female, handicapped, retarded, etc., and regardless of whether more than one child is born;
- 13.2.2. **Genetic Parents** have undergone all medical and laboratory tests to establish that they are free of sexually transmittable disease that could be passed on to **Surrogate** or future Child through the IVF procedure;
- 13.2.3. **Genetic Parents are** capable, to the best of their knowledge to produce Gametes of sufficient quality and quantity to conceive a Child through the IVF procedures contemplated in this Agreement;
- 13.2.4. **Genetic Parents** warrant that they will not receive any blood transfusions, use contaminated needles nor engage in any activity, sexual or other, that could lead him to contract any disease that they could pass on to **Surrogate** or future Child through IVF procedure; should they receive an emergency blood transfusion, IVF procedures shall be suspended until his disease free status can be established;
- 13.2.5. **Genetic Parents** have the resources and means to carry on their obligations as set forth in section 2 and to provide for the conception and support of the Child conceived as a result of the actions contemplated in this Agreement;

13.3. All parties expressly understand and agree that the professionals whose services have been retained under said Agreement do not in any way warrant that:

- 13.3.1. The conceived child, will be a physically and mentally healthy child, free of congenital or genetic defects;
- 13.3.2. **Surrogate** will comply with the terms and provisions of said Agreement;
- 13.3.3. **Genetic Parents** will comply with the terms and provisions of said Agreement; or that
- 13.3.4. Any child born as a result of this Agreement will be deemed the legal child of **Genetic Parents**, and not the legal child of **Surrogate**.

13.4. **No Untrue or Material Misstatements.** The representations and warranties made by **Surrogate** in this Agreement do not contain any untrue statement of a material fact or omit to state a fact necessary in order to make the statements herein, in light of the circumstances under which she were made, not misleading.

#### 14. ASSUMPTION OF RISK.

The parties acknowledge the following:

- 14.1. The parties specifically assume the risk that the **Surrogate** procedure has been tested and has certain limitations within the State of Mombasa, Kenya and any legal action initiated as a result of this Agreement by any party may constitute a case of first impression within the State of Mombasa, Kenya.
- 14.2. In the event a child is born with physiological abnormalities, the **Genetic Parents** shall take custody of and be responsible for the child.
- 14.3. **Surrogate** agrees to assume all risk including the risk of death which may be incidental but not limited to conception, pregnancy, childbirth and/or postpartum complications. Said risks have been explained and are understood by **Surrogate**. **Surrogate** agrees to assume all of said risks, and release Genetic Parents, including any medical professionals and others involved in any aspect of this Agreement from any legal liability.

#### 15. ADVICE OF COUNSEL.

- 15.1. **Genetic Parents** acknowledge that they have retained independent counsel to advise them on all applicable law, rights, duties, liabilities, terms and conditions as it relates to all matters relevant to this Agreement, and that neither the **Surrogate**, her representatives nor agents have made any representations as to the legal consequences of this Agreement for **Genetic Parents**.
- 15.2. **Surrogate** acknowledges that she has forfeited her right to an independent counsel to advise her on all applicable law, rights, duties, liabilities, terms and conditions as it relates to all matters relevant to this Agreement, and that neither the **Genetic Parents**, nor their representatives nor agents, have made any representations as to the legal consequences of this Agreement for **Surrogate**.
- 15.3. In the event of litigation between the parties and/or their families or estates, and/or any state, nation, municipality, governing body or party, counsel retained in connection with the negotiation, preparation and execution of this Agreement, shall not be required to represent any party. All parties will assume full responsibility for the payment of all attorney fees, and associated costs and expenses of litigation.

#### 16. CONFIDENTIALITY.

- 16.1. The parties shall maintain the confidentiality of their relationship and protect the identity of all other involved parties and the Oocyte donor(s), unless otherwise agreed upon in writing by all parties. None of the parties shall provide, or allow to be provided, any information to the media, public or any other individual regarding his/her involvement in or the terms of this Agreement. Notwithstanding, this confidentiality provision shall not prohibit any party from disclosing and discussing generally his/her own involvement in a **Surrogate** program with significant others, relatives or friends, but the identity of the other parties and the specific terms of this Agreement shall not be disclosed to parties other than significant others, relatives or friends unless otherwise agreed upon by all parties in writing.

#### 17. TERMINATION OF AGREEMENT.

- 17.1. **Escape clause.** In the event that pregnancy is not achieved within a reasonable time considering **Surrogate's** age and physical condition, and after advice from the Consulting Physician from **Kiran Fertility Services**, this Agreement may be terminated by written notice from any party. After such termination, no further liability will result on the part of any party. However, it is expressly understood that the agreement shall not be terminated in the event the **Surrogate** has passed the 20<sup>th</sup> week of Pregnancy.
- 17.2. **Material breach.** In the event that any party materially violates any of the provisions stated in this Agreement without sufficient legal excuse, such violation shall constitute a material breach of the contract. This Agreement shall terminate forthwith at the option, and upon written notice from, the aggrieved party or parties. In the event **Surrogate** breaches this Agreement Kiran Fertility services shall reimburse **Genetic Parents** for all sums expended pursuant to this Agreement plus interest at the maximum allowable rate at the time the breach was discovered. In the event **Genetic Parents** breach this Agreement, they shall be responsible for all expenses incurred by **Surrogate** pursuant to Clause 12 and all related sub Clauses in Clause 12.
- 17.3. **Remedy for breach.** Continued performance after a material breach shall not constitute a waiver, unless agreed upon in writing by all parties, and all rights and retained by the aggrieved party will remain in force. The violating party shall be informed in writing of the alleged violation and shall have a reasonable opportunity to cure the breach, if possible.
- 17.4. **Survival.** The representations and warranties set forth in Paragraph 13 of this Agreement shall survive termination of this Agreement.

**18. MISCELLANEOUS.**

**18.1. Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, representations, negotiations and understandings, verbal and written, with respect to the matters covered hereby. The attached Medical Information Release and any fully executed Addendum are made a part of this Agreement by reference.

**18.2. Binding Effect.** The terms and conditions of this Agreement shall extend to, inure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns.

**18.3. Amendment.** This Agreement may be amended, modified or supplemented, and a right hereunder may be waived only by written instrument duly executed by all the parties.

**18.4. Severability.** If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, or if any provision hereof is or becomes impracticable, the remaining provisions and the Agreement as a whole shall nevertheless continue in full force and effect without being impaired or invalidated in any way, and the parties shall replace the invalid, unenforceable or impracticable provision with a valid, enforceable or practical provision which shall meet the economic aims of the invalid, unenforceable or impracticable provision as closely as possible.

**18.5. Other Documents.** The parties hereto agree to execute such other and further documents as may be necessary to carry out the purposes hereof.

**18.6. Cumulative Rights.** The rights of the parties hereto are cumulative, and no exercise or enforcement by a party of any right or remedy hereunder shall preclude the exercise or enforcement by that party of any other right or remedy herein contained, or to which it is entitled by law.

**18.7. Arbitration and Mediation.** Any controversy arising under or relating to the actions contemplated in this Agreement shall be submitted first to mediation. Any dispute or difference arising out of or concerning or in relation shall be referred to arbitrator appointed by Kiran Fertility services who shall adjudicate such dispute or difference between the Parties. The venue of the arbitral proceeding shall be Mombasa, Kenya.

**18.8. Voluntary Action.** Each party state that by signing this document acknowledges he or she acknowledges his or her understanding and acceptance of the provisions of this Agreement and that he/she signs the agreement voluntarily and freely with full and complete knowledge. Each party further states that he or she has no reason to believe that any other party to this Agreement did not freely and voluntarily execute this Agreement.

**18.9. Notices.** All notices or other communications required and permitted under this Agreement shall be in writing, and shall be given by first class registered mail, postage prepaid, or by telex, tele-fax or telegram, and addressed as follows:

Any such notice shall be deemed to be effective on the date of actual receipt. Either party, by notice given as provided above, may change the address to which future notices shall be sent.

**Surrogate :** \_\_\_\_\_ **Signature :** \_\_\_\_\_  
**Photo ID no :** \_\_\_\_\_  
**Address proof no :** \_\_\_\_\_ **Date :** \_\_\_\_\_

**Genetic Father :** \_\_\_\_\_ **Signature :** \_\_\_\_\_

**Genetic Mother :** \_\_\_\_\_ **Signature :** \_\_\_\_\_

**Passport Numbers :** \_\_\_\_\_ **Date :** \_\_\_\_\_

*(Please enclose copy)*

**Dr. Samit Sekhar**

**Managing Director** **Signature :** \_\_\_\_\_

**Kiran Fertility Services Pvt. Ltd.** **Date :** \_\_\_\_\_

**IN WITNESS WHEREOF, the parties have entered into this agreement as of the date first written above.**

**Kiran Fertility Services, Hyderabad, India | Surrogacy Agreement**

**Signature of: Genetic Father** \_\_\_\_\_ **Genetic Mother** \_\_\_\_\_  
**Doctor** \_\_\_\_\_