**MATERIAL TRANSFER AGREEMENT**

**(“AGREEMENT”)**

between

|  |  |  |
| --- | --- | --- |
| Eberhard Karls Universität Tübingen,  represented by  the Executive Vice-President,  Dr. Andreas Rothfuß,  Geschwister-Scholl-Platz,  72074 Tübingen, Germany,  – hereinafter referred to as “**PROVIDER**” – | and | enter name of company  represented by  enter name of authorized representative,  enter address of company  – hereinafter referred to as “**RECIPIENT**” – |
| PROVIDER SCIENTIST:  enter name |  | RECIPIENT SCIENTIST:  enter name |

PROVIDER and RECIPIENT are hereinafter individually referred to as a "PARTY", together as "PARTIES".

**about:**

**Material (“ORIGINAL MATERIAL”):**

enter description of ORIGINAL MATERIAL

**for:**

**Research Project (“PROJECT”):**

enter title / short description of RESEARCH PROJECT

as described in the attached Exhibit A.

In response to the RECIPIENT’s request for the above identified ORIGINAL MATERIAL the PROVIDER is willing to make available the MATERIAL for research purposes under the following terms and conditions:

**1. Definition**

**MATERIAL**: ORIGINAL MATERIAL mentioned above, all genetic material embodied in the ORIGINAL MATERIAL, PROGENY, UNMODIFIED DERIVATIVES and related information.

**PROGENY**: Unmodified descendant from the ORIGINAL MATERIAL such as virus from virus, cell from cell, or organism from organism.

**UNMODIFIED DERIVATIVES**: Substances created by the RECIPIENT that constitute an unmodified functional sub-unit or an expression product of the ORIGINAL MATERIAL. Some examples include: subclones of unmodified cell lines, purified or fractionated subsets of the ORIGINAL MATERIAL, proteins expressed by DNA/RNA supplied by the PROVIDER, or monoclonal antibodies secreted by a hybridoma cell line.

**DEPENDANT MODIFICATION**: Substances created by the RECIPIENT that contain/ incorporate inseparably the MATERIAL.

**2. Ownership**

The PROVIDER retains ownership and all rights and title in the MATERIAL, including any MATERIAL contained or incorporated in modifications. Nothing contained within this AGREEMENT shall restrict the PROVIDER's right to distribute the MATERIAL to other commercial or non-commercial entities.

DEPENDANT MODIFICATIONS are the joint property of the PROVIDER and the RECIPIENT.

Other modifications are the sole property of the RECIPIENT.

**3. Use**

The RECIPIENT and RECIPIENT SCIENTIST represent and warrant that the MATERIAL:

a) is to be used solely for the above identified PROJECT and only in the RECIPIENT SCIENTIST’s laboratory under the direction or direct supervision of the RECIPIENT SCIENTIST;

b) will not be used, analyzed or modified other than necessary for the purpose of the PROJECT; and

c) will not be used in human subjects, in clinical trials or for diagnostic purposes involving humans without the prior written consent of PROVIDER.

RECIPIENT will not modify, make compliments, analogs, conjugates or derivatives from the MATERIAL or reverse engineer or determine the structure(s) of the MATERIAL, unless specifically set forth in Exhibit A.

RECIPIENT represents that research with the MATERIAL will not be subject to the terms of any agreement or contract in which a third party gains rights to the MATERIAL.

**4. Distribution and Control**

The RECIPIENT and RECIPIENT SCIENTIST will ensure that the MATERIAL will not be transferred or made available to any person not under the supervision and control of the RECIPIENT SCIENTIST without the prior written permission of the PROVIDER.

**5. Transfer of Rights**

RECIPIENT agrees that except as expressly provided for in this AGREEMENT, furnishing the MATERIAL shall not constitute any grant, option or license under any PROVIDER-patents or other rights to use the MATERIAL and in particular shall not constitute any grant, option or license under any PROVIDER-patents or other rights to use the MATERIAL for any products or processes for profit-making or commercial purposes and that there is no obligation to grant any further right or license.

**6. Results**

RECIPIENT will inform PROVIDER of any research results obtained by using the MATERIAL (“RESULTS”) by written report, as soon as they are available.

Joint Property Rights (“JPR”): If the supply of the MATERIAL constitutes a significant contribution to a RESULT (e.g.: DEPENDANT MODIFICATIONS), the RESULT shall be owned jointly.

In case of JPR RECIPIENT and PROVIDER shall conclude in good faith a separate agreement concerning the use, patenting and commercialization of those JPR. In all patent applications filed by the RECIPIENT, the PROVIDER’s employees and principal scientists shall be mentioned as co-inventors, if appropriate under statutory provisions.

In consideration of the PROVIDER’s supply of the MATERIAL, the RECIPIENT hereby grants to the PROVIDER an irrevocable non-exclusive royalty-free license for any RESULT and any patent thereon for research purposes. If the RECIPIENT intends to enter into any commercial exploitation or use of the RESULTS, the PARTIES shall start good faith negotiations leading to a sufficient participation of the PROVIDER in the RECIPIENT’s benefits.

**7. Publication**

To protect the PROVIDER’s proprietary and/or patent rights to the MATERIAL, the RECIPIENT and the RECIPIENT SCIENTIST agree to provide PROVIDER with an advance copy of any proposed publication or disclosure for its review at least twenty-eight (28) days prior to the scheduled disclosure of the RESULTS. The PROVIDER may request that the RECIPIENT delete any reference to the PROVIDER’s confidential information. If the PROVIDER notifies that he desires to have patent application filed on any inventions disclosed in the documents, the RECIPIENT will defer publication/ disclosure for up to one additional month from the date of submission of the document.

JPR shall be published in a joint publication.

The source of the MATERIAL shall be acknowledged by RECIPIENT in any publication of RESULTS.

**8. Confidentiality**

The PARTIES agree to hold in confidence the MATERIAL and all information marked as confidential obtained from the other under this AGREEMENT for a period of five (5) years from the date of expiration or termination of this AGREEMENT, except of MATERIAL or information which:

1. are publicly available at the time of disclosure,
2. become publicly available through no fault of the RECIPIENT,
3. are independently developed by the RECIPIENT,
4. are already in the RECIPIENT’s possession at the time of disclosure, or
5. are required by law or regulation to be disclosed.

The burden of proof showing that the above exceptions prevail shall be incumbent upon the RECIPIENT.

**9. Use of the PROVIDER’s Name**

Except as set forth in No. 7, the RECIPIENT shall not use the name of the PROVIDER in any advertising or publicity matter without the prior written approval of the PROVIDER.

**10. Return of Materials**

If this AGREEMENT is terminated, or if the RECIPIENT does not intend to use the MATERIAL any more, the RECIPIENT shall promptly return all remaining or unused or re-usable MATERIAL to the PROVIDER or dispose of it in an approved manner, at the PROVIDER’s discretion.

**11. Applicable Regulations**

The RECIPIENT agrees to comply with all applicable (especially governmental) regulations, statutes and guidelines concerning the RECIPIENT’s use, receipt, handling, storage or disposal of the MATERIAL such as, for example, those relating to research involving the use of animals or recombinant DNA. Since not all of the MATERIAL’s characteristics are known, it should be used, received, handled, stored and disposed of with caution and prudence.

**12. No Warranty**

The MATERIAL is experimental in nature and RECIPIENT/ RECIPIENT SCIENTIST agrees to use, handle, store and dispose of it with prudence and appropriate caution because not all of its characteristics are known. RECIPIENT will bear all risk to it and to any others resulting from any direct or indirect use, receipt, handling, storage or disposal of the MATERIAL.

The RECIPIENT acknowledges that the MATERIAL is provided hereunder “as is” and that the MATERIAL may have hazardous properties. PROVIDER makes no representations or warranties of any kind concerning the MATERIAL, express or implied, and the absence of any legal or actual defects whether or not discoverable. Specifically the MATERIAL is provided without warranty of merchantability or fitness for a particular purpose. The PROVIDER makes no representation that the use of the MATERIAL will not infringe any patents or other intellectual property rights or other proprietary rights of a third party.

**13. Liability**

To the extent permitted by law, the PROVIDER shall not be liable for any use, receipt, handling, storage or disposal of the MATERIAL by the RECIPIENT. To the extent permitted by law, the RECIPIENT shall hold harmless, defend and indemnify the PROVIDER and its staff against any loss, illness, damage, claim, liability, costs and expenses of whatever kind or nature arising out of or in connection with the RECIPIENT’s investigation or use, receipt, handling, storage or disposal of the MATERIAL or RECIPIENT’s or RECIPIENT SCIENTIST’s breach of this AGREEMENT, unless for and to the extent that such loss or damages are due to gross negligence or willful misconduct on the part of the PROVIDER.

**14. Governing Law**

The validity and interpretation of this AGREEMENT and the legal relations of the PARTIES to it shall be governed by the laws of the Federal Republic of Germany. The German collisions of law provisions do not apply. Exclusive jurisdictional venue shall be the German court having jurisdiction for PROVIDER.

**15. Beginning and Termination**

The AGREEMENT shall be effective as of the date of its signature by the duly authorized representatives of the PARTIES.

The AGREEMENT shall be terminated after completion of the PROJECT or by either PARTY within 30 days after written notice to the other. Termination does not relieve the RECIPIENT of its obligations under this AGREEMENT. All of the RECIPIENT’s rights to use the MATERIAL shall end. The RECIPIENT, at its discretion, will also either destroy the DEPENDANT MODIFICATIONS or remain bound by the terms of this agreement as they apply to DEPENDANT MODIFICATIONS.

**16. Severability**

Should individual terms of this contract be ineffective, the validity of the other terms is not influenced. Instead of the ineffective the PARTIES will agree on a term valid which comes next to that what the PARTIES of this AGREEMENT have been willing to have or would have been willing to have if they would have known about the inefficacy of the individual term. The same shall apply to any omissions herein.

**17. Entire AGREEMENT**

This AGREEMENT contains the complete and exclusive agreement of the PARTIES with respect to the subject matter hereof and supersedes all prior agreements and understandings as to the subject matter hereof, whether written or oral, express or implied.

Neither this AGREEMENT nor any term of it - including this provision - may be amended, changed or waived except by a written agreement signed by both PARTIES.

**18. Conflicts**

In the event of a conflict between this AGREEMENT and Exhibit A of this AGREEMENT, the text of the AGREEMENT shall prevail.

**Signatures:**

**RECIPIENT:**

|  |  |  |
| --- | --- | --- |
| **Signature of RECIPIENT SCIENTIST** |  |  |
| Date | enter name of RECIPIENT SCIENTIST |

|  |  |  |
| --- | --- | --- |
| **Signature of authorized representative of RECIPIENT** |  |  |
| Date | enter name of authorized representative of RECIPIENT,  enter title of authorized representative of RECIPIENT |

**PROVIDER:**

|  |  |  |
| --- | --- | --- |
| **Signature of PROVIDER SCIENTIST** |  |  |
| Date | enter name of PROVIDER SCIENTIST |

|  |  |  |
| --- | --- | --- |
| **Signature of authorized representative of PROVIDER** |  |  |
| Date | Dr. Andreas Rothfuß,  Executive Vice-President |

**Exhibit A**

Please enter a detailed description of RESEARCH PROJECT.

Please make sure that your description provides the following information:

* project title
* short project summary/abstract
* scope of research covered in RESEARCH PROJECT
  + research field
  + research questions and hypotheses
  + object of the research
  + limitations of the research
  + expected outcomes
* background:
  + own preliminary work
  + present outcomes (publications, intellectual property rights)
* work plan
  + work packages
  + responsible person
  + timeframe
  + expected outcome
* research facilities
  + laboratory
  + material
  + devices
  + equipment
* list of all cited references