

MATERIAL TRANSFER AGREEMENT

between

Technical University of Denmark

[Department]

Anker Engелunds Vej 1

DK-2800 Kgs. Lyngby, Denmark

CVR. No. 30 06 09 46

(hereinafter referred to as "Provider" or "DTU")

and

[Company name and corporate form]

[Address]

[Postal code, city, country]

Business Registration No. [XX]

(hereinafter referred to as "Recipient")

(each hereinafter individually referred to as "Party" and jointly as "Parties")

The purpose of this Agreement is to set forth the rights and obligations of the Parties in connection with the transfer of the Material from the Provider to the Recipient.

This Agreement consists of the below mentioned section A to section D, describing the characteristics of this Agreement and the Standard Terms and Conditions included as **Exhibit 1**.

SECTION A - ORIGINAL MATERIAL

[Insert description of all samples/material/information etc. to be transferred]

SECTION B – PERMITTED USE

[Description of the Recipient's permitted use of the Material]

SECTION C – PROVIDER SCIENTIST(S)

[Scientist name], [Title], [Department], Technical University of Denmark

SECTION D – AMENDMENTS TO THE TERMS AND CONDITIONS

The Parties agree that the following amendments to the Terms and Conditions of this Agreement shall apply:

[Not Applicable – All/any amendments needs to be approved by Legal and Contracts, DTU]

SIGNATURES

This Agreement shall be signed by the authorised signatories of each Party.

On behalf of DTU

Place:

[Date]

On behalf of Company

Place:

[Date]

[Name, title]

[Name, title]

STANDARD TERMS AND CONDITIONS

1. Definitions

Agreement shall mean this Material Transfer Agreement and its exhibit(s).

Material shall mean the Original Material including Progeny and Unmodified Derivatives as well as know-how in any form including information provided in written, oral or visual form. The Material shall not include Modifications.

Modifications shall mean substances created by the Recipient which contain and incorporate the Material.

Original Material shall mean the material which the Provider transfers to the Recipient under this Agreement as described in section A.

Permitted Use shall mean the area of research within which the Recipient is allowed to use the Material as described in section B.

Progeny shall mean unmodified descendants from the Materials, such as virus from virus, cell from cell or organism from organism.

Provider Scientist(s) shall mean the person(s) named in section C, who created or discovered the Original Material.

Unmodified Derivatives shall mean substances created by the Recipient, which constitute an unmodified functional subunit or product expressed by the Original Material. Unmodified Derivatives include, but are not limited to, sub-clones 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.

2. Ownership of the Material and Modifications

- 2.1. The Material shall remain the property of the Provider. The right of ownership to Modifications accrues to the Recipient. However, the Provider retains ownership of the Material included in Modifications.
- 2.2. The Recipient will not obtain or attempt to obtain patent coverage on the Material or any use hereof without the prior written consent of the Provider.

3. Recipient's use of the Material and Modifications

- 3.1. The Provider grants to the Recipient a limited, non-exclusive license to use the Material for non-commercial research within the Permitted Use.
- 3.2. The Recipient may not under any circumstances use the Material in human subjects, in clinical trials, or for diagnostic purposes involving human subjects. The Material shall at all times be used in compliance with all applicable laws, guidelines and regulations including, but not limited to, laws and regulations pertaining to import, export and environment.
- 3.3. The Recipient shall limit access to the Material to those of its staff who need access to the Material for the Permitted Use, and shall secure that any such persons with access to the Material complies with this Agreement.
- 3.4. The Recipient shall, at the request of the Provider, return or destroy the Material.
- 3.5. Any use of the Material or Modifications by the Recipient for other purposes than the Permitted Use requires the prior written consent of the Provider. Provider agrees, in advance of such use, to negotiate in good faith with the Recipient to establish the terms of a license for such use, if the Provider is able to give such license. However, the Provider shall have no obligation to grant such license to the Recipient.
- 3.6. Any distribution of the Material or Modifications to any third party by the Recipient requires the prior written consent of the Provider.
- 3.7. The Recipient agrees to refer to the Provider any request for the Material from a third party.

- 3.8. The Recipient shall have the right, without restriction, to distribute and use substances created by the Recipient through the use of the Original Material if those substances are not Progeny, Unmodified Derivatives or Modifications.

4. Provider's use of Modifications

- 4.1. The Recipient grants to the Provider an unlimited non-exclusive royalty-free license to use the Modifications for internal non-commercial research and educational purposes.

The Recipient shall keep the Provider informed about Modifications which are conceived or reduced to practice by the Recipient. Upon request from the Provider, the Recipient shall supply a sample of any Modifications to the Provider.

5. Acknowledgement

- 5.1. The Recipient agrees to provide appropriate acknowledgement of the source of the Material in all publications by citing the Provider Scientist(s).

6. Confidentiality

- 6.1. The Recipient will keep the Material confidential except as otherwise provided for in this Agreement. Thus, the Recipient shall in no circumstances pass on the Material to any third party, including, but not limited to, other companies which may form part of the same group as the Recipient.

- 6.2. The duty of confidentiality under section 6.1 shall not apply to Material which

- at the time of receipt is or later becomes available to the public other than through the Recipient's breach of the duty of confidentiality as set forth in this Agreement;
- was lawfully in the Recipient's possession at the time the Material was received without any confidentiality restrictions;
- was received from a third party who appeared to be entitled to lawfully disclose the Material; or
- was developed independently of the Permitted Use by the Recipient.

- 6.3. In the event of disagreement between the Parties, the Recipient has the burden of proof that the Material received is comprised by section 6.2.

- 6.4. In the event that the Material transferred under this Agreement becomes subject to legislation or executive orders, public law decisions, judgments, awards, etc. requiring the Recipient to pass on the Material in whole or in part, the Recipient shall inform the Provider hereof without delay. The Recipient's compliance with any such required transfer of the Material shall not constitute any breach of the duty of confidentiality under this Agreement.

7. Limitation of liability

- 7.1. The Material is provided "as is" and the Provider expressly disclaims all warranties of any kind concerning the Material, express or implied, including, without limitation, warranties of merchantability, fitness for a particular purpose and non-infringement of third party intellectual property rights.

- 7.2. Except to the extent prohibited by law, the Recipient assumes all liability for damages which may arise from its use, storage or disposal of the Material. The Recipient will at all times during the term of this Agreement and thereafter, indemnify, defend and hold the Provider harmless against all claims, proceedings, demands and liabilities of any kind whatsoever, including legal expenses and reasonable attorneys' fees, arising out of the death or injury to any person or persons or out of any damage to property, resulting from the use, handling, storage or disposition of the Material or arising from any obligation of the Recipient hereunder.

- 7.3. The Recipient accepts that the Provider shall be entitled to seek injunctive relief in any applicable jurisdiction to prevent breach of this Agreement and to seek specific performance of this Agreement in addition to all other available remedies.

8. Term and termination

- 8.1. This Agreement shall enter into force on the date of the latest signature by the Parties on this Agreement.
- 8.2. This Agreement may be terminated by either Party with immediate effect by giving written notice to the other Party.
- 8.3. Unless terminated or otherwise extended by mutual written agreement, this Agreement shall automatically terminate [one (1) year/[X] years] after its entry into force. However, the duty of confidentiality and non-use obligation in this Agreement shall survive the termination of this Agreement for whatever reason and shall continue in full force and effect for five (5) years thereafter.

9. Miscellaneous

- 9.1. This Agreement may not be assigned to any third party without the prior written consent of the Provider.
- 9.2. If any section of this Agreement is deemed unenforceable or invalid for any reason, the remaining parts of this Agreement shall not be affected hereby. The Parties shall enter into negotiations for the purpose of substituting such section with a corresponding, valid and enforceable wording, if possible.

10. Governing Law and Venue

- 10.1. This Agreement shall be governed by the laws of Denmark. This applies whether or not the application of international private law and choice of law rules may lead to the application of another country's laws.
- 10.2. Should a dispute arise between the Parties in connection with this Agreement, including its interpretation and use, the Parties shall enter into negotiations in good faith in order to solve the dispute.
- 10.3. Have the Parties been unsuccessful in solving the dispute within thirty (30) calendar days after initiation of negotiations hereof, the Parties may agree to refer the dispute to mediation at Mediationsinstituttet (www.mediationsinstituttet.dk) according to its rules.
- 10.4. If the Parties do not agree to mediation within seven (7) calendar days after expiry of the deadline set forth in section 10.3, or has no solution to the dispute been reached thirty (30) calendar days after commencement of mediation with Mediationsinstituttet, the dispute shall be settled by the District Court of Lyngby, Denmark, as the court of first instance.