

THE UNIVERSITY OF KENTUCKY
AND

MATERIAL TRANSFER AGREEMENT

WHEREAS, the University of Kentucky, an agency and instrumentality of the Commonwealth of Kentucky, with offices at _____, Lexington, Kentucky _____ ("UK") possesses certain material described as _____ (hereinafter, together with any progeny, mutants, derivatives or parts thereof, referred to as "Material") and related confidential information (hereinafter "Information") and,

WHEREAS, _____, with offices located at _____ (hereinafter "Recipient"), desires to obtain from UK such Material and Information to be used for purposes of the research described in detail on Exhibit A hereto (the "Research").

NOW THEREFORE, UK is willing to make available to Recipient the Material and certain information for the aforesaid purpose subject to the following terms and conditions:

1. Ownership. UK retains all right and title in and to the Material and Information, subject to the rights of the United States government, if any. Nothing contained within this Agreement shall restrict UK's rights to use or distribute the Material and Information to other commercial or noncommercial entities.
2. Use. Recipient agrees that the Material and Information: i) shall be used only by Recipient and only for purposes of the Research described on Exhibit A; ii) shall not be used in humans; and iii) shall not be used for any commercial purposes.
3. Distribution and Control. Recipient agrees not to transfer or disclose the Material or Information to any third party without the prior written permission of UK. In addition, Recipient shall obtain acceptance of the terms of this Agreement of all persons who have access to the Material and Information.
4. Reporting. Recipient shall supply UK with preprints of any publications resulting from Recipient's use of the Material at a time no later than receipt by Recipient of notice of acceptance from the publishing journal.
5. Confidentiality. Recipient agrees to use only in connection with the Research described on Exhibit A and to hold in confidence and not disclose or transfer in any manner the Material or Information received from UK under this Agreement, except that Information may be disclosed which: i) was in Recipient's possession or control prior to the date of disclosure by UK; ii) was in the public domain or enters into the public domain through no improper act on Recipient's part or on the part of any of Recipient's employees; iii) is rightfully given to Recipient from sources independent of UK, or iv) is required by law.
6. No Transfer Rights. No right or license is granted under this Agreement by either party to the other either expressly or by implication, except those specifically set forth herein. It is understood that any and all proprietary rights, including but not limited to patent rights, trademarks and trade secret rights, in and to the Material and Information shall be and remain in UK, subject to the right granted herein.

7. Return of Material. In the event that either party terminates this Agreement, as provided in Section 12 below, Recipient shall promptly, upon such termination, return the Material and Information to UK.
8. Use of UK's Name. Recipient shall not use the name of the "University of Kentucky," or a portion thereof in any advertising or publicity matter without the prior written approval of UK.
9. Governmental Regulations. Recipient agrees to comply with all appropriate governmental regulations, in all appropriate jurisdictions, including, without limitation, National Institutes of Health regulations and guidelines which are applicable to its use of the Material. Since all of the Material's characteristics are not known, it should be used with caution and prudence.
10. Warranty. Recipient acknowledges that the Material is experimental in nature and may have hazardous properties. UK MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPERTY OR PROPRIETARY RIGHTS.
11. Liability; Injunctive Relief. In no event shall UK be liable for any use of the Material by Recipient or by others, either on Recipients behalf or on behalf of those who receive the Material from Recipient. To the extent and in the manner provided for by applicable law, Recipient shall be liable for all damages that may arise from its use, storage, or disposal of the Material, and shall defend and indemnify UK, its officers, affiliates and employees from any claims relating to the Material. Damages at law may be an inadequate remedy for breach of any of the covenants, promises, and agreements contained in this Agreement and accordingly, Recipient agrees that UK shall be entitled to injunctive relief without the necessity of proving actual damages for any such breach in addition to all other remedies available at law or in equity.
12. Termination. This Agreement shall be terminable by either party hereto on thirty (30) days prior written notice to the other but termination shall not relieve Recipient of its obligations under this Agreement.
13. Assignment/Entire Agreement. This Agreement may not be assigned by Recipient without the prior written consent of UK. This Agreement sets forth the entire understanding between the parties and cannot be changed or amended except by written agreement executed by the parties.
14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts together shall constitute one agreements.

IN WITNESS WHEREOF, UK and Recipient have caused this Agreement to be executed by their respective duly authorized officers. This Agreement shall be effective as of the date last set forth below.

UNIVERSITY OF KENTUCKY

RECIPIENT OFFICER

By _____

By _____

Title _____

Title _____

Date _____

Date _____

RECIPIENT'S SENIOR INVESTIGATOR

By _____

Title _____

Date _____