

Confidential

Universitätsklinikum Bonn MATERIAL TRANSFER AGREEMENT

This Material Transfer Agreement is made and entered into as of the date of the last signature hereto ("Effective Date"). In consideration of the mutual agreements below, the parties agree as follows:

1. DEFINITIONS

1.1 "PROVIDER" is
Universitätsklinikum Bonn
Sigmund-Freud Str. 5
D-53105 Bonn, Germany
Department/Institute:

1.2 "PROVIDER SCIENTIST" is

1.3 "RECIPIENT" is

1.4 "RECIPIENT SCIENTIST" is

1.5 "ORIGINAL MATERIAL" is

1.6 "MATERIAL" means ORIGINAL MATERIAL, PROGENY, and DERIVATIVES thereof.

1.7 "PROGENY" means a descendant from the MATERIAL, including altered forms of MATERIAL, such as chemical derivatives and conjugates.

1.8 "DERIVATIVE" means all materials other than progeny that are derived in whole or in part from or made with the use of the MATERIAL. Some examples include, but are not limited to, purified or recrystallized subsets of the ORIGINAL MATERIAL.

1.9 "EVALUATION" means both the formulation of the MATERIAL and the testing of the MATERIAL. RECIPIENT's research plan for EVALUATION includes receiving ORIGINAL MATERIAL for the purposes outlined in Appendix A.

1.10 "COMMERCIAL PURPOSES" means the use, sale, lease, or license of MATERIAL by any organization, including RECIPIENT, to perform contract research, to screen compound libraries, to add to compound libraries, to produce or manufacture products for general sale; or to conduct research activities that result in any sale, lease, license, or transfer of the MATERIAL to a for-profit organization. However, industrially sponsored academic research shall not be considered a use of the MATERIAL for COMMERCIAL PURPOSES per se, unless any of the above conditions of this definition are met.

1.11 "CONFIDENTIAL INFORMATION" is all information disclosed by either PROVIDER or PROVIDER SCIENTIST or RECIPIENT or RECIPIENT SCIENTIST relating to the MATERIAL and marked as confidential.

2. USE OF MATERIAL, REPORTS AND OPTION FOR GRANTBACK

2.1 The RECIPIENT and the RECIPIENT SCIENTIST agree that the MATERIAL:
(a) is to be used for research purposes only;

- (b) will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the prior written consent of the PROVIDER;
 - (c) is to be used only under the supervision of the RECIPIENT SCIENTIST or others working under his/her direct supervision and only for work at the RECIPIENT organization. Exceptions require the prior written consent of the PROVIDER.
 - (d) will not be transferred to anyone else within the RECIPIENT organization without the prior written consent of the PROVIDER
- 2.2 The RECIPIENT SCIENTIST and RECIPIENT agree to use the MATERIAL in compliance with applicable federal, state, or local laws, regulations, or ordinances, including Public Health Service and National Institutes of Health regulations and guidelines.
- 2.3 Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. THE PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED 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 PROPRIETARY RIGHTS.
- 2.4 Except to the extent prohibited by law, the RECIPIENT assumes all liability and will reimburse PROVIDER for damages, which may arise from the use, storage, or disposal of MATERIAL. The PROVIDER will not be liable to the RECIPIENT for any loss, claim, or demand made by the RECIPIENT, or made against the RECIPIENT by any other party, due to or arising from use of the MATERIAL by the RECIPIENT, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the PROVIDER.
- 2.5 RECIPIENT will provide a detailed written summary of the data and results obtained using the MATERIAL within thirty (30) days following termination of this Agreement. Exceptions may apply as provided in 2.6.
- 2.6 In cases where RECIPIENT receives MATERIAL within the frame of a scientific collaboration between PROVIDER SCIENTIST and RECIPIENT SCIENTIST, no such report will be required if instead a manuscript for submission to a journal, editor, selection or review committee or person for a meeting, or other third party is provided prior to submission to PROVIDER SCIENTIST. Independent of whether PROVIDER SCIENTIST and RECIPIENT SCIENTIST have agreed on a scientific collaboration involving MATERIAL, publication of MATERIAL research data is subject to the conditions as provided in 4.
- 2.7 Should RECIPIENT discover or otherwise determine that the MATERIALS provided to RECIPIENT exhibit activities of obvious commercial value to PROVIDER, RECIPIENT agrees to provide PROVIDER in confidence with such and related information.
- 2.8 The Material are supplied to Provider **Euros/(oder: without costs)**. Recipient shall (further) reimburse Provider for any reasonable shipping and related costs that may be incurred and sending the Materials to the Recipient.

3. CONFIDENTIAL INFORMATION

- 3.1 All CONFIDENTIAL INFORMATION of the other party identified as being confidential at the time it is provided shall be maintained in confidence by PROVIDER and RECIPIENT and shall not be used for any purpose except as permitted in this Agreement, and shall not be disclosed to any third party without the prior written consent of either party. Each party shall use the same level of care to prevent the use

or disclosure of information and material of the other party as it exercises in protecting its own information of similar nature.

- 3.2 The confidentiality and non-use obligations of this Agreement shall not apply to information and material which:
- (a) is in the public domain at the time of disclosure; or
 - (b) after disclosure, becomes part of the public domain by publication or otherwise, except by breach of this Agreement; or
 - (c) RECIPIENT can establish by relevant and material evidence was in its possession at the time of disclosure by PROVIDER; or
 - (d) comes to the RECIPIENT from a third party who is legally entitled to disclosure; or
 - (e) is required by law to be disclosed; or
 - (f) is approved for release by prior written authorization of PROVIDER.

4. PUBLICATION OF MATERIAL RESEARCH DATA

- 4.1 RECIPIENT shall submit to PROVIDER for review the text of any proposed oral or written disclosure relating the results of any research in which the MATERIAL is used, including the abstract of the results, at least thirty (60) days in advance of any such disclosure of the results, including the submission of such proposed disclosure to a journal, editor, selection or review committee or person for a meeting, or other third party. RECIPIENT shall not publish results of any research in which the MATERIAL is used without written approval by PROVIDER or PROVIDER SCIENTIST.
- 4.2 The subject matter of any such publication shall not contain any CONFIDENTIAL INFORMATION provided by either party without prior written consent from the other.
- 4.3 Each party shall not use the name of the other, in publications or otherwise, without the prior written permission from the other, unless required by law or government regulation.
- 4.4. a. Provider retains all rights, title and interest in the Material
- b. At Provider's request, Recipient will supply Provider with a sample of any derivative of the Material that Recipient prepares."

5. PROPERTY RIGHTS

- 5.1 The MATERIAL is the property of the PROVIDER. Except as provided in this Agreement, no rights are provided to RECIPIENT or RECIPIENT SCIENTIST under any patents, patent applications, trade secrets or other proprietary rights of PROVIDER. No rights are provided to use the MATERIAL for direct or indirect COMMERCIAL PURPOSES. RECIPIENT may use the material solely for its internal non-commercial research purposes.
- 5.2 RECIPIENT acknowledges that the MATERIAL is or may be the subject of a patent or patent application assigned to PROVIDER, but PROVIDER makes no representation or warranty that the use of the MATERIAL will not infringe any third party patent or other proprietary right.
- 5.3 RECIPIENT further acknowledges that no other right or license to the MATERIAL or products produced thereby is granted or implied as a result of the transmission of the MATERIAL to RECIPIENT.

6. TERMS AND TERMINATION

- 6.1 This Agreement will terminate on the earliest of the following dates:

- (a) when the MATERIAL becomes generally available from third parties, for example, through reagent catalogs or public depositories; or
 - (b) on completion of RECIPIENT'S current research with the MATERIAL; or
 - (c) on thirty (30) days written notice by either party to the other.
- 6.2 If termination occurs under 6.1(a), the RECIPIENT shall be bound to the PROVIDER by the least restrictive terms applicable to the MATERIAL obtained from then-available sources.
- 6.3 If termination occurs under 6.1(b) or (c), the RECIPIENT will discontinue its use of the MATERIAL and will, upon direction of the PROVIDER, return or destroy any remaining MATERIAL. The RECIPIENT will also either destroy the DERIVATIVES or remain bound by the terms of this Agreement as they apply to DERIVATIVES.
- 6.4 In case of termination on whatever cause clauses 2.3, 2.4, 3 and 5 shall survive termination of this Agreement.

7. Miscellaneous

- 7.1 This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and shall not be modified except by subsequent mutual written agreement of the parties.
- 7.2 All notices or other communications required or permitted to be made or given hereunder shall be deemed so made or given when hand-delivered or sent in writing by registered or certified mail, postage prepaid and return receipt requested, or by a nationally recognized courier service guaranteeing next-day delivery, charges prepaid, and properly addressed to such other party as set forth above or at such other address as may be specified by either party hereto by written notice similarly sent or delivered.
- 7.3 Neither party may assign or otherwise transfer this Agreement and the rights acquired hereunder without the written consent of the other party. Any permitted assignee must agree in writing to be bound by the terms of this Agreement.
- 7.4 The provisions of this Agreement are separable, and in the event any provisions of this Agreement are determined to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof.
- 7.5 This Agreement and any amendment thereto may be executed in counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.
- 7.6 German Law shall apply to this Agreement, and the Courts of Bonn, Germany shall have exclusive jurisdiction.
- 7.7 If the English legal meaning differs from the German legal meaning of this Agreement and its terms, the German meaning shall prevail.

IN WITNESS WHEREOF, each party has caused this instrument to be signed by its duly authorized officer on the date(s) set forth below:

PROVIDER
Universitätsklinikum Bonn

RECIPIENT

Signature

Signature

Name

Name

Title

Title

Date

Date

PROVIDER'S SCIENTIST

RECIPIENT'S SCIENTIST

Signature

Signature

Date

Date

**PROVIDER'S SCIENTIST CONTACT
INFORMATION**

**RECIPIENT'S SCIENTIST CONTACT
INFORMATION**

Contact Name

Building, Room Number, Department

Street Address

City, State, Country, Zip Code