MATERIAL TRANSFER AGREEMENT (MTA)

BETWEEN CENTRO DE INVESTIGACIONES ENERGÉTICAS, MEDIOAMBIENTALES Y TECNOLÓGICAS (CIEMAT) AND ……………………………

This agreement is made effective on ... of ................., ......... by and between

CENTRO DE INVESTIGACIONES ENERGÉTICAS, MEDIOAMBIENTALES Y TECNOLÓGICAS (CIEMAT, hereinafter referred to as PROVIDER), an institution organized and existing under the laws of Spain, having a principal base of business at Avenida Complutense nº 40, Madrid

and

.......................... (hereinafter referred to as RECIPIENT), an institution organized and existing under the laws of ......................., having a principal place of business at .......................

CIEMAT and ..................... are hereinafter referred to individually as a “Party” and collectively as the “Parties”

**BACKGROUND**

WHEREAS, the PROVIDER, in particular .........provider scientist....... through research conducted in its laboratories has developed a mouse model ...........definition of the MOUSE MODEL............., and

WHEREAS, the RECIPIENT is interested in acquiring the above mentioned MOUSE MODEL;

Therefore, the Parties hereto agree as follows:

1. **DEFINITIONS**

The following definitions will apply throughout this Agreement:

* 1. “PROVIDER” shall mean CIEMAT
  2. “PROVIDER SCIENTIST” shall mean…..
  3. “RECIPIENT” shall mean ......
  4. “RECIPIENT SCIENTIST” shall mean .....
  5. “MOUSE MODEL”: any mice or cell lines carrying the deletion, allele or transgene in the original MOUSE MODEL and derived from the original MOUSE MODEL will be considered a MOUSE MODEL and subjected to this Agreement, even if said mice or cell lines have been bred or otherwise modified to have other special properties.
  6. “PROGENY”: descendant(s) from the MOUSE MODEL carrying the deletion, allele, or transgene expressed by the original MOUSE MODEL.
  7. “UNMODIFIED DERIVATIVES”: substances created by the RECIPIENT which constitute an unmodified functional subunit or product expressed by the MOUSE MODEL. An example in this case would be samples derived from the MOUSE MODEL.
  8. “RESEARCH PURPOSES”: the use of the mouse model for .....definition of study.......
  9. “COMMERCIAL PURPOSES“: the sale, lease, license or other transfer of the MOUSE MODEL, PROGENY OR UNMODIFIED DERIVATIVES to a for-profit organization. COMMERCIAL PURPOSES shall also include uses of the MOUSE MODEL by any organization, including RECIPIENT, to perform contract research, to screen 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 MOUSE MODEL to a for-profit organization. However, industrially sponsored academic research shall not be considered a use of the MOUSE MODEL for COMMERCIAL PURPOSES per se, unless any of the above conditions of this definition are met.

1. **MTA´s SUBJECT**

2.1 The PROVIDER hereby transfers and the RECIPIENT accepts the above described MOUSE MODEL.

2.2 The RECIPIENT and the RECIPIENT SCIENTIST agree that the MOUSE MODEL:

a) is to be used solely for the RECIPIENT´s own internal research purposes and only for the RESEARCH PURPOSES;

b) will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the written consent of the PROVIDER;

c) is to be used only at the RECIPIENT´s organization and only in the RECIPIENT SCIENTIST's laboratory under the direction of the RECIPIENT SCIENTIST or others working under his/her direct supervision;

d) will not be transferred to anyone else within or outside the RECIPIENT organization without the prior written consent of the PROVIDER.

2.3 The RECIPIENT´s rights shall include, but not limited to, the right to generate pure-bred progeny of the MOUSE MODEL and the right to generate PROGENY of the MOUSE MODEL bred to other strains of mice (cross-Bred PROGENY) provided that the pure-bred PROGENY and cross-Bred PROGENY are used only for research purposes and not for COMMERCIAL PURPOSES.

2.3 The RECIPIENT and the RECIPIENT SCIENTIST agree to refer to the PROVIDER any request for the MOUSE MODEL from anyone other than those persons working under the RECIPIENT SCIENTIST's direct supervision.

1. **INTELLECTUAL PROPERTY RIGHTS**

3.1 The PROVIDER retains ownership of the MOUSE MODEL including any derived mice or cell lines carrying the deletion, allele, or transgene expressed by the original MOUSE MODEL.

3.2 The RECIPIENT acknowledges that the MOUSE MODEL is or may be the subject of a patent application. Except as provided in this Agreement, no express or implied licenses or other rights are provided to the RECIPIENT under any patents, patent applications, trade secrets or other proprietary rights of the PROVIDER, including any altered forms of the MOUSE MODEL made by the PROVIDER. In particular, no express or implied licenses or other rights are provided to use the MOUSE MODEL or any related patents of the PROVIDER for COMMERCIAL PURPOSES.

3.3 If the RECIPIENT desires to use the MOUSE MODEL for COMMERCIAL PURPOSES, the RECIPIENT agrees, in advance of such use, to negotiate in good faith with the PROVIDER to establish the terms of a commercial license. It is understood by the RECIPIENT that the PROVIDER shall have no obligation to grant such a license to the RECIPIENT, and may grant exclusive or non-exclusive commercial licenses to others, or sell or assign all or part of the rights in the MOUSE MODEL to any third party (ies).

3.4 The RECIPIENT and/or the RECIPIENT SCIENTIST may NOT provide the MOUSE MODEL for COMMERCIAL PURPOSES. It is recognized by the RECIPIENT that such COMMERCIAL PURPOSES may require a commercial license from the PROVIDER and the PROVIDER has no obligation to grant a commercial license to its ownership interest in the MOUSE MODEL.

3.5 The RECIPIENT agrees to disclose to PROVIDER any report or publication involving the use of the transferred MOUSE MODEL, that will have to be discussed and authorized by the PROVIDER SCIENTIST before 45 days after disclosure. RECIPIENT agrees to properly acknowledge the source of the MOUSE MODEL and the contribution of PROVIDER and PROVIDER SICENTIST (and/or his collaborators involved) in accordance to scientific custom, by co-authorship if appropriate, in all publications and reports concerning the results of the research as described in the RESEARCH PURPOSES.

3.6 If the RECIPIENT´s research as described in the RESEARCH PURPOSES results in an invention, whether patentable or not, RECIPIENT agrees to notify the PROVIDER in order to determine potential inventorship of the RECIPIENT in that invention. The Parties agree to negotiate in good faith an agreement for governing the administration and commercialization of jointly-owned patents.

3.7 If the RECIPIENT is determined as the sole inventor and granted with a patent/s according to article 3.6, and subsequently he/she uses it for COMMERCIAL PURPOSES, the RECIPIENT should grant the PROVIDER a royalty-free, non-exclusive licence to use it for academic research and scholarly purposes.

1. **LIABILITY ISSUES**

4.1 Any MOUSE MODEL 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 expressed or implied warranties of merchantability or fitness for a particular purpose, or that the use of the MOUSE MODEL will not infringe any patent, copyright, trademark or other proprietary rights.

4.2 RECIPIENT agrees to be responsible for all claims and damages that directly result from the negligent acts or omissions of the RECIPIENT, its employees or agents. 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 the use of the MOUSE MODEL by the RECIPIENT, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the PROVIDER.

4.3 The RECIPIENT agrees to use the MOUSE MODEL in compliance with all applicable statutes and regulations.

1. **APPLICABLE LAW AND DISPUTE RESOLUTION**

5.1 Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be resolved amicably between the Parties.

5.2 If, and to the extent that, any such dispute, controversy or claim has not been settled within 60 days of the beginning of the amicably resolution, it shall, upon the filing of a request by either party, be governed by Spanish Law. The Parties expressly agree to submit all conflicts resulting from the execution or interpretation of this Agreement to the courts and tribunals of the city of Madrid.

5.3 Should any provision or portion of this Agreement be found to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

**6. TERMINATION**

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

(a) on completion of the RECIPIENT's current research with the MOUSE MODEL, or

(b) on thirty (30) days written notice by either party to the other, or

(c) three (3) years from the date this Agreement is signed by the last party thereto, provided that:

if termination should occur under 6(a) or (c) above, the RECIPIENT will discontinue its use of the MOUSE MODEL and will, upon direction of the PROVIDER, return or destroy any remaining MOUSE MODELS or

in the event the PROVIDER terminates this Agreement under 6(b) other than for breach of this Agreement or for cause such as an imminent health risk or patent infringement, the PROVIDER will defer the effective date of termination for a period of up to one year, upon request from the RECIPIENT, to permit completion of research in progress. Upon the effective date of termination, or if requested, the deferred effective date of termination, RECIPIENT will discontinue its use of the MOUSE MODEL and will, upon direction of the PROVIDER, return or destroy any remaining animals of the MOUSE MODEL.

1. **ADDITIONAL PROVISIONS**

7.1 Clauses 3 and 4 shall survive termination.

7.2 This Agreement shall not be subject to any change or modification except by the execution of a written instrument subscribed to by the Parties hereto.

The parties executing this Agreement certify, through their duly authorized representatives, that their respective organizations agree to be bound by its terms, for the transfer specified above.

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| --- | --- |
| For CIEMAT,  Name:  Title: | For ..............,  Name:  Title: |
| Date: | Date: |
|  |  |
| PROVIDER SCIENTIST,  Dr. | RECIPIENT SCIENTIST,  Dr. |
| Date: | Date: |