Material Transfer Agreement

**for the distribution of biological materials**

**to non-profit recipients**

This agreement is entered into by and between

### PROVIDER

**University Hospital of Wuerzburg,** public-law institution represented by its medical director organized under the laws of Germany, with its registered offices at Josef-Schneider-Straße 2, 97080 Würzburg, Germany

for

### PROVIDING SCIENTIST

Name and Title

Institute

Address

and

### RECIPIENT

Institution

Address

for

### RECIPIENT SCIENTIST

Name and Title

Address

1. Definitions:

* ORIGINAL MATERIAL: The material created by the PROVIDING SCIENTIST, described as follows: .  A detailed description is attached to this agreement.
* MATERIAL: ORIGINAL MATERIAL, PROGENY and UNMODIFIED DERIVATIVES. The MATERIAL shall not include: (a) MODIFICATIONS, or (b) other substances created by the RECIPIENT through the use of the MATERIAL which are not MODIFICATIONS, PROGENY, or UNMODIFIED DERIVATIVES.
* PROGENY: Unmodified descendant from the MATERIAL, such as organism from organism, micro-organism from micro-organism and/or recombinant DNA from recombinant DNA.
* UNMODIFIED DERIVATIVES: Substances created by the RECIPIENT which constitute an unmodified functional subunit or product expressed by the ORIGINAL MATERIAL. Examples include: cloned/subcloned ORIGINAL MATERIAL, purified or fractionated subsets of the ORIGINAL MATERIAL, and proteins expressed from DNA/RNA supplied by the PROVIDER.
* MODIFICATIONS: Substances created by the RECIPIENT which contain or incorporate the MATERIAL.
* RESEARCH PROJECT: The purpose for which the RECIPIENT desires to use the MATERIAL. This purpose is defined as follows: .  A detailed description is attached to this agreement.
* COMMERCIAL PURPOSES: The sale, lease, license, or other transfer of the MATERIAL or MODIFICATIONS to a profit-orientated organization. COMMERCIAL USE shall also include uses of the MATERIAL or MODIFICATIONS 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 MATERIAL or MODIFICATIONS to a profit-orientated organization. However, industrially sponsored academic research shall not be considered a COMMERCIAL USE of the MATERIAL or MODIFICATIONS per se, unless any of the above conditions of this definition are met.

1. The PROVIDER will provide the RECIPIENT with the ORIGINAL MATERIAL upon receipt of a fully executed copy of this agreement.
2. The ORIGINAL MATERIAL is provided at no cost.

**Fehler! Textmarke nicht definiert.** The RECIPIENT shall reimburse the PROVIDER for preparation and distribution expenses by paying an amount of €      . This amount will be due within 30 days upon receipt of the ORIGINAL MATERIAL.

1. The PROVIDER retains ownership of the MATERIAL, including any MATERIAL contained or incorporated in MODIFICATIONS.

The RECIPIENT retains ownership of:

1. MODIFICATIONS (as far as the PROVIDER does not retain ownership rights to the MATERIAL included therein), and
2. those substances created through the use of the MATERIAL or MODIFICATIONS, but which are not PROGENY, UNMODIFIED DERIVATIVES or MODIFICATIONS (i.e., do not contain the ORIGINAL MATERIAL, PROGENY, UNMODIFIED DERIVATIVES).

If either (a) or (b) results from the collaborative effort, joint ownership may be negotiated.

1. The RECIPIENT and the RECIPIENT SCIENTIST agree that the MATERIAL:
2. is to be used solely for the performance of the RESEARCH PROJECT;
3. will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects;
4. will be used in compliance with all applicable statutes and regulations, including guidelines such as, for example, those relating to research involving the use of animals or recombinant DNA;
5. is to be used only at the RECIPIENT organization and only in the RECIPIENT SCIENTIST's laboratory under the direction of the RECIPIENT SCIENTIST or others working under his/her direct supervision; and
6. will not be transferred to anyone else within the RECIPIENT organization or to any other person or organization without the prior written consent of the PROVIDER.
7. The RECIPIENT and the RECIPIENT SCIENTIST acknowledge that the ORIGINAL MATERIAL 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 an/or the RECIPIENT SCIENTIST under any patents, patent applications, trade secrets or other proprietary rights of the PROVIDER, including any altered forms of the MATERIAL made by the PROVIDER. In particular, no express or implied licenses or other rights are provided to use the MATERIAL, MODIFICATIONS, or any related patents of the PROVIDER for COMMERCIAL PURPOSES.
8. If the RECIPIENT desires to use or license the MATERIAL or MODIFICATIONS 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 MATERIAL to any third party.
9. The RECIPIENT is free to file patent application(s) claiming inventions made by the RECIPIENT through the use of the MATERIAL, but agrees to notify the PROVIDER in confidence upon filing a patent application claiming MODIFICATIONS or method(s) of manufacture or use(s) of the MATERIAL. Ownership to such inventions shall be determined in accordance with applicable patent laws.
10. The RECIPIENT and the RECIPIENT SCIENTIST shall have the right, without restriction, to distribute substances created by the RECIPIENT through the use of the ORIGINAL MATERIAL only if those substances are not PROGENY, UNMODIFIED DERIVATIVES, or MODIFICATIONS.
11. 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.

1. Except to the extent prohibited by law, the RECIPIENT assumes all liability for damages which may arise from its use (which shall include storage, disposal, etc.) of the MATERIAL and/or MODIFICATIONS. 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 MATERIAL and/or MODIFICATIONS, unless it has been caused by the gross negligence or willful misconduct of the PROVIDER.
2. This agreement shall not be interpreted to prevent or delay publication of research findings resulting from the use of the MATERIAL and/or MODIFICATIONS. The RECIPIENT SCIENTIST agrees to notify the PROVIDER in advance of any such publication and to provide appropriate acknowledgement of the source of the MATERIAL in all publications.
3. This agreement will terminate on the earliest of the following dates:
4. immediately upon written notice by the PROVIDER, in case of a breach of contract by the RECIPIENT;
5. upon completion of the RESEARCH PROJECT; or
6. on .

The provisions of sections 8, 10, 11 and 12 shall survive termination.

Upon termination, the RECIPIENT will discontinue its use of the MATERIAL and will, at the discretion of the PROVIDER, return or destroy any remaining MATERIAL. The RECIPIENT, at its discretion, will also either destroy the MODIFICATIONS or remain bound by the terms of this agreement as they apply to MODIFICATIONS.

1. Any modification, supplement, or amendment to this agreement shall be valid only if made in writing and agreed by all parties. If any provision of this agreement proves to be invalid or unenforceable, the validity of the other provisions shall remain untouched.
2. Any notice or other form of communication under this agreement shall be addressed to the addresses specified above.
3. This agreement shall be governed by, and shall be construed, interpreted and performed according to, the laws of the Federal Republic of Germany. The parties hereby submit to the exclusive jurisdiction of the competent courts of Wuerzburg, Germany, for any and all disputes arising out of, or in connection with, this agreement and its performance.

This agreement is effective when signed by all parties listed below.

### RECIPIENT

# represented by

# Name and Title

Address

Signature

### RECIPIENT SCIENTIST

# Name:

Signature

### PROVIDER

Legal Department

Wuerzburg, Signature

### PROVIDING SCIENTIST

# Name:

Wuerzburg, Signature

**Instructions:**

1. Complete all form fields. In particular, please make sure that the following data are present and correct:  
   - legal name of the recipient institution,  
   - identification of the original material,  
   - description of the research project for which the material will be used.
2. Print two copies of the form and have both signed by the recipient scientist and by an authorized representative of the recipient institution. (In most cases, the recipient scientist is not authorized to sign as representative of the recipient institution.)
3. Send the two copies to the providing scientist. One copy will be returned to you after signature by the providing scientist and a representative of the University Hospital of Wuerzburg.
4. Contact for contractual questions: University Hospital of Wuerzburg, Research and Innovation Services, Mr. Gérard Cabolet, phone +49-931-20155866, fax +49-931-20161768, Cabolet\_G@klinikverwaltung.uni-wuerzburg.de. (Please note that no requests for any changes to section 16 will be accepted, the provisions of this section are not negotiable.)