**letter AGREEMENT**

**FOR TRANSFER OF BIOLOGICAL MATERIAL**

Appendix: Material transfer agreement

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| **Instructions to the recipient:**  *This document shall be completed and printed in 2 original forms, ALL require signatures.*   * Please complete the following form * Deliver this document and the enclosed MTA (which constitutes the Appendix) to your institution and ask an authorized representative to sign it in 2 original copies * Return the 2 original forms duly completed and signed, with MTAs appended, to :   Service du Partenariat et de la Valorisation Côte d'Azur  CNRS- Délégation Régionale Côte d'Azur 250, rue Albert Einstein - 06560 Valbonne – France |

Pursuant to the recipientScientist request that certain research material (the “MATERIAL”) be made available for research and/or testing purposes, the CNRS is pleased to provide this material under the terms and conditions of the **Material transfer agreement** here attached:

**1. Organization providing the material:**

The CENTRE NATIONAL DE LA RECHERCHE SCIENTIFIQUE, public establishment for scientific and technological research whose headquarters are at 3, Rue Michel-Ange 75794 PARIS Cedex 16, represented by its President, Alain FUCHS, represented by Mr Pierre DAUCHEZ, Regional Delegate, of the Regional delegation Côte d’Azur,

Hereinafter referred to as the "CNRS"

**2. CNRS provider scientist:**

Name: Dr Isabelle RUBERA

Laboratory: LP2M (CNRS/FRE3427), Parc Valrose, 28 avenue Valrose 06108 Nice Cedex 2, France

**3. “RECIPIENT”: Organization receiving the material**

Name:

Address:

Legal Representative:

The CNRS and the RECIPIENT are individually referred to as the “Party”, and collectively as the “Parties” in theMaterial Transfer Agreement.

4. **RECIPIENT’s scientist**:

Name:

Recipient laboratory:

Address:

**5. Description of the MATERIAL and nature of the INFORMATION provided by the CNRS to the RECIPIENT:**

**6. RECIPIENT’s work program:**

**7.** **Material transfer agreement**

The attached Material Transfer Agreement is between the RECIPIENT and the CNRS.

RECIPIENT acknowledges to having read and understood the attached Material Transfer Agreement.

RECIPIENT hereby agrees to the terms of the attached Material Transfer Agreement.

Executed in ………........................, on….................*(latest signature’s date)*

**In 2 original forms.**

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| **For the CNRS:**  Name: Pierre DAUCHEZ  Capacity: Regional Delegate  Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **For and on behalf of the RECIPIENT by its duly authorised representative :**  Name:  Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Read and Understood:  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Appendix**

**MATERIAL transfer agreement**

**DEFINITIONS -**

(i) Commercial Purposes: The sale, lease, license, or other transfer of the MATERIAL or Modifications to a for-profit organization. Commercial Purposes 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 product for general sales, or to conduct research activities that result in any sale, lease, license, or transfer of the MATERIAL or Modifications to a for-profit organization.

(ii) MATERIAL: Original MATERIAL, Progeny and Unmodified Derivatives. The MATERIAL shall not include: (a) Modifications or (b) other substances created by RECIPIENT through the use of the MATERIAL which are not Modifications, Progeny or Unmodified Derivatives.

(iii)Modifications: Substances created by RECIPIENT which contain/incorporate the MATERIAL.

(iv)Original MATERIAL: The research MATERIAL being transferred by the CNRS, including all relevant data.

(v) Progeny: Unmodified descendant from the MATERIAL, such as virus from virus, cell from cell, or organism from organism.

(vi)Unmodified Derivatives: Substances created by RECIPIENT which constitute an unmodified functional subunit or product expressed by the Original MATERIAL. Some examples include: subclones of unmodified cell lines, purified or fractionated subsets of the Original MATERIAL, proteins expressed by DNA/RNA supplied by CNRS Laboratory or monoclonal antibodies secreted by an hybridoma cell line.

Article 1 – Purpose

1.1. The CNRS undertake to provide the Original MATERIAL to the RECIPIENT and hereby grants to the RECIPIENT , which accepts such, a temporary, non-exclusive right to use the Original MATERIAL so that it may complete the work schedule set forth in the Letter Agreement, to the exclusion of any and all other use.

1.2. Consequently, the RECIPIENT shall not be authorised to use the Original MATERIAL subsequent to the expiry date of this Agreement and for different purposes, without the CNRS’ further prior and written consent.

In particular, the Original MATERIAL may not be used pursuant to research involving the participation of a third party without the CNRS’ prior and written authorisation.

1.3. The Original MATERIAL shall not be transmitted to any and all third party other than to staff involved in implementing the work schedule, and who work directly under the authority of the manager of the recipient laboratory; the RECIPIENT hereby guarantees the acceptance and compliance with the provisions of this Agreement by its staff.

* 1. Nobody shall be authorised to transport or send the Original MATERIAL to a destination other than the recipient laboratory.

Article 2 – Obligation to provide information

2.1. On a regular basis and confidentially, the RECIPIENT shall inform the CNRS of the results of its work, obtained by using, or from, the Original MATERIAL.

A final report on the work carried out and the results obtained during the term of the Agreement shall be provided to the CNRS within two (2) months of the expiry or termination date of this Agreement.

2.2. In the event of publication or communication concerning the MATERIAL, the work carried out, and/or the results obtained, whatever their nature may be, and on any medium whatsoever, the preliminary text relating to such publication or communication shall be promptly submitted to the CNRS forty-five (45) days prior to the disclosure of this information, or the submission of said publication’s text to the editor, at the latest. This agreement shall not be interpreted to prevent or delay publication of research findings resulting from the use of the MATERIAL or its modifications.

2.3. In accordance with effective scientific practices, all publications or communications relating to the use of the MATERIAL shall refer to the fact that such MATERIAL originated from the CNRS. Similarly, the contribution of the CNRS staff to making the MATERIAL accessible shall be expressly mentioned in any and all publications or communications, either by thanking such staff, or mentioning them as co-authors.

2.4. The provisions of this Article shall remain effective during the term of this Agreement and for 3(three) years subsequent to its expiry or termination.

**Article 3 – Use**

3.1 RECIPIENT agrees that the MATERIAL:

(a) is to be used solely for purpose of Research described here before;

(b) will not be distributed or released to any third parties for any purpose;

(c) will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects;

(d) is to be used only at RECIPIENT place and by scientists working in RECIPIENT’s laboratory or under the RECIPIENT direct responsibility.

3.2 RECIPIENT shall have the right, without restriction, to distribute substances it has created through the use of the Original MATERIAL only if those substances are not Progeny, Modified Progeny, Unmodified Derivatives, or Modifications.

3.3 Without prior written consent from the CNRS, RECIPIENT may NOT provide Modifications for Commercial Purposes. If RECIPIENT wish to use or obtain a license of the MATERIAL or Modifications for Commercial Purposes, RECIPIENT may first require a commercial license from the CNRS and the CNRS have no obligation to grant such a license to RECIPIENT. RECIPIENT acknowledges that the CNRS can, in addition, grant a license, exclusive or non-exclusive, sell or assign all or part of said rights under the MATERIAL to third parties, subject to antecedent rights held by others.

3.4 RECIPIENT acknowledges that the 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 RECIPIENT under any patents, patent applications, trade secrets or other proprietary rights of the CNRS, including any altered forms of the MATERIAL made by the CNRS.

3.5 RECIPIENT acknowledges that nothing herein shall create, or be construed to create any license to RECIPIENT or any obligation to enter into any other agreement.

**Article 4 - Property**

4.1 The CNRS retain ownership of the MATERIAL, including any MATERIAL contained or incorporated in Modifications.

Furthermore, the CNRS retain all rights it may have in accordance with intellectual property laws under inventions, in particular patentable, which could result from the use of the Original MATERIAL by RECIPIENT.

4.2 Modifications realized only by the CNRS shall be the entire property of the CNRS.

Modifications realized by both the CNRS and RECIPIENT, or by the sole RECIPIENT, shall be the co-ownership of the CNRS and RECIPIENT.

4.3 RECIPIENT retains ownership of 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, or Unmodified Derivatives). A co-ownership agreement shall be negotiated for said substances which result from collaborative joint efforts between the CNRS and RECIPIENT.

4.4 With exception to articles 4.1, 4.2 and 4.3 disposals here-above, ownership of all Research results, patentable or not, shall be function of the inventive contribution of the participants to their achievement. In case that all or part of the Research results could be protected by a new patent application naming one or more the CNRS and RECIPIENT inventors, the parties shall consult each other to define the modalities of such a patent application filing, and its exploitation conditions.

4.5 RECIPIENT will not file, or have filed in the name of third parties in any country, any patent application, or intellectual property rights (copyrights, trademarks,...) claiming MATERIAL, Modifications, or any other MATERIAL that could not have been made without the MATERIAL, or manufacture or use method(s) of the MATERIAL or Modifications.

4.6 RECIPIENT undertakes to supply to the CNRS, free of charge and within the best delay, the Modifications resulting from the use of MATERIAL.

**Article 5 - Confidentiality**

5.1. The RECIPIENT undertakes to keep confidential all the information disclosed to RECIPIENT which is transmitted orally, in writing, or in any and all other manner, pursuant to this Agreement, and relating to the MATERIAL, hereafter referred to as “INFORMATION”.

5.2. This INFORMATION may not be disclosed to third parties without the CNRS’ prior and written authorisation.

5.3. The RECIPIENT’s non-disclosure obligations hereunder shall not apply to INFORMATION and/or MATERIAL:

- which were in the public domain prior to being transferred to the RECIPIENT, or following such transfer, without negligence by the recipient Party;

- for which it can be proven that they were legally received from a third party without any and all restriction, and that there was no breach of this Agreement

- is required by law or court order to be disclosed by RECIPIENT, provided that: (i) RECIPIENT, promptly gives CNRS notice of the required disclosure, (ii) RECIPIENT, cooperates with CNRS in the exercise of CNRS rights to prevent or limit such disclosure, and (iii) RECIPIENT, makes such disclosure only to the extent the disclosure is legally required

- which were already in the possession of the recipient Party prior to the execution of the Agreement, in which case the latter shall provide proof of this fact;

- which were used or disclosed with the written authorisation of the disclosing Party;

- which were disclosed by the disclosing Party.

5.4. This non-disclosure obligation shall remain effective during the term of the Agreement and for 3(three) years subsequent to its expiry or termination.

Article 6 – Warranties - Liability

6.1. As the MATERIAL is of an experimental nature, the CNRS shall not provide any and all warranty as regards its condition, activity, usefulness, efficiency, purity, harmlessness, non-toxicity, safety, or as regards its use, market value or suitability in respect of any and all objective.

6.2. The RECIPIENT shall be solely liable for any and all risks or loss which may arise during performance of this Agreement, in particular in the event of injury, death, physical damage, or any and all other incident or loss that may be occasioned by the use, testing or manipulation of the MATERIAL by the RECIPIENT or any person acting under its authority.

6.3. The RECIPIENT undertakes to use the MATERIAL in accordance with all laws and regulations applicable to the MATERIAL. Under no conditions will the MATERIAL be used in human subjects.

**Article 7 – Notices**

Exchanges between the Parties pursuant to this Agreement shall be in writing and shall be sent to the following addresses:

For the CNRS:

Sophie DESCHAINTRES

Responsable du service Partenariat et Valorisation Côte d’Azur

Délégation Régionale du CNRS

Les lucioles 1

250, rue Albert Einstein- 06560 Valbonne

For the RECIPIENT:

See address indicated in the Letter Agreement.

**Article 8 – Assignment of the Agreement**

This Agreement may not be assigned to a third Party without the Parties’ prior and written authorisation.

**Article 9 – Term**

9.1 This Agreement shall become effective as from the date of its signature by all the Parties.

9.2 This agreement will terminate on the earliest of the following dates:

(a) five years after the entry into force of this Agreement; (b) on completion of the RECIPIENT’s current research with the MATERIAL; or (c) on thirty (30) days written notice by either party to the other, provided that :

(i) if termination should occur under (b), the RECIPIENT will discontinue its use of the MATERIAL and will return or destroy any remaining MATERIAL;

(ii) in the event the CNRS terminate the agreement under (c), other than for breach of this agreement or for cause such an imminent health risk or patent infringement, the CNRS 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 MATERIAL and will return or destroy any remaining MATERIAL.

9.3 When this Agreement ends, for any reason whatsoever, the RECIPIENT undertakes, during the following 15 days, to either return or destroy, at its expense, the MATERIAL and all the INFORMATION relating thereto, which it possesses, not to keep any and all reproduction or copy, except that RECIPIENT may retain one copy of the Agreement and the INFORMATION for purposes of monitoring its obligations.

9.4 Notwithstanding the Agreement’s expiry or termination, the provisions set forth in Articles 2, 3, 4, 5, 6 and 14 shall remain effective.

**Article 10 – Termination**

10.1. This Agreement may be automatically terminated by either Party in the event of the other Party’s breach of one or several of the obligations set forth in any of its Articles.

10.2. Such termination shall only become effective thirty (30) days following the sending, by the injured Party, of a registered letter with acknowledgment of receipt, setting forth the grounds for the complaint, unless, during said period, the defaulting Party were to have complied with its obligations, or were to present proof of an obstacle representing a case of “force majeure”.

10.3. The exercising of this entitlement shall not discharge the defaulting Party from meeting its contractual obligations until the effective termination date, without prejudice to any loss which may be suffered by the injured Party as a result of the early termination of the Agreement.

10.4. Notwithstanding said termination, and in accordance with the provisions of Article 2.1 hereof, a report on the work carried out and the results obtained during the term hereof shall be provided to the CNRS by the RECIPIENT.

**Article 11 – Entirety of the Agreement**

All the provisions of this Agreement and its Letter Agreement represent the entirety of the Parties’ agreements. They replace and cancel the prior commitments, representations, negotiations, oral or written communications, acceptances, understandings and agreements between the Parties relating to the same purpose.

**No addition and no modification of the terms and conditions of this Agreement shall be of any force or effect unless agreed in writing and signed by the duly authorized representatives of the CNRS.**

**Article 12 – Invalidity of a clause**

Should one or several provisions of this Agreement be held to be null and void, or declared as such under a treaty, law or regulations, or following a final decision handed-down by a Court having jurisdiction, the other provisions shall retain all their effect and scope. In this case, the Parties shall immediately make the required changes, complying, insofar as possible, with the original intention at the time when this Agreement was executed.

**Article 13 – Jurisdiction**

In case of any dispute over the interpretation or the execution of this Agreement, the parties undertake to make every effort to settle their differences by amicable agreement.

In the event of persistent disagreement, the litigation will be carried in front of the jurisdictions of the defendant.