

Material Transfer Agreement

Parties (Provider)

XYZ Research Institute

ADDRESS

CONTACTS

COUNTRY

and

[Insert other party's details including contacts and address] (Recipient)

Background

XYZ proposes to provide, or as at the date of this agreement has provided, the Recipient with the Materials (as defined below) and any related Confidential Information for the purpose of [XYZ employee to insert accurate description of the purpose for which the material is being provided to Recipient – if there is a detailed project, then the project and ERC number should be referenced here] (Purpose).

The Recipient has agreed to use the Material and to keep confidential all Confidential Information of the XYZ subject to the following terms and conditions of this agreement.

Description of the Materials

The Materials being provided by XYZ to the Recipient include: [XYZ employee to insert description of the materials being provided by Supplier – If the Material is **data**, indicate the type (de-identified, re-identifiable, identifiable), description and format being shared]; If the Material is **biospecimen**, XYZ employee to ensure compliance with the Policy to Store, Access and Handling of Samples]

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Defined terms

In this document:

Confidential Information of the XYZ includes the following, whether or not in material form:

- (a) all information that is confidential to the XYZ and that is disclosed (whether before or after the execution of this agreement) by the XYZ to the Recipient including but not limited to all information relating to the Material and any confidential know-how, data, results, models, samples, intellectual property, technology, trade secrets, drawings, processes, formulae, product development plans,

but excludes the following information, being information that:

- (b) is public knowledge or is lawfully known to or in the possession or control of the Recipient, other than as a result of a breach of confidentiality or this agreement;
- (c) is independently developed by the Recipient without the use of the XYZ confidential information and/or Materials; or
- (d) is required by law to be disclosed.

Intellectual Property Rights means all intellectual property rights subsisting anywhere in the world, including the following rights:

- (a) patents, copyright (including future copyright and software), rights in circuit layouts, designs, trade and service marks (including goodwill in those marks), domain names and trade names, confidential information and any right to have confidential information kept confidential whether or not such rights are registered or capable of being registered; and
- (b) to the extent available any application or right to apply for registration of any of the rights referred to in paragraph (a).

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Conditions for provision of Material

2.1

Use generally

The Recipient:

- (a) may only use the Material for the Purpose;
- (b) must not use the Material or any products containing any part of the Material or resulting from the use of the Material, for any commercial purpose without the prior written consent of the XYZ;
- (c) must comply with any applicable laws in relation to the importation, transportation, use, maintenance or disposal of the Material;
- (d) must keep the Material secure and protected from unauthorised access, misuse, damage, destruction, unauthorised disclosure or modification, or theft and must immediately

report to XYZ if it suspects the Material has been dealt with contrary to this clause;

- (e) must not distribute or release the Material (nor any unmodified derivatives or genetically engineered modifications which are based on the Material) to any person other than the employees of the Recipient, and must make sure that no one is allowed to take or send the Material to any location other than a location under the control of the Recipient without prior written permission from the XYZ; and
- (f) *Only if the Material is or contains identifiable data*, acknowledges that the Material may contain Personal Information and agrees that any Personal Information in the Material will not be used or disclosed. The Recipient must not disclose the Material to any third party in any form in or from which an individual's identity is apparent or may reasonably be ascertained without the consent of XYZ.

2.2 Publication

The Recipient has the right to publish its findings and results from the research with the Material, provided that:

- (a) the XYZ is either named as a co-author or given the opportunity to contribute to the publication; and [XYZ employee to consider if appropriate – delete if not]
- (b) XYZ is acknowledged (in a form to be agreed by XYZ prior to publication) as the source of the Material.

2.3 Intellectual Property Rights in Materials and Results

- (a) The XYZ retains all ownership and Intellectual Property Rights in the Material and derivatives of the Material and grants the Recipient a non-exclusive, royalty-free licence to use, adapt, reproduce and exploit the Material for the Purpose;
- (b) In consideration of XYZ supplying the Materials to the Recipient, the Recipient will, as soon as practicable, inform the XYZ in writing of any and all findings and research results produced by or on behalf of the Recipient related to the use of the Material (**Results**) and of any new Intellectual Property Rights developed from its use of the Materials. The Recipient and XYZ will enter into negotiations to discuss their respective ownership rights in relation to any new Intellectual Property Rights in the Results.

2.4 Recipient acknowledgements

The Recipient acknowledges and agrees that:

- (a) the Material is made available for investigational use only;
- (b) it will not obtain or attempt to obtain any patent protection in relation to:

- i. any part of the Material (or any modification or use of any part of the Material); or
- ii. any materials that could not have been made but for having access to the Materials,
without the written consent of the Head of Legal within the XYZ;

- (c) this transfer does not constitute a public disclosure;
- (d) the Material is experimental in nature and may have hazardous properties and is provided to the Recipient without any warranty of merchantability or fitness for any particular purpose, or any other warranty, express or implied. To the extent permitted by any applicable laws, the XYZ excludes any and all warranties in relation to the Material; and
- (e) the XYZ makes no representation or warranty that the Material or the use of any of the Material will not infringe any third party's Intellectual Property Rights.

3 Use and disclosure of Confidential Information

The Recipient agrees to use all Confidential Information solely for the Purpose and to keep it confidential. The Recipient may only disclose Confidential Information to those of its employees and officers who have a need to know and are aware that the Confidential Information must be kept confidential.

The Recipient must establish and maintain effective security measures to safeguard the Confidential Information from access or use not authorised by this agreement and must keep the Confidential Information under its control.

4 Agreement end and return or destruction of Material and any Confidential Information after agreement ends

Unless otherwise agreed, this agreement ends on the date the associated research project (for which the Materials have been obtained) ends.

Immediately upon the request of the XYZ (including after termination of this agreement in accordance with clause 6) or at agreement end, the Recipient must follow the XYZ's instructions in relation to destroying or returning the Material and/or Confidential Information of the XYZ.

5 Recipient liability

Except to the extent prohibited by law, the Recipient assumes all liability for damages which may arise from its use, storage or disposal of the Material. XYZ 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 by the Recipient, except to the extent permitted by law when caused

by the gross negligence or wilful misconduct of XYZ. 7

6 Termination

- (a) The XYZ may terminate this agreement at any time with immediate effect by giving written notice to the Recipient.
- (b) Any obligations in relation to confidentiality and privacy under this agreement continue to apply to the parties to this agreement after termination.
- (c) Termination of this agreement does not affect any accrued rights or remedies the XYZ may have.

Miscellaneous

- (a) This agreement may be executed in any number of counterparts. All counterparts will constitute one instrument. The parties agree that facsimile or email signatures will be accepted as originals.
- (b) A party must not assign or otherwise transfer any or all of its rights arising out of this agreement without the written consent of the other party.
- (c) This agreement constitutes the entire agreement between the parties with respect to the transfer of Material to the Recipient. This agreement may be amended only by written agreement of both parties.

Executed as an agreement

Signed for **XYZ**
by its authorised representative:

Signed for **[insert full name of other party]**
by its authorised representative:

Signature

Must be head of institution

Print Name

Date:

Signature

Print Name

Date:

Read, understood and accepted by:

Signature (XYZ Investigator)

Print Name

Date:

Signature (Recipient Investigator)

Print Name

Date: