# Model Material Transfer Agreement

This Material Transfer Agreement (“the Agreement”) is entered into on the Effective Date between:

[**INSERT** FULL LEGAL NAME OF PROVIDER and ADDRESS]

(**“the Provider”**)

AND

[**INSERT** FULL LEGAL NAME OF RECIPIENT AND ADDRESS]

(**“the Recipient”**)

Each of which shall be a “**Party**” and collectively the “**Parties**”

## Background

1. The Recipient has requested a supply of the Original Material (defined below), for the purposes of carrying out the Project.
2. The Provider has a supply of the Original Material and the Provider shall provide the Original Material to the Recipient, in accordance with the following terms and conditions.

## Terms and Conditions

* 1. **Definitions**
		1. For the purpose of this Agreement, the following terms shall be understood to mean:
* **Confidential Information**any information of a confidential nature, which is disclosed to the Recipient or Research Personnel by the Provider, in connection with the Material or the Project;
* **Effective Date**the date on which the final signature is placed on this Agreement;
* **Material**
the Original Material, Progeny and Unmodified Derivatives;
* **Modifications**substances created by the Recipient, which incorporate or contain Material;
* **Original Material**
the biological material(s) being provided to the Recipient by the Provider, as detailed in Appendix 1, for the purposes of carrying out the Project;
* **Progeny**
unmodified descendants of the Original Material (including virus from virus, cell from cell, or organism from organism);
* **Project**
the research project to be undertaken by the Recipient with the use of the Material, as detailed in Appendix 2;
* **Project Team**all persons employed by the Provider and associated with the Project;
* **Research Personnel**means suitably qualified: (a) scientific and technical staff who are under contract (whether as employees or independent consultants) to the Recipient or who are directed by the Recipient to participate in the Project; and (b) third parties, approved in writing by the Provider, allowed or requested to participate in the Project;
* **Results**
the results of the research undertaken by the Recipient with the Material, in the course of the Project;
* **Term**
[**INSERT** no.] years from the Effective Date;
* **Unmodified Derivatives**
any unmodified functional sub-units of the Original Material or products expressed by the Original Material (including sub-clones of unmodified cell lines, purified or fractionated subsets of the Original Material, proteins expressed by DNA/RNA, or monoclonal antibodies secreted by a hybridoma cell line).
	1. The Provider confirms that It has the right to supply the Material; and
	2. No Material shall be supplied by the Provider without having obtained such prior written consent of the original donor as may be appropriate in relation to the donation and subsequent use of the Material.
	3. The Material and Confidential Information are provided for the purposes of the Project only. Any use of the Material outside the scope of the Project requires the prior written approval of the Provider.
	4. The Material is experimental in nature, and accordingly the Provider makes no representations of any kind, either express or implied, 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.
	5. The Recipient warrants that the Research Personnel are qualified by training and experience to perform the Project, and shall be responsible for the proper and safe handling, storage and use of the Material in accordance with all instructions or advice which may be given by the Provider.
	6. The Material shall be used only: (i) in the Recipient’s laboratory, at the Recipient’s premises; and (ii) by the Research Personnel under the Recipient’s direct supervision and control. The Recipient undertakes that any person involved in the Project, or having access to the Material, shall be made aware of and shall comply with the terms of this Agreement.
	7. The Recipient shall retain ownership of: (i) any Modifications created in the course of the Project, except the Material contained or incorporated therein; (ii) any additional substances other than Progeny or Unmodified Derivatives which are created through the use of the Material; and (iii) subject to the foregoing, the Results.
	8. The Recipient shall and shall ensure that the Research Personnel keep secret any Confidential Information provided by the Provider, for so long as such Confidential Information remains confidential in nature. To avoid doubt, no Materials shall be supplied by the Provider without them being fully anonymised and no information will be provided to the Recipient by the Provider which could result in the Recipient being deemed to hold and process personal data under the UK GDPR defined in section 2 of the Data Protection, Privacy and Electronic Communications (Amendments) (EU Exit) Regulations 2019) as Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018; and the Data Protection Act 2019, all as amended by the Data Protection, Privacy and Electronic Communications (Amendments) EU Exit Regulations 2019.
	9. The obligation of Clause 2.9 shall not apply where the Recipient or the Research Personnel can prove that the Confidential Information:
		1. has become public knowledge, other than through an unauthorised disclosure by the Recipient or Research Personnel;
		2. was already known to the Recipient or Research Personnel, prior to disclosure by the Provider;
		3. was disclosed to the Recipient or the Research Personnel by a third party not under any obligation of confidence to the Provider;
		4. was released from confidential status by written authorisation of the Provider;
		5. was independently developed by an employee of the Recipient who did not have access to the Confidential Information; or
		6. is required to be disclosed by law or by requirement of a regulatory body.
	10. The Parties shall each be responsible for keeping a record of the Material that has been transferred.
	11. The Parties shall ensure compliance with any applicable laws and regulations governing the research use and storage of human biological material.
	12. The Parties agree the Material shall be used only:
		1. by the Research Personnel under the Recipient’s direct supervision and control;
		2. in consideration for supply of the Material the Provider recognises that the Recipient may wish to publish papers containing details of the Results, and hereby agrees to such publication provided:
			1. such publication would not constitute a breach of Clause 2.9 of this Agreement; and
			2. if specifically requested by the Provider, any publication referring to the Project shall contain a reference, where appropriate, to the Provider as the source of the Material. To avoid doubt, where no specific request is made, no such reference to the Provider shall be made.
	13. If the Provider requires an acknowledgement in accordance with Clause 2.13.2b, the Recipient shall acknowledge the Provider as the source of the Material, and shall make an appropriate acknowledgement in any and all publications reporting their use of the Material in accordance with normal academic practice.
	14. On written request, the Recipient shall provide the Provider with:
		1. samples of any Modifications made during the Project; and
		2. a report of all Results generated in the course of the Project,
		3. and shall permit the Provider to use such Modifications and Results for research and education purposes only.
	15. On completion of the Project, or on termination of the Agreement, whichever is earliest:
		1. all remaining Material shall be disposed of/ returned to the Provider in accordance with this Agreement; and
		2. all Confidential Information, in whatever form, including copies of all or any part thereof shall be, at the Provider’s sole option, returned to the Provider or destroyed save that the Recipient may retain one (1) copy solely for record purposes.
	16. Notwithstanding Clause 2.4, the Recipient may make such commercial use of any Modifications or Results as has been specifically permitted by the Provider. To avoid doubt, such permission may be subject to agreement on payment of an equitable share of any revenue received by the Recipient from such commercial use.
	17. The Provider acknowledges that as part of the Project, the Recipient may be required to transfer the Material and/or the Confidential Information to third parties. The Recipient will not assign, transfer, sell, lease or rent the Material and/or the Confidential Information to any third party except with the prior written agreement of the Provider. The Recipient will enter into a written agreement with any third party receiving the Material and/or the Confidential Information and shall ensure that such agreement imposes and keeps imposed on such third party obligations which are no less onerous than those on the Recipient contained herein.
	18. The Provider shall have no liability to the Recipient in relation to the supply of the Material to the Recipient or its use by the Recipient or the Research Personnel. Except to the extent prohibited by law, the Recipient shall indemnify the Provider from any and all claims, suits and liabilities arising from any use, storage or disposal of the Material by the Recipient or the Research Personnel for this Project. Such indemnity shall include all claims, suits and liabilities arising from or incurred by reason of any infringement of any intellectual property rights of any third party in connection with the supply of the Material for this Project. The Recipient shall maintain an insurance policy with a reputable insurance company in respect of the indemnities contained herein. The Recipient shall, if requested, provide evidence to the Provider of the payment of premiums payable in connection with such insurance.
	19. This Agreement shall have effect for the Term and shall then terminate automatically, subject always to the Provider’s right to terminate this Agreement on one month’s written notice. Termination of this Agreement shall not affect any obligations that came into or continue in effect on or following termination, including, but not limited to, those under Clauses 2.9 to 2.17 (inclusive) of this Agreement.
	20. The Recipient shall:
		1. be responsible for arranging and financing transport of the Material as outlined in Appendix 3; and
		2. pay to the Provider any reasonable expenses, carriage or freight costs incurred by the Provider on supply of the Material, as detailed in Appendix 3, within 30 days of receipt of an invoice. To avoid doubt, such payment is in respect of activities undertaken or outlays incurred by the Provider in supply of the Material, but no payment is made in respect of the Material itself. In the event that such payment is late, the Provider may terminate this Agreement immediately and require the return of any Material.
	21. This Agreement is personal to contracting Parties, neither of whom may assign or otherwise transfer their rights or obligations under it in whole or in part without the other Party’s prior written agreement. Nothing herein contained shall constitute a partnership between the contracting parties.
	22. Any dispute, difference or question between the Parties to this Agreement with respect to any matter arising out of or in relation to the Agreement which cannot be resolved in negotiation between the parties hereto shall be referred to the Centre for Effective Dispute Resolution Model Mediation Procedure. The decision of the mediator shall be final and binding on both parties. Each Party shall each bear its own costs in relation to the settlement of any disputes and the Parties shall share equally the costs of any independent third party involved to assist in the resolution of the dispute unless the independent third party directs that costs be apportioned differently.
	23. This Agreement constitutes the entire understanding between the Parties relating to the subject matter of this Agreement and supersedes all prior representations, writings, negotiations or understandings with respect thereto provided that nothing in this clause shall have effect to exclude the liability of either Party for fraud or fraudulent misrepresentations.
	24. This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of the country of where the Provider is based.
	25. Each Party irrevocably agrees that the courts of the country of where the Provider is based shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

## The Provider and the Recipient hereby accept the foregoing terms and conditions:

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| --- | --- |
| Signed for and on behalf of:[**INSERT** FULL LEGAL NAME OF PROVIDER]Signature:Name:Title: Date: | Signed for and on behalf of:[**INSERT** NAME OF RECIPIENT]Signature:Name:Title:Date |

# Appendix 1 – Original Material(s)

[**INSERT** details about the Material]

1. The Provider will supply the Material to the Recipient in batches during the Term of the Project.
2. Each batch will contain [**INSERT** number] of samples.
3. [Indicate how often the batches will be supplied, i.e. every 12 weeks or on request of the Recipient with 30 days’ notice].

# Appendix 2 – Project Plan

[**INSERT** details about the Project to be undertaken by the Recipient using the Material this may include IRAS (if applicable), title, duration, etc]

[**INSERT** contact details of the Project Team of the Provider and the Research Personnel of the Recipient]

# Appendix 3 – Transport Arrangements [optional to be used if Clause 2.21.2 has been selected]

1. The Recipient shall arrange collection, transport and return (“the Arrangements”) of the Material for the purposes of the Project.
2. The Recipient shall be solely responsible for any and all costs associated with the collection, transport and return of the Materials to the Provider.
3. On Material(s) being transferred between the Parties:
	1. the transfer and custodianship of the Material shall be deemed to have taken place from the point of physical receipt of the Material by one Party to the other Party. In this context, a Party includes its employees, servants or agents.
4. The Parties shall each be responsible for keeping a record of the Material(s) that has been transferred in accordance with this Agreement.
5. The Recipient shall ensure that the Arrangements are planned and coordinated with the Project Team as follows:

5.1 [specific requirements of the Provider]