Instituts thématiques Inserm

Institut national de la santé et de la recherche médicale

MATERIAL TRANSFER AGREEMENT

Within the framework of the missions of INSTITUT NATIONAL DE LA SANTE ET DE LA RECHERCHE MEDICALE (French National Institute of Health and Medical Research) (hereinafter "**INSERM**"), a French public scientific and technological institution, which are assigned to it by French law n° 82-610 of July 15, 1982 and French decree n° 83-975 of November 10, 1983, INSERM wishes to promote the advancement of science by providing the material described below and by granting a non-exclusive and non commercial utilization right to the scientific community in a research purpose only.

In particular, INSERM agrees to transfer the Biological Material developed by INSERM Laboratory described below (hereinafter "**INSERM Laboratory**") and especially by the scientist responsible of such biological material (hereinafter the "**Scientist**") to the benefit of the Institution and the Investigator (hereinafter jointly referred to as "**RECIPIENT**" and hereafter described), subject only to the RECIPIENT's strict respect of the conditions stated in the present agreement (hereinafter referred to as the "**Agreement**").

Institution *Investigator employer*	Name, address
Investigator *Asking for Original Material*	Name, address, email, phone, fax
Site of investigation Address where Research shall be conduct	
Original Material *description and quantity*	Tet OPN~~Pol iota-deficient mouse~~
Scientist *who will provide the Material*	~~Dr Claude-Agnès Reynaud~~ ~~INSERM U783~~ ~~Faculté de Médecine Paris Descartes – Site Necker-Enfants malades~~ ~~156 rue de Vaugirard~~ ~~75730 Paris Cedex 15 (France)~~ ~~claude-agnes.reynaud@inserm.fr~~ ~~00 33 1 40 61 56 84~~ ~~fax : 00 33 1 40 61 55 90~~Alain-Pierre Gadeau INSERM UMR1034 Biology of Vascular Diseases 1 Avenue de Magellan 33600Pessac, France tel: +33 557 89 19 79 Mob +33 637 98 28 38 alain.gadeau@inserm.fr
INSERM Laboratory	INSERM ~~U783 « Développement du système immunitaire »~~UMR1034
Research Which shall be carried out by the Investigator through the use of Original Material (Research shall be completed with an Appendix, which shall be an integrative part of the Agreement)	

I. 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 INSERM, 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 INSERM Laboratory or monoclonal antibodies secreted by an hybridoma cell line.

(vii) Invention : Any scientific discovery or creation, whether patentable or not, which results from the use of the Material, including but not limited to Modifications or any other material that could not have been made without the Material, or manufacture or method(s) of use of the Material or Modifications

TERMS AND CONDITIONS OF THIS AGREEMENT

1. OBJECT

1.1 RECIPIENT acknowledges that this Agreement is entered into in order to encourage scientific collaboration aimed at further development and application of the Original Material and exchange of technical data.

1.2 INSERM agrees to supply the Original Material to RECIPIENT under conditions set forth herein.

2. USE

2.1 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 in compliance with all laws and regulations applicable to the Material; and

(e) is to be used only at RECIPIENT's Site of investigation and by scientists working in RECIPIENT's laboratory or under the RECIPIENT direct responsibility.

2.2 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, Unmodified Derivatives, or Modifications.

2.3 Without prior written consent from INSERM-TRANSFERT, RECIPIENT may NOT provide Modifications for Commercial Purposes. If RECIPIENT wishes to use or obtain a license of the Material or Modifications for Commercial Purposes, RECIPIENT may first require a commercial license from INSERM subsidiary, INSERM-TRANSFERT, and INSERM-TRANSFERT has no obligation to grant such a license to RECIPIENT. RECIPIENT acknowledges that INSERM-TRANSFERT 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.

2.4 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 INSERM, including any altered forms of the Material made by INSERM.

2.5 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.

3. PROPERTY

3.1 INSERM retains ownership of the Material, including any Material contained or incorporated in Modifications.

Furthermore, INSERM retains 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.

3.2 Modifications realized only by INSERM shall be the entire property of INSERM.

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

3.3 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 INSERM and RECIPIENT.

3.4 With exception to articles 3.1, 3.2 and 3.3 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 INSERM and RECIPIENT inventors, the parties shall consult each other to define the modalities of such a patent application filing, and its exploitation conditions.

3.5 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.

3.6 RECIPIENT undertakes to supply to INSERM, free of charge and within the best delay, the Modifications resulting from the use of Material.

4. PUBLICATION - CONFIDENTIALITY

4.1 This Agreement shall not be interpreted to prevent or delay publication of Research findings resulting from the use of the Material or from its Modifications. RECIPIENT shall supply INSERM with a copy of all publication draft.

4.2 In accordance with scientific customs, the contributions of those who have made Material available or of collaborators, if any, from INSERM will be reflected expressly in all written or oral public disclosures concerning Research using the Material by acknowledgment or co-authorship, as appropriate. The origin of the Material and any applicable patent notices must be included in such disclosures.

4.3 Nothing however in this Agreement shall be construed as conferring rights to use in advertising, publicity, or otherwise the name of INSERM or INSERM-TRANSFERT or any of their marks.

4.4 RECIPIENT undertakes to respect and maintain strictly confidential all information identified as confidential received from INSERM Laboratory.

RECIPIENT ensures that its personnel and any other persons in its service in any respect whatsoever respect and agree to respect the confidential nature of said confidential information.
RECIPIENT undertakes to use confidential information only in the framework of the present Agreement.
Article 4.4 disposals shall take effect upon execution of the present Agreement and shall stay in force for a five years period, notwithstanding expiration or earlier termination of the present Agreement.

5. WARRANTIES

5.1 RECIPIENT accepts the Original Material "as is" and acknowledges that it is experimental in nature and that it should be used with prudence and appropriate caution, since not all of its characteristics are known and it may have hazardous properties. INSERM MAKES NO REPRESENTATIONS AND EXTEND NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. NO WARRANTIES, EXPRESS OR IMPLIED ARE OFFERED BY INSERM, INSERM-TRANSFERT OR BY THE INVENTORS AS TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE MATERIAL OR AGAINST INFRINGEMENT. INSERM and its directors, officers, employees, or agents assume no liability and make no representations in connection with the Material use by RECIPIENT. RECIPIENT will defend, indemnify and hold harmless INSERM, its directors, officers, employees, and agents from any damages, claims, or other liabilities which may be alleged to result or arise from the use of the Material or information related thereto.

5.2 INSERM makes no representation that the use of the Material will not infringe any intellectual property right of any third party.

6. TERMS OF CONTRACT

6.1 This Agreement enters into force at the last date mentioned on signature page and shall be terminated on the earliest of the following dates: (a) 5 years from the date of signing this Agreement, or (b) on completion of RECIPIENT's current Research with the Material, or (c) 30 days after sending by either party to the other of a

termination written notice, provided that:

- if termination should occur under (a) or (b), RECIPIENT shall discontinue its use of the Material and shall, according to INSERM instructions, return or destroy any remaining Material. RECIPIENT shall, at its own discretion, also either destroy the Modifications or remain bound by the terms of this Agreement related to Modifications, and
- in the event INSERM terminates the Agreement under (c) other than for breach of this Agreement or for cause such as an imminent health risk or patent infringement, INSERM will defer the effective date of termination for a period of up to one year, upon request from RECIPIENT, to permit completion of Research in progress.

6.2 At the expiration date of said period or at the effective expiration date, RECIPIENT shall discontinue its use of the Material and shall, according to INSERM instructions, return or destroy any remaining Material. RECIPIENT shall, at its own discretion, also either destroy Modifications or remain bound by the terms of the Agreement related to Modifications.

7. MISCELLANEOUS

7.1 This Agreement shall be governed by the laws of France. The French court shall have sole jurisdiction for any litigation related to interpretation or execution of the Agreement, which parties shall not solve in an amicable way.

7.2 This Agreement constitutes the complete Agreement between INSERM and RECIPIENT with respect to the subject matter hereof, and supersedes all prior oral or written understandings, communications or agreements not specifically incorporated herein. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable, and such decision shall not affect the enforceability (i) of such provision under other circumstances, or (ii) of the remaining provisions hereof under all circumstances.

In witness whereof, RECIPIENT and INSERM have executed this agreement as of the date below written.

INSERM

Signature_____

Name :
Title :
Date :

READ, UNDERSTOOD AND AGREED TO BY THE INSERM SCIENTIST :

Signature:
Name: ~~Claude-Agnès Reynaud~~
Title: ~~Head, INSERM U783~~
Date:

RECIPIENT

Signature_____
(Authorized signatory of the Institution)

Name :
Title:
Date :

READ, UNDERSTOOD AND AGREED TO BY THE INVESTIGATOR :

Signature_____
Name:
Title:
Date: