

BIOLOGICAL MATERIAL TRANSFER AGREEMENT

WHEREAS, The Wistar Institute of Anatomy and Biology, a Pennsylvania nonprofit corporation with offices at 3601 Spruce Street, Philadelphia, PA 19104 USA ("Wistar") possesses certain biological material consisting of **Material** (hereinafter, together with any progeny, mutants, derivatives or parts thereof, referred to as "Biological Material") and related confidential information (hereinafter "Information"); and

WHEREAS, **Recipient Institution**, with offices located at **Recipient Address** (hereinafter "Recipient"), desires to obtain from Wistar such Biological Material and Information to be used for purposes of the research described in detail on Exhibit A hereto (the "Research").

NOW THEREFORE, Wistar is willing to make available to Recipient the Biological Material and certain Information for the aforesaid purpose subject to the following terms and conditions:

1. Ownership. Wistar retains all right and title in and to the Biological Material and Information, subject to the rights of the United States government. Nothing contained within this Agreement shall restrict Wistar's rights to use or distribute the Biological Material and Information to other commercial or noncommercial entities.
2. Use. Recipient agrees that the Biological Material and Information: i) shall be used only by Recipient and only for purposes of the Research described on Exhibit A; ii) shall not be used in humans; and iii) shall not be used, directly or indirectly, for commercial purposes.
3. Distribution and Control. Recipient agrees not to transfer the Biological Material to any third party without the prior written permission of Wistar. In addition, Recipient shall obtain acceptance of the terms of this Agreement of all persons who have access to the Biological Material and Information.
4. Reporting. Recipient shall supply Wistar with preprints of any publications resulting from Recipient's use of the Biological Material at a time no later than receipt by Recipient of notice of acceptance from the publishing journal.
5. Confidentiality. Recipient agrees to hold in confidence and not disclose or transfer in any manner the Information received from Wistar under this Agreement, except that Information may be disclosed which: i) was in Recipient's possession or control prior to the date of disclosure by Wistar; ii) was in the public domain or enters into the public domain through no improper act on Recipient's part or on the part of any of Recipient's employees; or iii) is rightfully given to Recipient from sources independent of Wistar.
6. No Transfer of Rights. No right or license is granted under this Agreement by either party to the other either expressly or by implication, except those specifically set forth herein. It is understood that any and all proprietary rights, including but not limited to patent rights, trademarks and trade secret rights, in and to the Biological Material and Information shall be and remain in Wistar, subject to the rights granted herein.
7. Return of Material. In the event that either party terminates this Agreement, as provided in Section 13 below, Recipient shall promptly, upon such termination, return the Biological Material and Information to Wistar.

8. Use of Wistar's Name. Recipient shall not use the name of "The Wistar Institute of Anatomy and Biology," or a portion thereof in any advertising or publicity matter without the prior written approval of Wistar.
9. Governmental Regulations. Recipient agrees to comply with all appropriate governmental regulations, in all appropriate jurisdictions, including, without limitation, National Institutes of Health regulations and guidelines which are applicable to its use of the Biological Material. Since all of the Biological Material's characteristics are not known, it should be used with caution and prudence.
10. Warranty. Recipient acknowledges that the Biological Material is experimental in nature and that it is provided WITHOUT WARRANTY OF ANY KIND. BY WAY OF EXAMPLE AND NOT LIMITATION, WISTAR MAKES NO REPRESENTATION OR WARRANTIES OF COMMERCIAL UTILITY, TITLE, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. WISTAR MAKES NO REPRESENTATION THAT THE USE OF THE BIOLOGICAL MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPERTY OR PROPRIETARY RIGHTS.
11. Liability; Injunctive Relief. In no event shall Wistar be liable for any use of the Biological Material by Recipient or by others, either on its behalf or who receive the Biological Material from Recipient. Recipient hereby agrees to defend, indemnify, and hold Wistar harmless from any loss, claim, damage, or liability, of whatsoever kind or nature, which may arise from or in connection with this Agreement or the use, disposition, handling or storage of the Biological Material and the Information by Recipient or on its behalf. Damages at law may be an inadequate remedy for breach of any of the covenants, promises, and agreements contained in this Agreement and accordingly, Recipient agrees that Wistar shall be entitled to injunctive relief without the necessity of proving actual damages for any such breach in addition to all other remedies available at law or in equity.
12. Governing Law. The validity and interpretation of this Agreement and the legal relations of the parties to it shall be governed by the laws of the Commonwealth of Pennsylvania. Recipient hereby consents to the jurisdiction of the Federal District Court for the Eastern District of Pennsylvania for all disputes arising under this Agreement.
13. Termination. This Agreement shall be terminable by either party hereto on thirty (30) days prior written notice to the other. Paragraphs 5, 7, 10, 11, and 12, shall survive any such termination.
14. Assignment/Entire Agreement. This Agreement may not be assigned by Recipient without the prior written consent of Wistar. This Agreement sets forth the entire understanding between the parties and cannot be changed or amended except by written agreement executed by the parties.
15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts together shall constitute one agreement.

IN WITNESS WHEREOF, Wistar and Recipient have caused this Agreement to be executed by their respective duly authorized officers. This agreement shall be effective as of the date last set forth below.

THE WISTAR INSTITUTE OF ANATOMY AND BIOLOGY

By

Meryle J. Melnicoff, Ph.D.
Director, Business Development

Date

WISTAR PRINCIPAL INVESTIGATOR

By

Date

AUTHORIZED OFFICER OF RECIPIENT

By

Signature

Printed Name

Title

Date

Address

Email

RECIPIENT PRINCIPAL INVESTIGATOR

By

Signature

Printed Name

Title

Date

Address

Email

FedEx Account No.

EXHIBIT A

Biological Material Transfer Agreement between
The Wistar Institute of Anatomy and Biology and
Recipient Institution

Description of Research

SAMPLE
SAMPLE
SAMPLE