

MATERIAL TRANSFER AGREEMENT

BETWEEN:

THE UNIVERSITY OF BRITISH COLUMBIA, a corporation continued under the *University Act* of British Columbia and having offices at 103-6190 Agronomy Road, Vancouver, British Columbia, Canada V6T 1Z3, Attention: University-Industry Liaison Office, Telephone: 604-822-8580, Facsimile: 604-822-8589, on behalf of Dr. _____ ("**Provider Scientist**"), Telephone: _____, E-mail: _____

(together, The University of British Columbia and Provider Scientist will be known as the "**Provider**")

AND:

 ("**Recipient Institution**"), a corporation incorporated under the laws of _____ and having an office at _____, on behalf of Dr. _____ ("**Recipient Scientist**"), Telephone: _____; e-mail: _____

(together, Recipient Institution and the Recipient Scientist will be known as the "**Recipient**")

WHEREAS:

As of April 1, 2005, The University of British Columbia includes both Vancouver and Okanagan campuses;

Provider wishes to provide Recipient, and Recipient wishes to obtain from Provider, certain proprietary information and biological materials on terms and conditions set out in this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1.0 DEFINITIONS.

1.1 In this Agreement, the following words have the following definitions:

(a) "**Commercial Purposes**" means the sale, lease, licence or other exploitation of the Material, Information or Modifications to a person for profit, including, but not limited to, use of the Material, Information or Modifications by Recipient or any individual or organization to perform contract research, to screen compound libraries, to produce or manufacture products for general sale, or to conduct research activities that result in any sale, lease, licence or other exploitation of the Material, Information or Modifications to any individual or organization for profit. For greater certainty, academic research sponsored by government or industry does not fall within the definition of "commercial purposes" unless the sponsor retains rights, title or interests in and to the Material, Information or Modifications; or unless the research activities result in any sale, lease, licence or other exploitation of the Material, Information or Modifications to any individual or organization for profit.

(b) "**Information**" means any and all information, know-how, techniques or practices that Provider discloses to Recipient in writing and identified as CONFIDENTIAL at the time of disclosure relating to the Material or its use and includes all research, data, specifications, plans, drawings, prototypes, recordings, instructions, manuals, papers or other materials so disclosed, but excludes any Information that:

- (a) was already in the possession of Recipient and evidenced by written documents existing prior to the date of disclosure of the Information by Provider to Recipient;
- (b) is publicly known at the time of the disclosure or later becomes publicly known other than through a breach of this Agreement by Recipient;
- (c) is required to be disclosed under applicable laws, regulations or orders of any governmental authority;
- (d) is furnished by Provider to others without restrictions on its use or disclosure;
- (e) is subsequently disclosed to the Recipient by a third party who Recipient has no reason to believe is under confidentiality obligations to Provider; or
- (f) is independently developed by Recipient without use of the Information.

Oral or visual disclosure of any Information will be reduced to writing within 30 days.

(c) "**Inventions**" means any discoveries, improvements, processes or inventions made by Recipient through use of the Material, Modifications or Information.

(d) "**Material**" means the Original Material, any Progeny or Unmodified Derivatives.

(e) "**Modifications**" means substances created by Recipient, which contain or incorporate any form of the Material (including Original Material, Progeny or Unmodified Derivatives).

(f) "**Original Material**" means the original material being transferred to the Recipient as described in Schedule "A" of this Agreement.

(g) "**Progeny**" means unmodified descendant from the Material (for example, virus from virus, cell from cell, or mouse from mouse).

(h) "**Research Project**" means the research described in Schedule "A" of this Agreement.

(i) "**Unmodified Derivatives**" means substances created by Recipient, which constitute an unmodified functional subunit or product expressed by the Original Material (for example, subclones of unmodified cell lines, purified or fractionated subsets of the original material, proteins expressed by DNA/RNA supplied by Provider, or monoclonal antibodies secreted by a hybridoma cell line).

2.0 LICENSE OF MATERIAL & INFORMATION.

2.1 Subject to the terms and conditions of this Agreement, Provider hereby grants to Recipient a non-transferable, non-exclusive licence to use the Material and Information in the Research Project for academic research purposes only, for a period commencing

on the date authorized Provider signs this Agreement and ending <@> years thereafter unless terminated earlier in accordance with this Agreement.

3.0 RESTRICTIONS ON USE.

3.1 Recipient will not:

- (a) make Modifications of the Material without the express written consent of the Provider, with the exception of the Research Project described in Schedule "A";
- (b) use the Material, Modifications or Information for Commercial Purposes;
- (c) use the Material or Modification in human subjects, whether in clinical trials or otherwise and whether for therapeutic, preventive, diagnostic or other purposes;
- (d) use the Material, Modifications or Information in research projects that grant sublicense, ownership or other proprietary rights in the Material, Modifications or Information to a third party; or
- (e) provide or make available to anyone outside of the Recipient Scientist's direct supervision, or to any third party for any purpose whatsoever the Material, Information or Modifications without the prior written consent of Provider whose consent may be withheld at its sole discretion.

4.0 TRANSMITTAL FEE.

4.1 To reimburse Provider for preparation and distribution costs:

Amount: \$<@>
Recipient's FedEx Account No.

5.0 OWNERSHIP, PROGRESS REPORTS & INVENTIONS.

5.1 Provider retains all rights, title and interest in and to the Material and Information. Provider retains all rights, title and interest in and to the Material contained whole or in-part, within Modifications. Material and Information may be subject to patent protection.

5.2 Recipient will provide UBC with a written report on the progress of the Research Project within 60 days of the end of each calendar year of this Agreement.

5.3 Recipient will promptly notify UBC in writing within 30 days of any Inventions. Where Inventions result from the sole effort of Recipient, Recipient will own all rights, title and interest in and to the Inventions and hereby grants to Provider a non-exclusive license to use the Inventions for research and scholarly purposes. To the extent necessary due to proprietary nature of the Material, if the Recipient then wishes to use the Material in Inventions for Commercial Purposes, the parties will negotiate in good faith and enter into an agreement on commercially reasonable terms and conditions.

5.4 Where Inventions result from collaborative efforts of both Provider and Recipient and according to U.S. patent law, the resulting patent application names at least one inventor from each entity; the parties will own the Inventions jointly. In the case of such joint ownership, Recipient agrees to negotiate in good faith with Provider for administering such joint Invention.

5.5 Nothing in this Agreement grants any rights under any patents or in any know-how of the Provider nor any rights to use the Materials or Information for profit-making or Commercial Purposes such as, but not limited to production, sale, screening or drug design.

6.0 DISCLAIMER OF WARRANTIES.

6.1 The Material and Information are being provided by Provider to Recipient on an "AS IS" basis and the Material is understood to be experimental in nature. Any use of the Material or Information by Recipient will be at the sole risk and liability of Recipient, whether or not Provider has consented or acquiesced to such use. PROVIDER MAKES NO REPRESENTATION OR WARRANTY, WHETHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE MATERIAL AND INFORMATION, INCLUDING ANY REPRESENTATION OR WARRANTY AS TO THE DURABILITY, STORAGE, DISPOSAL, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR TO THE NON-INFRINGEMENT OF THE MATERIAL AND INFORMATION ON THE PROPRIETARY RIGHTS OF A THIRD PARTY. ALSO, PROVIDER WILL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGE OR LOSS ARISING OUT OF OR RELATED TO THE FOREGOING EVEN IF PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

7.0 REGULATION.

7.1 Both parties will abide by their respective ethical institutional review board ("IRB") and all applicable laws and regulations with regards to the use and transfer of the Material.

8. LIABILITY.

8.1 The Recipient assumes all liability for damages, which may arise from its use, storage or disposition of the Material. The Provider 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 arising from the use of the Material by the Recipient.

9.0 CONFIDENTIALITY.

9.1 Subject to Article 10 (Publication), during the term of this Agreement and for a period of 3 years after the termination of this Agreement, Recipient will use reasonable efforts to maintain the confidentiality of the Material and Information (whether or not owned or developed by Provider or disclosed to Provider by a third party whose material or information Provider is obligated to treat as confidential or proprietary) and to prevent any unauthorized access, reproduction, disclosure and/or use of the Material and Information.

10.0 PUBLICATION.

10.1 If Recipient wishes to present or publish results of research conducted using the Material or Information, Recipient will submit a copy of the proposed presentation or publication to Provider at least 30 days in advance of the presentation or publication submission date to allow Provider time to review and identify any disclosure of its confidential or proprietary information. <If Provider does not respond to the Recipient by

the end of 30 day period, Recipient will be free to present or publish the information.>.If Provider responds within the 30 day period and identifies its Information, the Recipient shall remove such information before publication or presentation. If Provider responds to the Recipient within the 30 day period and identifies patentable subject matter of either the Provider or Recipient for which Provider desires to have patent applications filed, Recipient shall delay publication for a maximum of 90 days from date of original disclosure to allow Provider an opportunity to file the required patent applications. The parties agree that any publication made pursuant to this agreement shall be made in accordance with the custom of scientific research and shall acknowledge the contribution of the parties' scientists, as appropriate.

11.0 TERMINATION.

11.1 This Agreement may be terminated immediately upon the occurrence of any one of the following events:

- (a) Recipient notifies Provider in writing that the Research Project has been completed or terminated;
- (b) Recipient becomes bankrupt or insolvent or a receiver is appointed to take possession of Recipient's business or property or Recipient has assigned its interest to creditors;
- (c) Recipient is more than 30 days in arrears of any monies that are due to UBC under this Agreement;
- (d) Recipient commits a breach of Article 3 (Restriction on Use), 9 (Confidentiality) or 10 (Publication);
- (e) Recipient terminates the non-exclusive licence granted to Provider under Article 5; or
- (f) the giving of at least 30 days written notice by one party to the other of its intention to terminate this Agreement in the absence of a breach of any of the provisions of this Agreement.

11.2 Articles 3, 5, 6, 8, 9, 10 and 12 will survive the expiration or earlier termination of this Agreement.

12.0 RETURN, DESTRUCTION or CONTINUED USE OF MATERIAL & INFORMATION.

12.1 On the expiration or earlier termination of this Agreement, Recipient will, on the written direction of Provider, return or destroy the Material and Information. However, at the request of Recipient, Provider may extend the term of this Agreement with respect to provisions governing Modifications so that Recipient can continue to use the Material contained or incorporated in the Modifications. Upon request, Recipient will send Provider samples of Modifications, for academic research only.

13.0 NOTICES.

13.1 All payments, reports and notices or other communication required or desired to be given or delivered under this Agreement will be given in writing and delivered by person, by registered mail, or by fax, addressed to the party at its address first set out above or such other address as the party otherwise advise in writing. Any notice personally delivered or sent by fax will be deemed to have been given or received at the

time of delivery or transmission. Any notice mailed will be deemed to have been received on the expiration of 5 days after it is posted, provided that if, at the time of mailing or between the time of mailing and actual receipt, there is a postal strike, slow down or labour dispute which might affect the delivery of the notice, then the notice will only be effective if actually delivered or faxed.

14.0. ASSIGNMENT.

14.1 Recipient will not assign this Agreement, in whole or in part, without the prior written consent of Provider, whose consent may not be unreasonably withheld.

15.0 GOVERNING LAW.

15.1 This Agreement will be governed by and construed under the laws of British Columbia and the applicable laws of Canada without reference to its conflict of law rules. Nothing in the foregoing sentence will prevent Provider from applying to any court of competent jurisdiction for injunctive relief for any actual or threatened breach of confidentiality obligations by Recipient.

16.0 GENERAL.

16.1 If any provision of this Agreement is deemed to be invalid or unenforceable, such provision or provisions will be deemed modified to the extent necessary to render the same valid or enforceable, or if such modification is not possible, the remaining terms and provisions of this Agreement will be construed and enforced as if the invalid or unenforceable provision or provisions did not exist.

16.2 The headings of the sections of this Agreement are inserted for convenience only and do not in any way limit or amplify the provisions of this Agreement.

16.3 No provision of this Agreement will be deemed waived or any breach excused, unless such waiver or consent excusing the breach is in writing signed by the party giving the waiver or consent. A waiver of a provision of this Agreement will not be construed to be a waiver of a subsequent breach of the same provision.

16.4 This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior proposals, negotiations, agreements, understandings, representations and warranties of any form or nature, whether oral or written, and whether express or implied, which may have been entered into between the parties relating to its subject matter.

16.5 Each party will execute and deliver such further agreements and other documents and do such further acts and things as the other parties reasonably request to evidence, carry out or give full force and effect to the intent of this Agreement.

16.6 This Agreement may be executed in counterpart by the Parties, either through original copies or by facsimile. An executed copy of this Agreement delivered by facsimile will constitute valid execution and delivery of this Agreement.

In signing this Agreement, the signatories confirm that they have the authority of their respective organizations to enter into the obligations of the Agreement.

SIGNED BY THE PARTIES AS AN AGREEMENT and effective as of the date of the last signature.

**THE UNIVERSITY OF BRITISH <@>
COLUMBIA**

Signature: _____ Signature: _____

Title: _____ Title: _____

Date: _____ Date: _____

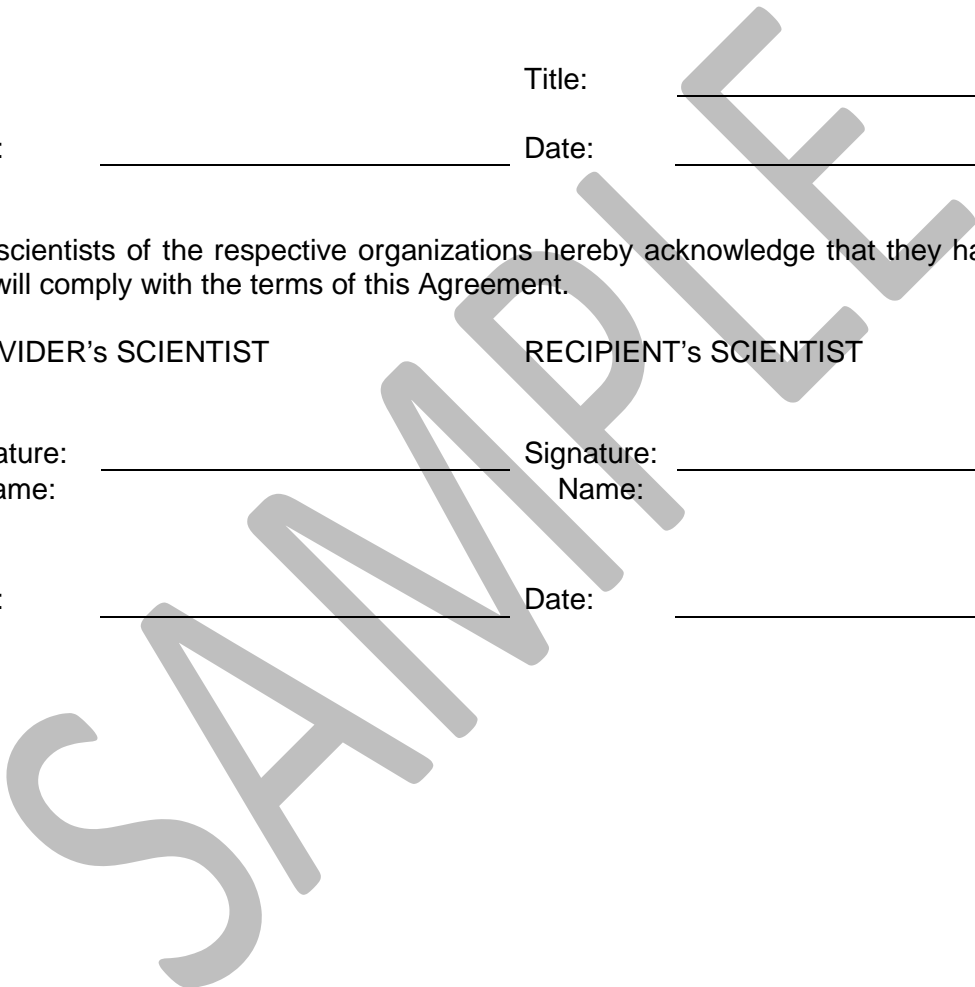
The scientists of the respective organizations hereby acknowledge that they have read and will comply with the terms of this Agreement.

PROVIDER's SCIENTIST

RECIPIENT's SCIENTIST

Signature: _____ Signature: _____
Name: _____ Name: _____

Date: _____ Date: _____



Schedule "A"**Description of Original Material and Research Project****1. Original Material**

Please provide a detailed description of the Original Material, which Provider will be providing to the Recipient.

2. Research Project

Please describe the research project in detail:

SAMPLE