

# Standard Material Transfer Agreement for Dissemination of Sanger Institute Materials

## For Non-Commercial Purposes only

This Standard Material Transfer Agreement - hereinafter referred to as the "*SMTA*" - is concluded by and between

(1) **Genome Research Limited**, a company incorporated in England with company no 2742969 and registered as a charity (no 1021457) with a business address at the Wellcome Trust Genome Campus, Hinxton, Cambridge CB10 1SA, UK, operating as the Wellcome Trust Sanger Institute

- hereinafter referred to as "*Provider*" -

and

(2) **[insert legal title & address]**

- hereinafter referred to as the "*Recipient*" -

on behalf of

**[insert name of Recipient's PI]**

- hereinafter referred to as the "*Researcher/s*" -.

WHEREAS

- (A) The *Recipient*, or more specifically the *Researcher/s* named above, wishes to obtain the materials listed in Annex 1 from the *Provider* for the purposes of undertaking in-house research/teaching only.
- (B) The *Provider* agrees to provide such materials in accordance with the provisions of this *SMTA*.

### 1. Definitions

- 1.1 "*Original Material(s)*" means all materials supplied by the *Provider* to the *Recipient*, as described in Annex 1 of this *SMTA* and which may from time to time be amended subject to written agreement between the parties.
- 1.3 "*Progeny*" is defined as unmodified descendant from the *Original Material*, such as, cell from cell or organism from organism or vector from vector.
- 1.4 "*Unmodified Derivatives*" are substances created by the *Recipient* which constitute an unmodified functional subunit or product expressed by the *Original Material*, e.g. sub-clones of unmodified cell lines, purified or fractionated subsets of the *Original Material*, proteins expressed by DNA/RNA.

- 1.5 "*Modifications*" are substances created by the *Recipient* which contain/incorporate the *Original Material*, e.g. homologous recombination products, cassette exchange products, germ line transmission products, crosses, breeding varieties, cell fusions, sub-cloning products etc.
- 1.6 "*Material*" means (as applicable) *Original Material*, *Progeny*, *Unmodified Derivatives* and *Original Material* included in *Modifications*.
- 1.7 "*Commercial Purposes*" means the sale, lease, license, disposal or other transfer of *Material* to a for-profit organisation. *Commercial Purposes* shall also include use by any organisation, including the *Recipient*, to perform contract research, including screening compound libraries, on behalf of a for-profit organisation, to produce or manufacture products for general sale, or to conduct research activities that result in any sale, lease, license, or transfer of the *Material* to a for-profit organisation.
- 1.8 "*Information*" includes, without limitation, any scientific, technical, trade or business information delivered to the *Recipient* by the *Provider* in the context of this agreement.

## **2. Use of the *Material***

- 2.1 Upon execution of this *SMTA* and (if required) payment of any handling fee shown in Section 7 herein, the *Provider* shall supply and transfer to the *Recipient* the amount of the *Original Material* shown in Annex 1 herein. *Recipient* hereby agrees to acquire the *Original Material* and hold the *Material* subject to the terms herein.
- 2.2 The *Recipient* shall use the *Material* in compliance with all laws and regulations applicable to such *Material* in the *Recipient's* place and country, including guidelines for work with recombinant DNA. The *Material* being experimental in nature must not be used in humans. In addition, the *Material* must not be used in animals unless - where applicable – such use is explicitly approved by an ethics committee or regulations on the treatment of laboratory animals.
- 2.3 The *Material* shall be used exclusively for the non-*Commercial Purposes* described in **Annex 1**.
- 2.4 The *Material* shall not be used for any *Commercial Purposes* and must not be released to any person other than the *Recipient's Researcher/s* and staff under their direct supervision who are bound by obligations not less strict than those set out herein.
- 2.5 The *Material* shall not be forwarded to third parties without the prior written consent of the *Provider*. To avoid doubt, consent for forwarding to a not-for-profit organisation shall not be unreasonably withheld, subject to such third party executing an agreement with the *Provider* substantially similar to this *SMTA*.
- 2.6 After conclusion of the experiments shown in Annex 1 herein or at the expiry of this *SMTA* or upon written notice from the *Provider*, whichever occurs first, the *Recipient* shall, at the discretion of the *Provider*, either destroy or return the remaining *Original*

*Material, Progeny and Unmodified Derivatives* and either destroy all *Modifications* or remain bound by the terms of this *SMTA* as they apply to *Modifications*.

- 2.7 The *Recipient* shall have the option to extend the scope of the experiments shown in Annex 1 of this *SMTA* upon request and such request will not be unreasonably denied by the *Provider*.
- 2.8 All *Original Material* is supplied Ex Works (EXW Incoterms 2000) from *Provider's* facility. Subject to Clause 4 and the terms of this *SMTA*, risk in the physical *Original Material* will pass to the *Recipient* upon its or its agent's collection of the *Original Material* from *Provider's* facility. *Recipient* is responsible for obtaining all import and export clearances and licences and arranging itself for the import of the *Original Material* to its local jurisdiction and facility.

### **3. Publications**

The *Recipient* shall have the right to publish its own findings and results related to the *Material*, provided that the Sanger Institute is cited as the source of the *Material* (i.e. acknowledgement). The *Recipient* shall provide the *Provider* with a copy of all publications directly arising from the *Recipient's* use of the *Materials* not later than three (3) calendar months after the corresponding date of publication.

### **4. Intellectual Property**

- 4.1 All intellectual property rights and all results, data and discoveries arising out of the *Recipient's* use of the *Material* shall belong to the *Recipient*, except as specifically provided in this Section 4. The *Provider* shall have no right or licence in respect of such intellectual property rights, results, data and/or discoveries.
- 4.2 Whilst the *Provider* will not claim ownership of any *Modifications* produced as a result of the *Recipient's* research with the *Materials*, the *Provider* retains sole ownership of any intellectual property rights in the form of the *Original Materials* included therein.
- 4.3 The *Recipient* shall be free to file patent application(s) claiming inventions (including *Modifications*) made by the *Researcher/s* through the use of the *Materials* but agrees, under confidential disclosure, to notify the *Provider* upon filing a patent application claiming *Modifications* or method(s) of manufacture or use(s) of the *Materials*. Inventorship shall be determined by mutual agreement between the parties taking into account applicable patent law and the role and contributions of the parties involved in the development of the invention.
- 4.4 Subject to Section 4.3 above, if the *Recipient* is the sole inventor of any invention arising from the research it conducts under this *SMTA*, then the *Recipient* shall be free to dispose of such invention as it sees fit.
- 4.5 If the *Recipient* files any application for a patent in respect of an invention directly arising from its use of the *Material*, the *Recipient* shall grant to the *Provider* a non-exclusive, worldwide, royalty-free, assignable, sub-licenseable, fully paid-up licence to

use such invention for the *Provider's* own internal, non-profit making research and teaching purposes and to allow *Provider* to continue to distribute the *Material* to third parties.

- 4.6 At the *Provider's* request, the *Recipient* agrees to provide the *Provider* with reasonable quantities of published materials developed, made or discovered directly through the *Recipient's* research studies using the *Material*, for use in the *Provider's* own internal, non-profit-making research and teaching activities, always provided that *Recipient* may fulfil this obligation with reasonable effort. Such transfer shall be free of charge, but an appropriate handling/shipping fee may be charged by *Recipient*.
- 4.7 Except as expressly provided in this *SMTA* no rights are provided to the *Recipient* under any intellectual property rights or other proprietary rights vested in the *Provider*.
- 4.8 In the event that the *Recipient* or *Recipient's Researcher/s* wish to exploit or use any *Material* or *Modifications* for any *Commercial Purpose*, they will make a formal written request to the *Provider* seeking whether, at its discretion, a licence may be granted to use the *Material* for such purpose and upon what terms such a licence may be granted.

## **5. Warranty and Liability**

- 5.1 Any *Material* provided pursuant to this *SMTA* is understood to be experimental in nature. It may have hazardous properties. The *Provider* makes no representations and extend no warranties of any kind, express or implied, as to the fitness of the *Material* for a particular purpose, or that the use of the *Material* will not infringe any patent, copyright, trademark, or other proprietary rights of a third party.
- 5.2 The *Recipient* assumes all and any liability for damages which may arise from its own use, storage or disposal of the *Material*.

## **6. Confidentiality**

- 6.1 During the term of this agreement and for three (3) years thereafter, the *Recipient* shall keep confidential any *Information* and shall not disclose such *Information* to any third party without prior written consent of the *Provider*. The *Recipient's* rights to publication of results as defined under Section 3 herein remain unaffected.
- 6.2 The secrecy obligations shown in this Section 6 shall not apply to information as can be established by reasonable proof which:
  - a) was already known to the receiving party or independently developed by such party prior to the disclosure of the information by the other party; or
  - b) was or becomes public knowledge through no fault of the receiving party; or
  - c) was obtained by the receiving party from a third party entitled to use and disclose the same as a matter of right; or
  - d) the receiving party is required to disclose by law.

6.3 The foregoing restrictions will not prevent the *Provider* from using any *Information* for those activities which are authorised or licensed under Clause 4.

## 7. Handling Fee

Whilst the *Original Material* is being supplied free of charge by the *Provider* as a service to the not-for-profit research community, the *Recipient* agrees to pay the *Provider* the shipping costs and any applicable taxes (e.g. VAT) in the statutory amount.

Payment shall be due immediately after receipt of invoice and shall be made free of any transfer charges to the *Provider*'s bank account shown on such invoice.

## 8. Miscellaneous

8.1 This *SMTA* shall be construed according to the law of England, under exclusion of any of its choice of law and venue principles. Any dispute arising from the interpretation and/or implementation of this *SMTA*, which cannot be settled amicably, shall be brought before a competent court of first instance in the city of London.

8.2 This *SMTA* shall enter into force on the date of the last signature to it and shall remain in force until conclusion of the experiments shown in Annex 1 herein or for as long as the *Recipient* has possession of the *Materials* or *Modifications*, whichever is the longer.

8.3 Either the *Provider* or the *Recipient* may terminate this *SMTA* forthwith, by notice in writing, if the other party commits a substantial breach of this *SMTA*, which in the case of a breach capable of remedy has not have been remedied within thirty (30) calendar days of the receipt by the party in default of notice identifying the breach and requiring its remedy.

7.4 The provisions of this *SMTA* concerning Publications, Intellectual Property and Liability shall survive the expiration of this agreement for any reason.

7.5 In the event the *Material* or part of it should be under physical control of the *Recipient* before this *SMTA* is signed, the terms and provisions shall apply for this *Material* retroactively.

## Signatures

Done in duplicate

### AGREED by the parties by their authorised signatories

For and on behalf of

For and on behalf of

**Genome Research Limited**

**[legal title of Recipient]**

.....  
signed

.....  
signed

Print name

Print name

Date:

Date:

## **Annex 1**

**The Material: JM8.F6, JM8.N4, JM8A3, JM8A1.N3, JM8A3.N1 [delete as appropriate]  
ES cells**

**Description of the research in which the Material will be used:**