

**THE UNIFORM BIOLOGICAL MATERIAL TRANSFER AGREEMENT**  
(dated March 8, 1995)

**I. Definitions:**

1. **PROVIDER:** Organization providing the ORIGINAL MATERIAL. The name and address of this party will be specified in an implementing letter.
2. **PROVIDER SCIENTIST:** The name and address of this party will be specified in an implementing letter.
3. **RECIPIENT:** Organization receiving the ORIGINAL MATERIAL. The name and address of this party will be specified in an implementing letter.
4. **RECIPIENT SCIENTIST:** The name and address of this party will be specified in an implementing letter.
5. **ORIGINAL MATERIAL:** The description of the material being transferred will be specified in an implementing letter.
6. **MATERIAL: ORIGINAL MATERIAL, PROGENY, and UNMODIFIED DERIVATIVES.** The MATERIAL shall not include: (a) MODIFICATIONS, or (b) other substances created by the RECIPIENT through the use of the MATERIAL which are not MODIFICATIONS, PROGENY, or UNMODIFIED DERIVATIVES.
7. **PROGENY:** Unmodified descendant from the MATERIAL, such as virus from virus, cell from cell, or organism from organism.
8. **UNMODIFIED DERIVATIVES:** Substances created by the 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 the PROVIDER, or monoclonal antibodies secreted by a hybridoma cell line.
9. **MODIFICATIONS:** Substances created by the RECIPIENT which contain/incorporate the MATERIAL.
10. **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 products for general sale, or to conduct research activities that result in any sale, lease, license, or transfer of the MATERIAL or MODIFICATIONS to a for-profit organization. However, industrially sponsored academic research shall not be considered a use of the MATERIAL or MODIFICATIONS for COMMERCIAL PURPOSES per se unless any of the above conditions of this definition are met.
11. **NONPROFIT ORGANIZATION(S):** A university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute. As used herein, the term also includes government agencies.

**II. Terms and Conditions of this Agreement:**

1. The PROVIDER retains ownership of the MATERIAL, including any MATERIAL contained or incorporated in MODIFICATIONS.
2. The RECIPIENT retains ownership of: (a) MODIFICATIONS (except that, the PROVIDER retains ownership rights to the MATERIAL included therein), and (b) 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, UNMODIFIED DERIVATIVES**). If either 2 (a) or 2 (b) results from the collaborative efforts of the **PROVIDER** and the **RECIPIENT**, joint ownership may be negotiated.

3. The **RECIPIENT** and the **RECIPIENT SCIENTIST** agree that the **MATERIAL**:

(a) is to be used solely for teaching and academic research purposes;

(b) will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the written consent of the **PROVIDER**;

(c) is to be used only at the **RECIPIENT** organization and only in the **RECIPIENT SCIENTIST's** laboratory under the direction of the **RECIPIENT SCIENTIST** or others working under his/her direct supervision; and

(d) will not be transferred to anyone else within the **RECIPIENT** organization without the prior written consent of the **PROVIDER**.

4. The **RECIPIENT** and the **RECIPIENT SCIENTIST** agree to refer to the **PROVIDER** any request for the **MATERIAL** from anyone other than those persons working under the **RECIPIENT SCIENTIST's** direct supervision. To the extent supplies are available, the **PROVIDER** or the **PROVIDER SCIENTIST** agrees to make the **MATERIAL** available, under a separate implementing letter to this Agreement or other agreement having terms consistent with the terms of this Agreement, to other scientists (at least those at **NONPROFIT ORGANIZATION(S)**) who wish to replicate the **RECIPIENT SCIENTIST's** research; provided that such other scientists reimburse the **PROVIDER** for any costs relating to the preparation and distribution of the **MATERIAL**.

5(a) The **RECIPIENT** and/or the **RECIPIENT SCIENTIST** shall have the right, without restriction, to distribute substances created by the **RECIPIENT** through the use of the **ORIGINAL MATERIAL** only if those substances are not **PROGENY, UNMODIFIED DERIVATIVES, or MODIFICATIONS**.

(b) Under a separate implementing letter to this Agreement (or an agreement at least as protective of the **PROVIDER's** rights), the **RECIPIENT** may distribute **MODIFICATIONS** to **NONPROFIT ORGANIZATION(S)** for research and teaching purposes only.

(c) Without written consent from the **PROVIDER**, the **RECIPIENT** and/or the **RECIPIENT SCIENTIST** may NOT provide **MODIFICATIONS** for **COMMERCIAL PURPOSES**. It is recognized by the **RECIPIENT** that such **COMMERCIAL PURPOSES** may require a commercial license from the **PROVIDER** and the **PROVIDER** has no obligation to grant a commercial license to its ownership interest in the **MATERIAL** incorporated in the **MODIFICATIONS**. Nothing in this paragraph, however, shall prevent the **RECIPIENT** from granting commercial licenses under the **RECIPIENT's** intellectual property rights claiming such **MODIFICATIONS**, or methods of their manufacture or their use.

6. The **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 the **RECIPIENT** under any patents, patent applications, trade secrets or other proprietary rights of the **PROVIDER**, including any altered forms of the **MATERIAL** made by the **PROVIDER**. In particular, no express or implied licenses or other rights are provided to use the **MATERIAL, MODIFICATIONS, or any related patents of the PROVIDER for COMMERCIAL PURPOSES**.

7. If the **RECIPIENT** desires to use or license the **MATERIAL** or **MODIFICATIONS** for **COMMERCIAL PURPOSES**, the **RECIPIENT** agrees, in advance of such use, to negotiate in good faith with the **PROVIDER** to establish the terms of a commercial license. It is understood by the **RECIPIENT** that the **PROVIDER** shall have no obligation to grant such a license to the **RECIPIENT**, and may grant exclusive or non-exclusive commercial licenses to others, or sell or assign all or part of the rights in the **MATERIAL** to any third party(ies), subject to any pre-existing rights held by others and obligations to the Federal Government.

8. The **RECIPIENT** is free to file patent application(s) claiming inventions made by the **RECIPIENT** through the use of the **MATERIAL** but agrees to notify the **PROVIDER** upon filing a patent application claiming **MODIFICATIONS** or method(s) of manufacture or use(s) of the **MATERIAL**.

9. Any **MATERIAL** delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. The **PROVIDER** MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES 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.

10. Except to the extent prohibited by law, the **RECIPIENT** assumes all liability for damages which may arise from its use, storage or disposal 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 or arising from the use of the **MATERIAL** by the **RECIPIENT**, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the **PROVIDER**.

11. This agreement shall not be interpreted to prevent or delay publication of research findings resulting from the use of the **MATERIAL** or the **MODIFICATIONS**. The **RECIPIENT SCIENTIST** agrees to provide appropriate acknowledgment of the source of the **MATERIAL** in all publications.

12. The **RECIPIENT** agrees to use the **MATERIAL** in compliance with all applicable statutes and regulations, including Public Health Service and National Institutes of Health regulations and guidelines such as, for example, those relating to research involving the use of animals or recombinant DNA.

13. This Agreement will terminate on the earliest of the following dates: (a) when the **MATERIAL** becomes generally available from third parties, for example, through reagent catalogs or public depositories, or (b) on completion of the **RECIPIENT's** current research with the **MATERIAL**, or (c) on thirty (30) days written notice by either party to the other, or (d) on the date specified in an implementing letter, provided that:

(i) if termination should occur under 13(a), the **RECIPIENT** shall be bound to the **PROVIDER** by the least restrictive terms applicable to the **MATERIAL** obtained from the then-available sources; and

(ii) if termination should occur under 13(b) or (d) above, the **RECIPIENT** will discontinue its use of the **MATERIAL** and will, upon direction of the **PROVIDER**, return or destroy any remaining **MATERIAL**. The **RECIPIENT**, at its discretion, will also either destroy the **MODIFICATIONS** or remain bound by the terms of this agreement as they apply to **MODIFICATIONS**; and

(iii) in the event the **PROVIDER** terminates this Agreement under 13(c) other than for breach of this Agreement or for cause such as an imminent health risk or patent infringement, the **PROVIDER** will defer the effective date of termination for a period of up to one year, upon request from the **RECIPIENT**, to permit completion of research in progress. Upon the effective date of termination, or if requested, the deferred effective date of termination, **RECIPIENT** will discontinue its use of the **MATERIAL** and will, upon direction of the **PROVIDER**, return or destroy any remaining **MATERIAL**. The **RECIPIENT**, at its discretion, will also either destroy the **MODIFICATIONS** or remain bound by the terms of this agreement as they apply to **MODIFICATIONS**.

14. Paragraphs 6, 9, and 10 shall survive termination.

15. The **MATERIAL** is provided at no cost, or with an optional transmittal fee solely to reimburse the **PROVIDER** for its preparation and distribution costs. If a fee is requested by the **PROVIDER**, the amount will be indicated in an implementing letter.

[End of Agreement]

<b>UBMTA – Guide to terms</b>	
Part I	
Definitions	Mostly self-explanatory. Clause 6 about what Material does and does not include is clear, though complicated at first glance and PI should advise further on, for example, the extent to which Modifications are created. This may be important to know in relation to Part II clauses 5 and 6 because the Material cannot be used in industry sponsored academic research where the sponsor receives any licence or transfer of the actual Material or Modification.
Part II Terms and Conditions	
1	Asserts Provider's ownership of Materials (i.e. the transfer of the Material to the Recipient does not alter this ownership).
2	Clarifies Recipient's ownership in Modifications and other substances derived from use of Material. Note joint ownership of rights may be negotiated if results arise from Provider and Recipient undertaking collaborative research.
3	Explains what the Material can be used for, where and by whom.
4	If a 3 <sup>rd</sup> party (which includes other scientists in the Recipient organization) requests use of the Material, this request must be referred back to the Provider.
5	Further details about what and how the Recipient may transfer certain results derived from use of the Material to a 3 <sup>rd</sup> party. Note particular concerns regarding use of Modifications for commercial purposes, and the distinction between Modifications and IP rights therein.
6	Warns that the Material may be patented or subject to a patent application and no rights are granted with respect to such patent other than as stated in the agreement. In particular re-states that no rights are granted to use the Material or Modifications (since these contain the Material) for commercial purposes.
7	Following 6, states that if Recipient wishes to use Material or Modifications for commercial purposes will need to negotiate a licence to do so with the Provider (who has no obligation to grant such a licence).
8	If Recipient creates an invention through use of the Material and the patent application claims Modifications or methods of manufacture or use of the Material, then the Provider must be notified.
9	Standard disclaimer wording from a Provider (always given capitalised!). Essentially warns the Recipient that the Provider gives the Material as goodwill and makes no claims whatsoever about whether it will work, whether or not it is hazardous, or whether its use could infringe 3 <sup>rd</sup> party IP rights.
10	Following on from 9, clarification that the Recipient is largely liable for its use, storage and disposal of the Material. If a 3 <sup>rd</sup> party suffers any damage, Recipient is liable, except if such liability is prevented by law or caused by Provider's negligence or misconduct. A clause important to note, particularly when

	Material hazardous.
11	Clarification that no restrictions apply to any publication of results from use of the Material, although Recipient Scientist is to acknowledge source of Materials.
12	The Material is to be used in accordance with all applicable statutes and regulations, including US Public Health Service and National Institutes of Health regulations.
13	Outlines under what conditions the agreement will or may be terminated.
14	Clarifies that, in the event of termination, clauses 6 (no licences granted to patents), 9 and 10 (liability clauses) remain in force.
15	Clarifies that a fee may be charged for cost of transfer and this will be outlined in the Implementing Letter.

## **UBMTA Implementing Letter**

The purpose of this letter is to provide a record of the biological material transfer, to memorialize the agreement between the PROVIDER SCIENTIST (identified below) and the RECIPIENT SCIENTIST (identified below) to abide by all terms and conditions of the Uniform Biological Material Transfer Agreement ("UBMTA") March 8, 1995, and to certify that the RECIPIENT (identified below) organization has accepted and signed an unmodified copy of the UBMTA. The RECIPIENT organization's Authorized Official also will sign this letter if the RECIPIENT SCIENTIST is not authorized to certify on behalf of the RECIPIENT organization. The RECIPIENT SCIENTIST (and the Authorized Official of RECIPIENT, if necessary) should sign both copies of this letter and return one signed copy to the PROVIDER. The PROVIDER SCIENTIST will forward the material to the RECIPIENT SCIENTIST upon receipt of the signed copy from the RECIPIENT organization.

Please fill in all of the blank lines below:

1. PROVIDER: Organization providing the ORIGINAL MATERIAL:

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

2. RECIPIENT: Organization receiving the ORIGINAL MATERIAL:

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

3. ORIGINAL MATERIAL (Enter description):

4. Termination date for this letter (optional): \_\_\_\_\_

5. Transmittal Fee to reimburse the PROVIDER for preparation and distribution costs (optional).

Amount: \_\_\_\_\_

This Implementing Letter is effective when signed by all parties. The parties executing this Implementing Letter certify that their respective organizations have accepted and signed an unmodified copy of the UBMTA, and further agree to be bound by its terms, for the transfer specified above.

**PROVIDER SCIENTIST**

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**RECIPIENT SCIENTIST**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**RECIPIENT ORGANIZATION CERTIFICATION**

Certification: I hereby certify that the RECIPIENT organization has accepted if authorized by the RECIPIENT organization):

Authorized Official: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Simple Letter Agreement for the Transfer of Materials

In response to RECIPIENT's request for the MATERIAL  
\_\_\_\_\_ the  
PROVIDER asks that the RECIPIENT and the RECIPIENT SCIENTIST agree to the  
following before the RECIPIENT receives the MATERIAL:

1. The above MATERIAL is the property of the PROVIDER and is made available as a service to the research community.
2. **THIS MATERIAL IS NOT FOR USE IN HUMAN SUBJECTS.**
3. The MATERIAL will be used for teaching or not-for-profit research purposes only.
4. The MATERIAL will not be further distributed to others without the PROVIDER's written consent. The RECIPIENT shall refer any request for the MATERIAL to the PROVIDER. To the extent supplies are available, the PROVIDER or the PROVIDER SCIENTIST agree to make the MATERIAL available, under a separate Simple Letter Agreement to other scientists for teaching or not-for-profit research purposes only.
5. The RECIPIENT agrees to acknowledge the source of the MATERIAL in any publications reporting use of it.
6. Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. THE PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES 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. Unless prohibited by law, Recipient assumes all liability for claims for damages against it by third parties which may arise from the use, storage or disposal of the Material except that, to the extent permitted by law, the Provider shall be liable to the Recipient when the damage is caused by the gross negligence or willful misconduct of the Provider.
7. The RECIPIENT agrees to use the MATERIAL in compliance with all applicable statutes and regulations.
8. The MATERIAL is provided at no cost, or with an optional transmittal fee solely to reimburse the PROVIDER for its preparation and distribution costs. If a fee is requested, the amount will be indicated here: \_\_\_\_\_

The PROVIDER, RECIPIENT and RECIPIENT SCIENTIST must sign both copies of this letter and return one signed copy to the PROVIDER. The PROVIDER will then send the MATERIAL.

PROVIDER INFORMATION and AUTHORIZED SIGNATURE

Provider

Scientist: \_\_\_\_\_



Provider Organization:

\_\_\_\_\_  
Address: \_\_\_\_\_

Name of Authorized Official:

\_\_\_\_\_  
Title of Authorized  
Official: \_\_\_\_\_

Certification of Authorized Official: This Simple Letter Agreement has / has not  
[check one] been modified. If modified, the modifications are attached.

\_\_\_\_\_  
Signature of Authorized Official      Date

**RECIPIENT INFORMATION and AUTHORIZED SIGNATURE**

Recipient Scientist:

\_\_\_\_\_  
Recipient Organization:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Name of Authorized Official:

\_\_\_\_\_  
Title of Authorized Official:

\_\_\_\_\_  
Signature of Authorized  
Official: \_\_\_\_\_

Date: \_\_\_\_\_  
\_\_\_\_\_

Certification of Recipient Scientist: I have read and understood the conditions  
outlined in this Agreement and I agree to abide by them in the receipt and use of the  
MATERIAL.

\_\_\_\_\_  
Recipient Scientist                                      Date