

MATERIAL TRANSFER AGREEMENT

PROVIDER: National Cancer Institute (NCI) on behalf of the Division of Cancer Treatment and Diagnosis (DCTD)

RECIPIENT:

RECIPIENT SCIENTIST:

MATERIAL: NExT Plated Screening Libraries, Plated Cherry-Picks and Vialled Solids/Solutions

RESEARCH PROJECT: Internal Research Use

Whereas the RECIPIENT has received MATERIAL, the PROVIDER asks that the RECIPIENT and the RECIPIENT SCIENTIST agree to the following in connection with RECIPIENT's use of the MATERIAL. Collectively or individually, the PROVIDER and RECIPIENT may also be referred to as "Parties" or "Party."

1. The 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 OR FOR THE TREATMENT OR DIAGNOSIS OF HUMAN SUBJECTS.
3. The MATERIAL will be used for teaching or not for profit research purposes only by RECIPIENT, exclusively for the RESEARCH PROJECT, under suitable containment and safety conditions.
4. The MATERIAL will not be further distributed from the RECIPIENT to others without the PROVIDER's written consent. The RECIPIENT shall refer any request for the MATERIAL to the PROVIDER.
5. The RECIPIENT agrees to acknowledge the source of the MATERIAL in any publications reporting use of it. RECIPIENT is encouraged to make the results of their research and development activities publicly available. RECIPIENT will provide the PROVIDER an annual written summary of milestone results generated from the MATERIAL (e.g., chemical probes, lead compounds, and clinical candidates identified) along with a list of publications related to the MATERIAL or compounds directly resulting from information derived from the MATERIAL.
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 Federal, state and local laws and regulations including those related to safety, human subjects research and animal welfare.

8. For the purposes of this Agreement, "Confidential Information" includes any information relating to the MATERIAL that a Party transfers to a receiving Party and asserts is confidential and proprietary. This obligation shall not extend to any part of the Confidential Information that:

(a) can be demonstrated to have been in the public domain or publicly known at the time of disclosure; or

(b) can be demonstrated to have been in the possession of or that can be demonstrated to have been readily available to the receiving Party from another source not subject to a confidentiality obligation prior to the disclosure; or

(c) becomes part of the public domain or publicly known by publication or otherwise, not due to any unauthorized act by the receiving Party; or

(d) can be demonstrated as independently developed or acquired by the receiving Party without reference to or reliance upon such Confidential Information;

(e) is required to be disclosed by law, by a court order or regulatory body of competent jurisdiction, or by the Freedom of Information Act (FOIA).

9. All information to be deemed confidential under this Agreement shall be clearly marked "CONFIDENTIAL" by the disclosing Party. Any Confidential Information that is orally disclosed must be reduced to writing and marked "CONFIDENTIAL" by the disclosing Party, and such notice must be provided to the receiving Party within thirty (30) days of the oral disclosure.

10. Each Party agrees to accept the Confidential Information and employ all reasonable efforts to maintain the Confidential Information of the other Party confidential, such efforts to be no less than the degree of care employed by each Party to preserve and safeguard its own confidential information. The Confidential Information of the disclosing Party shall not be disclosed, revealed, or given to anyone by the receiving Party, except employees, contractors, or agents of the receiving Party ("Representatives") who have a need for the Confidential Information in connection with the receiving Party's activities under this Agreement. Such Representatives shall be under a written agreement with the receiving Party with obligations consistent with the receiving Party's obligations under this Agreement. Representatives shall be advised by the

receiving Party of the confidential nature of the Confidential Information and that the Confidential Information shall be treated accordingly. This obligation shall continue for five (5) years from the execution of this Agreement.

11. Each Party shall retain title to any intellectual property rights in inventions and works of authorship made by its employees in the course of the research. The Parties understand that nothing herein shall be deemed to constitute, by implication or otherwise, the grant to either Party by the other of any license or other rights under any patent, patent application, or other intellectual property right or interest.

12. No indemnification for any loss, claim, damage or liability is intended or provided by any Party under this Agreement. To the extent permitted by law, each Party shall be liable for any loss, claim damage, or liability that said Party incurs as a result of its activities under this Agreement. The NCI or any other agency of the federal or a state government assumes liability only to the extent provided by law.

13. This Agreement shall remain in force for five (5) years from execution, but may be extended by mutual agreement of the Parties. . The term may be extended and the provisions of this Agreement may be modified only by amendment signed by the duly authorized signatory for each Party. Within thirty (30) days of the expiration of the Agreement, RECIPIENT shall notify PROVIDER of the decision to return the MATERIAL, dispose of the MATERIAL, or extend the Agreement.

14. This Agreement constitutes the entire agreement between the Parties concerning the MATERIAL and supersedes any prior understanding or written or oral agreement.

SIGNATURES APPEAR ON THE FOLLOWING PAGE

By signing below the Parties agrees to the terms contained herein.

For the National Cancer Institute

James Doroshow, MD
Director, DCTD, NCI

Date

MATERIAL CONTACT:

Whitney Hastings , Ph.D.
Sr. Technology Transfer Manager, TTC, NCI

Date

Address for Notices:
Technology Transfer Center
National Cancer Institute
Riverside 5, Suite 400
8490 Progress Drive
Frederick, MD 21702

For the RECIPIENT

(Authorized Signature)

Date

Name:
Title:
Institution:
Address:
Telephone:
Email: