Material Transfer Agreement

This agreement between **Heidelberg University Hospital** represented in law by its Commercial Managing Director Katrin Erk , Im Neuenheimer Feld 672, 69120 Heidelberg, Germany

- on behalf of the Ruprecht-Karls-University Heidelberg, Faculty of Medicine -

- hereinafter referred to as **"PROVIDER"** -

And

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Company name, address, representative, VAT-No.]

* hereinafter referred to as **COMPANY**-

is effective on the \_\_\_\_ day of \_\_\_\_\_\_ 20\_\_\_\_ (“Effective Date”).

This Agreement shall govern the conditions of disclosure by PROVIDER to COMPANY of certain biological materials under the control of \_\_\_\_\_\_\_\_ (“Investigator”) of PROVIDER and further identified as

**\_\_\_\_\_\_\_\_\_\_ (“MATERIALS”)**

as described by Investigator, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (publication or patent application).

and hereinafter referred to as “MATERIALS”. PROVIDER retains ownership of the MATERIALS including any material contained or incorporated in Modifications. MATERIALS include all such biological samples actually provided to COMPANY, plus any Progeny and/or any Unmodified Derivatives of the original biological samples.

A. DEFINITIONS. The following definitions shall apply to this Agreement:

1. Progeny: Unmodified descendant from the MATERIALS including, but not limited to, virus from virus, Bacterium from Bacterium, Cell from Cell, or organism from organism.

2. Unmodified derivatives: Substances created by COMPANY that constitute an unmodified functional sub-unit or an expression product of the MATERIALS. Some examples include: subclones of unmodified cell lines, purified or fractionated sub-sets of the MATERIALS, proteins expressed by DNA/RNA supplied by PROVIDER, monoclonal antibodies secreted by a hybridoma cell line, sub-sets of the MATERIALS such as novel plasmids or vectors.

3. Modifications: Substances created by COMPANY that contain or incorporate the MATERIALS, e.g. crosses, breeding varieties, cell fusions, subcloning etc.

4. Commercial Purposes: The sale, lease, license, or other transfer of the MATERIALS or Modifications to a for-profit organization. Commercial Purposes shall also include uses of the MATERIALS or Modifications by any organization, including COMPANY, to perform contract research, to produce or manufacture products for general sale, or to conduct research activities that result in any sale, lease, license or transfer of the MATERIALS or Modifications to a third party.

B. PRICE. COMPANY shall pay PROVIDER the total sum of € \_\_\_\_ (EURO in words) plus VAT, if applicable, due upon shipment of MATERIALS by PROVIDER. All payments due PROVIDER under this Agreement shall be transferred to the PROVIDER account within 30 days after receipt of the invoice.

C. USE OF MATERIALS. COMPANY agrees:

1. that the MATERIALS will be used only in COMPANY laboratories and only laboratory personnel under COMPANY’s immediate and direct control;
2. to use MATERIALS for the sole purpose of evaluation and NOT for any Commercial Purposes; MATERIALS shall be handled confidentially and forwarded to third parties only to the extent of PROVIDER’s prior written approval.
3. that MATERIALS will be received, handled, stored, used and disposed of in compliance with all applicable laws, regulations and guidelines, and in accordance with safe and prudent practices, and will not be administered to human subjects or provided to any third parties, nor will any animals or plants exposed to MATERIALS, or products of such animals or plants, be used for food; and
4. that COMPANY has adequate systems, procedures and personnel to review and oversee arrangements for the receipt, handling, storage, use and disposal of experimental MATERIALS of the nature of MATERIALS and that it will ensure that all persons involved in receiving, handling storing, using or disposing of MATERIALS are adequately qualified by training and experience to do so safely and legally.

D. TRANSFER of MATERIALS. COMPANY shall not transfer MATERIALS to any others (except to its employees who are bound to COMPANY by like obligations conditioning and restricting access, use, and continued use of MATERIALS) without the express written consent of PROVIDER. COMPANY does not have the right to sublicense the MATERIALS. COMPANY shall inform PROVIDER about any third party requests for the MATERIALS.

E. WARRANTIES. COMPANY acknowledges that MATERIALS are experimental products of research that may not have been fully characterized, and accepts MATERIALS as is and entirely at its own risk. Nothing in this Agreement shall be construed as a representation or warranty by PROVIDER that the use of the MATERIALS by COMPANY shall not infringe the patent rights of any third party.

 F. LIMITATION ON DAMAGES. PROVIDER shall not be liable for any indirect or consequential damages attributable in any way to the subject matter of this Agreement, whether or not it had actual or constructive notice of the potential for such damages occurring, nor in any event shall PROVIDER be liable for any damages attributable in any way to the subject matter of this Agreement. Any MATERIAL provided to this MTA is understood to be experimental in nature. It may have hazardous properties. The PROVIDER makes no representations and extends 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.

G. TERM. PROVIDER may terminate this Agreement for material breach and require return or destruction of the MATERIALS by COMPANY upon thirty (30) days written notice. COMPANY shall otherwise destroy all copies of MATERIALS within one (1) year of the Effective Date of this Agreement, unless:

 1. this deadline is extended by PROVIDER in writing; or

 2. COMPANY has indicated to PROVIDER in writing its desire to obtain a commercial license to MATERIALS and negotiations to that end have begun.

 Articles E, F, H and J of this Agreement shall survive the term and/or termination of this Agreement.

H. INDEMNIFICATION. COMPANY shall defend, indemnify, and hold harmless PROVIDER and its employees against any claims, costs, or other liabilities which may arise as a result of COMPANY’s use of MATERIALS.

I. NOTIFICATION. COMPANY may file patent applications claiming inventions made by COMPANY through the use of the MATERIALS but agrees to notify PROVIDER and Investigator upon filing a patent application claiming Modifications or uses of the MATERIALS. COMPANY and PROVIDER shall decide in common about the inventorship, taking in due consideration the PROVIDER’s contribution to the invention through its MATERIAL. COMPANY will inform Investigators of research results related to the MATERIALS by providing copies of manuscripts describing the results of such research at the time the manuscripts are submitted for publication.

J. USE OF NAME. COMPANY shall acknowledge the source of MATERIALS in any descriptions of experiments and/or results involving MATERIALS and or name the PROVIDER researchers as co-authors. However, neither COMPANY nor its personnel will otherwise use, or authorize or permit the use of, the name of any PROVIDER organization or personnel in connection with any commercial or promotional activities relating to MATERIALS, nor in such a way as to imply any endorsement by PROVIDER or PROVIDER personnel of any Material, product or method.

K. RIGHTS TO MATERIAL. The furnishing of MATERIALS to COMPANY shall not constitute any grant or license to COMPANY under any legal rights now or later held by PROVIDER other than as stated in this Agreement. The provision of the Material to COMPANY shall not alter any pre-existing right to the MATERIALS. Without written consent from PROVIDER, COMPANY may NOT provide Modifications for Commercial Purposes. It is recognized by COMPANY that such Commercial Purposes may require a commercial license from PROVIDER and PROVIDER has no obligation to grant a commercial license to its ownership interest in MATERIALS incorporated in any Modifications. Nothing in this paragraph, however, shall prevent COMPANY from granting commercial licenses under COMPANY’s intellectual property rights claiming such Modifications, or methods of manufacture or their use.

1. ENTIRE AGREEMENT. This Agreement reflects the entire agreement between PROVIDER and COMPANY, and the Agreement may be modified or altered only in writing.
2. INTERPRETATION AND JURISDICTION. The interpretation and validity of this Agreement and the rights of the parties shall be governed by the laws of the Federal Republic of Germany, the District Court Heidelberg.

2 Originals – 1 X COMPANY, 1 X PROVIDER

Company Heidelberg University Hospital

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

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Name: Katrin Erk Commercial Managing Director

Position:

Legal representative of COMPANY

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 Name: Prof. Dr. Musterforscher