

**Material Transfer Agreement
for Transfer of Human Embryonic Stem
Cell Materials to Non-Profit Academic and Research Institutions**

Howard Hughes Medical Institute and President and Fellows of Harvard College (collectively “Institution”) are willing to provide Material (defined below) to Dr. _____ (“Investigator”) of _____ (“Recipient Institution”) (hereinafter collectively “Recipient”) solely for internal academic research purposes as described below, under the following terms.

1. Upon execution of this agreement, Institution shall provide to Investigator samples of the Material. “Material” as used herein means (i) (# of lines) HUES cell lines and (ii) progeny and derivatives thereof, but only if such progeny and derivatives retain the ability to replicate themselves, to differentiate into cell types from all three germ layers, and to remain unspecialized (such ability hereinafter referred to as “stemness”). By way of example, and not of limitation, Material includes genetically modified and cloned cell lines which retain the stemness quality as defined herein.

2. The Material is the property of Institution and is made available as a service to the research community. Ownership of the Material shall remain with Institution and transfer of the Material to the Recipient shall not affect Institution’s ownership of the Material.

3. The Material is or may be covered by claims in U.S. Patent 5,843,780, U.S. Patent 6,200,806, U.S. Patent Application 09/522,030 and corresponding U.S. or foreign patent rights and any patents granted on any divisional and continuation applications of any type but only to the extent they claim an invention claimed in a patent application listed herein, and any reissues and reexaminations thereof, such patent rights being owned by the Wisconsin Alumni Research Fund of the University of Wisconsin – Madison (“WARF”) and licensed to the WiCell Research Institute, Inc. (“WiCell”) (“Wisconsin Patent Rights”). WiCell has granted Institution the right to distribute the Material to non-profit academic and research institutions under this Agreement.

4. Recipient may use the Material for teaching or non-commercial research purposes only. As used herein, non-commercial research purposes specifically excludes commercially sponsored research wherein a for-profit sponsor receives a right whether actual or contingent to the results of the sponsored research, other than a grant for non-commercial research purposes to the sponsor. The Material may not be used for commercial purposes or the direct benefit of a for-profit research sponsor, unless Institution so agrees and such research sponsor is permitted to use Wisconsin Patent Rights under a separate written agreement with WiCell or WARF. Specifically, the Material shall not be used in a research program where rights (either actual or contingent other than the right to use for non-commercial research purposes) have already been granted to a for-profit research sponsor which does not have a separate written agreement with WiCell permitting commercial use of Wisconsin Patent Rights.

5. The Material may not be transferred by the Recipient to any third parties without Institution’s written consent, except as provided below in this paragraph. Recipient shall refer any request for the Material to Institution. To the extent supplies are available and to the extent Institution is legally permitted to do so, Institution agrees to make the Material available, either directly, through a non-profit recipient of the Material, or through a distributor licensed by WiCell, under a separate material transfer agreement with terms similar to this Agreement, to other scientists at non-profit academic and research institutions for teaching or non-commercial research purposes only. If Recipient creates derivatives or modified progeny that fall within the

definition of Material, Recipient may provide them to other researchers at non-profit institutions for teaching and non-commercial research use only, under a material transfer agreement that is at least as protective of Institution's and WiCell's rights and interests as this Material Transfer Agreement (it being understood, however, that Institution will not be entitled to a transmittal fee) and that is in a form approved by Institution, such approval not to be unreasonably delayed or withheld.

6. The Material is experimental in nature, may have hazardous properties, and must be used with prudence and appropriate caution, since not all of its characteristics are known. **THE MATERIAL IS PROVIDED WITHOUT WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED.** Institution makes no representation or warranty that the use of the Material will not infringe any patent or other proprietary right. The Material cannot be used, and Recipient agrees not to use the Material, for any commercial purpose or for work involving human subjects, including any research testing a diagnostic or therapeutic procedure or product on a human being.

7. Should the use of this Material result in one or more public scientific presentations or publications, Recipient should acknowledge in the presentations or publications that the Material was given to Recipient by the HHMI Investigator identified below.

8. With respect to any questions regarding Wisconsin Patent Rights, Recipient should contact:

General Manager
WiCell Research Institute, Inc.
PO Box 7365
Madison, WI 53707

9. Recipient agrees that any person utilizing the Material within Recipient Institution will be advised of and shall be subject to the terms and conditions of this Agreement.

10. Unless prohibited by law, Recipient assumes all liability for claims for damages which may arise from the use, storage or disposal of the Material except that, to the extent permitted by law, Institution shall be liable to Recipient to the extent the damage is caused by the gross negligence or willful misconduct of Institution.

11. Investigator and Recipient will use and dispose of the Material in compliance with all laws, governmental regulations and guidelines, including without limitation any laws, regulations or guidelines pertaining to research with human embryonic stem cells, that may have effect from time to time in Recipient's jurisdiction.

12. Recipient agrees that it will grant non-exclusive, royalty-free, internal research licenses to WiCell, WARF, and the University of Wisconsin – Madison for any patentable discoveries made using the Materials. Upon request, to the extent supplies are available and to the extent Recipient is legally permitted to do so, Recipient agrees to make available any materials made by Recipient using the Materials (after Recipient has publicly disclosed or reasonably characterized such materials and under a separate material transfer agreement similar to this Agreement) to WiCell, WARF or the University of Wisconsin-Madison.

13. Recipient agrees that WiCell, WARF, and the University of Wisconsin-Madison are third-party beneficiaries of this agreement.

14. This Agreement is effective upon its execution and will remain in effect unless terminated by mutual written agreement of the Parties.

15. Material is provided with a transmittal fee of \$0.00 to reimburse Institution solely for preparation and distribution costs.

The parties agree to the foregoing and have caused this Agreement to be executed by their duly authorized representatives.

HOWARD HUGHES MEDICAL INSTITUTE

PRESIDENT AND FELLOWS OF
HARVARD COLLEGE

By: _____
HHMI Investigator

By: _____

Date: _____

Date: _____

RECIPIENT INSTITUTION

By: _____
(signature of authorized representative of Recipient)

By: _____
(signature of Investigator)

(printed name)

(printed name)

Title: _____

Title: _____

Date: _____

Date: _____