

MATERIALS SUPPLY AND USE AGREEMENT

This Agreement is made on the 23rd day of May 2007

BETWEEN

(1) **KING'S COLLEGE LONDON**, an institution incorporated by Royal Charter, of Strand, London, WC2R 2LS, England ("King's")

and

(2) [Institution] whose principal place of business is situated at [address] ("the Institution").

In respect of the following material:

(3) [Name of Cell Line]

WHEREAS

- (A) King's, through its academic Dr Stephen Minger (the "Supplier") has developed the stem cell lines [] (the "Cell Lines") and has deposited them in the UK Stem Cell Bank (the "Bank").
- (B) The National Institute for Biological Standards and Control ("NIBSC") is responsible for managing the Bank funded by Medical Research Council ("MRC") and the Biotechnology and Biological Sciences Research Council.
- (C) The Institution wishes to obtain the Cell Lines for research (the "Programme") and has obtained the necessary Approval from the Steering Committee to undertake the work, as evidenced in Schedule 1.
- (D) In due course NIBSC will be responsible for the supply of the Cell Lines. Until such time King's, through its Supplier, agrees to supply the Cell Lines directly to the Institution under the terms and conditions of this Agreement.

NOW IT IS HEREBY AGREED AS FOLLOWS

1. DEFINITIONS AND INTERPRETATION

1.1 In this agreement the following words and phrases shall have the following meanings unless the context requires otherwise:

"Approval" means the approval by the Steering Committee of the research specified in the Programme.

"Cell Lines" means the description and amount of the material being transferred as specified in Schedule 2 and shall include documents and information that King's may provide to the Institution under or in connection with this Agreement.

“Institution” means the Institution wishing to access the Cell Lines.

“Recipient” means [scientist at the Institution].

“Effective Date” means the date first above written.

“Programme” means the specific research set out in Schedule 2.

“Steering Committee” means the Stem Cell Steering Committee established by MRC to oversee the Bank and the use of stem cell lines.

2. ACCESS TO AND USE OF MATERIALS

2.1 The Recipient at the Institution wishes to undertake research as specified in the Programme and has received Approval from the Steering Committee for the Programme as evidenced in Schedule 1.

2.2 The Supplier at King's agrees to supply the Cell Lines as specified in Schedule 2 and the Recipient at the Institution shall use the Cell Lines solely within the Recipient's laboratory for the Programme and not for any commercial purpose or commercially-sponsored research or other research purpose even if those purposes are being pursued in the Recipient's laboratory.

For the avoidance of doubt the use of the Cell Lines shall be subject to the provisions of this Agreement and shall not under any circumstances be used for reproductive cloning and/or clinical trials.

2.3 The Institution agrees to pay to King's £100 as a handling fee and King's shall invoice the Institution for this sum on supply of the Cell Lines. Such sums payable shall be exclusive of value added tax or sales tax, which will be paid in addition where applicable. Further the Institution shall reimburse King's for shipping fees.

2.4 King's retains ownership of the Cell Lines.

2.5 In the event that the Recipient makes or observes any new discovery, improvement or invention (“Invention”) relating to the Cell Lines or as a direct result of the Programme then the Institution shall bring this to the attention of King's. In addition, the Institution will provide to King's at yearly intervals reports detailing the results of the Programme and all and any information that the Institution holds concerning the Cell Lines. King's at all times retains the right to use an Invention for non-commercial research purposes.

2.6 If any commercial revenues result from the Recipient's use of the Cell Lines, including Inventions, King's shall be entitled to a fair and reasonable share of any such revenues that accrue to the Institution and/or the Recipient.

2.7 The Institution shall ensure the Recipient keeps the Cell Lines secure within the Recipient's laboratory at the Institution's premises and ensure that access to the Cell Lines is restricted to the Recipient and those working under his/her direct supervision.

2.8 The Institution shall not supply the Cell Lines to any third party.

2.9 Any cell lines developed through use of the Cell Lines must be deposited with the Bank and must not be sold for financial gain.

2.10 This Agreement shall not be interpreted to prevent or delay publication of research findings resulting from the use of the Cell Lines. The Recipient and Institution agrees to

provide appropriate acknowledgement of the source of the Cell Lines in all publications and/or dealings with third parties, and to provide a copy of any such publication to King's.

- 2.11 Notwithstanding anything to the contrary in this Agreement, the terms and conditions set out herein are supplemental to any legal or regulatory requirements governing the handling, use and disposal of material derived from stem cells that may be in force from time to time, which legal or regulatory requirements will take precedence over any term of this Agreement. The Institution agrees to use the Cell Lines only in compliance with all applicable statutes, regulations and ethics guidelines relating to their handling, use and disposal. Should any term of this Agreement conflict with any applicable law or prove invalid, illegal or unenforceable, such term shall be deemed omitted from the Agreement and the remainder of the Agreement shall continue in full force and effect.

3. CONFIDENTIALITY

- 3.1 Each party agrees not to use or refer to this Agreement in any promotional activity, or use the names or marks of the other party without its express written permission.
- 3.2 Confidential information in any form whatsoever which is supplied, made available or comes into the possession of either party and which relates to the business affairs or finances or other confidential matters of the other party shall only be used for the purpose for which it is disclosed, shall only be disclosed to those of the receiving party's officers and employees on a strict "need to know" basis after informing them of their obligations under this clause, and shall be kept secret and confidential, and shall not be disclosed or permitted to be disclosed to any third party for any reason without the prior written permission of the other party.
- 3.3 The obligations of confidence referred to in this Clause 3 shall not extend to any information which:
- (a) is or becomes generally available to the public otherwise than by reason of a breach by the receiving party of any provision of this Clause 3; or
 - (b) is known to the receiving party and is at its free disposal prior to its receipt from the other; or
 - (c) is subsequently disclosed to the receiving party without obligations of confidence by a third party owing no such obligations to the disclosing party in respect thereof; or
 - (d) is required to be disclosed in accordance with applicable law or by appropriate regulatory authorities.
- 3.4 Notwithstanding the foregoing, the Institution understands that there is an obligation to provide summaries of the published results of research undertaken with the Cell Lines to be publicly reported on the Bank web site, in order to respect:
- (i) the requirement of the funders to make research results that will move the field forward publicly accessible (as set out in MRC's Supplementary Terms and Conditions for Grants, Unit programmes and Training Awards in stem cell research, as amended from time to time); and
 - (ii) the requirement of the funders to be able to evaluate the performance and outputs of the Bank;

and the Institution hereby agrees to do all such things necessary to put these requirements into effect.

4. WARRANTIES/LIABILITIES

- 4.1 Any material delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. KING'S 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. KING'S DOES NOT WARRANT THAT THE CELL LINES ARE FREE OF EXTRANEOUS AGENTS, OR BIOLOGICALLY ACTIVE CONTAMINANTS (for example, but not limited to, TSE'S) WHICH MAY HAVE BEEN PRESENT IN DONOR SAMPLES.
- 4.2. Except to the extent prohibited by law, the Institution assumes all liability for damages which may arise from its use, storage or disposal of the Cell Lines. King's shall not be liable to the Institution for any loss, claim or demand made by the Institution, or made against the Institution by any other party, due to or arising from the use of the Cell Lines by the Institution, except to the extent imposed by law.

5. TERM AND TERMINATION

- 5.1 King's is willing to provide the Cell Lines for use by the Institution for a period of two years from the effective date (the "Term") on the terms set out herein.
- 5.2 The Term may be extended with the written agreement of King's. Permission to extend this Agreement must be sought by the Institution three (3) months before the expiry of the Term.
- 5.3 The Cell Lines and any copies thereof made by or in the possession of or under the control of the Institution pursuant to this Agreement shall remain the property of King's and shall be immediately returned or, if King's so requires, destroyed:
- 5.3.1 On termination of this Agreement; or
 - 5.3.2 In the event that the Institution is in breach of any of the conditions of this Agreement; or
 - 5.3.3 At any other time on request of King's.
- 5.4 The obligations in Clauses 2.4, 2.5 and 2.6, 3 and 4 shall survive termination of this Agreement.

6. GOVERNING LAW AND JURISDICTION

The validity, construction and performance of this Agreement shall be governed by English law and the jurisdiction of the English courts.

(Ending)

Signed
(For and on behalf of **[THE INSTITUTION]**)

Date.....

Name:.....

Post Held:.....

Institution:.....

Department:.....

Postal Address:.....

.....

.....

.....

Postcode:.....

Country:.....

Telephone:.....

Fax:.....

Email:.....

Signed
(by the **RECIPIENT**)

Date.....

Name:.....

Post Held:.....

Signed
(For and on behalf of **KING'S COLLEGE LONDON**)

Date.....

Name

Title.....

SAMPLE ONLY, NOT FOR USE

SCHEDULE 1: APPROVAL

STEERING COMMITTEE Approval for the Programme

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SCHEDULE 2: CELL LINE(S) AND PURPOSE

Cell Lines being requested:

2 straws of [REDACTED]

Programme of research involving the Cell Lines:

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