

MATERIAL TRANSFER AGREEMENT

University of Duisburg-Essen, represented by the Rector,
Executive Faculty/Department: **Faculty for Biology, Central Collection of Algal Cultures (CCAC)**

("UDE")

agrees to provide

("RECIPIENT")

with

("ORIGINAL MATERIAL")

which is considered proprietary to UDE for the purpose of own research and development (not contract research for third parties) under the following conditions:

§ 1 Definitions

1. **MATERIAL:**

ORIGINAL MATERIAL, PROGENY and UNMODIFIED DERIVATIVES. Biological MATERIAL (living microalgal, clonal culture).

2. **PROGENY:**

Any culture derived from ORIGINAL MATERIAL (clonal culture) by vegetative or sexual reproduction.

3. **UNMODIFIED DERIVATIVES:**

Subsample of ORIGINAL MATERIAL.

4. **MODIFICATIONS:**

Any substances created from the ORIGINAL MATERIAL, its PROGENY or unmodified derivatives of the ORIGINAL MATERIAL.

§ 2 Usage by Recipient

1. UDE and RECIPIENT agree that the MATERIAL is to be used solely for academic research purposes (and not for commercial purposes) and will not be used in human subjects, in clinical trials or for diagnostic purposes involving human subjects without the written consent of UDE.

2. Detailed work description:

3. RECIPIENT shall not distribute or release the MATERIAL to any person other than laboratory personnel under recipient scientist's direct supervision and shall ensure that no one will be allowed to take or send the MATERIAL to any other location unless written permission is obtained from UDE.

4. At the written request of UDE, RECIPIENT will cease to use MATERIAL and will return (at UDE'S option) all unused MATERIAL.

§ 3 Ownership

1. UDE retains ownership of the MATERIAL, including any MATERIAL contained or incorporated in MODIFICATIONS. UDE shall be free, in its sole discretion, to distribute the MATERIAL to others and to use it for its own purpose.

2. RECIPIENT retains ownership of:

a. MODIFICATIONS – except that UDE retains ownership rights to MATERIAL included herein – and

b. those substances created through the use of the MATERIAL or MODIFICATIONS, but which are not UNMODIFIED DERIVATIVES or MODIFICATIONS (i.e. do not contain the ORIGINAL MATERIAL or UNMODIFIED DERIVATIVES).

3. If either a. or b. results from the collaborative efforts of UDE and RECIPIENT, the Parties hereby agree to negotiate in good faith the terms of the joint ownership and the exploitation of such result, based on the respective parties' contributions thereto and relevant industry standards.

4. 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 UDE, including any altered forms of the MATERIAL made by UDE. In particular, no express or implied licenses or other rights are provided to use the MATERIAL, MODIFICATIONS, or any related patents of the UDE for profit-making or commercial purposes. The MATERIAL will not be used in research that is subject to consulting or licensing obligations to another corporation, company or business entity unless written permission is obtained from UDE.

§ 4 Information Obligations

1. RECIPIENT will inform UDE in confidence promptly in writing of results or any invention, improvement, modification, discovery or development related to the use of the MATERIAL. RECIPIENT agrees to use the same degree of care to maintain the confidentiality of any information respecting the MATERIAL as RECIPIENT would if the MATERIAL and information were proprietary information of RECIPIENT.
2. UDE will notify RECIPIENT as soon as the MATERIAL is the subject of an intended patent application. After receipt of such notification RECIPIENT shall inform UDE, if RECIPIENT desires to publish or otherwise disclose (including orally) the results or RECIPIENT's investigations that result from this Agreement. RECIPIENT will then provide UDE with a copy of any manuscript, abstract or other such document evidencing such information, prior to submission of such document or information to a publisher, or to any other third party, and in any case, not less than thirty (30) days prior to any such third party disclosure, for the purpose of protecting or deleting the proprietary information / intellectual property of UDE which might be contained in such information. In case of an intended patent application any publication from the RECIPIENT containing data generated with the MATERIAL or its UNMODIFIED DERIVATIVES must be withheld until UDE has applied the invention concerning the MATERIAL for patent.
3. RECIPIENT warrants that UDE will be acknowledged by being cited as the source of the MATERIAL on any publication disclosing results obtained by usage of the MATERIAL, PROGENY, UNMODIFIED DERIVATIVES and/or MODIFICATION.

§ 5 Fees

The MATERIAL is provided at no cost, or with an optional transmittal fee solely to reimburse UDE for its preparation and distribution costs.

§ 6 Compliance with Legal Provisions

RECIPIENT will use the MATERIAL in compliance with all applicable laws and governmental regulations including current national guidelines, and equivalent guidelines of other countries, if applicable, relating to the care, welfare, handling, breeding, storage, transfer and disposal of the MATERIAL.

§ 7 Liability

1. The MATERIAL is understood to be experimental in nature and is provided without warranty of merchantability or fitness for a particular purpose or any other warranty, express or implied. UDE makes no representations and extends no warranties of any kind ("Mängelhaftung" according to the German Civil Code) either expressed or implied. There are no expressed or implied warranties that the manufacture, sale, transfer or use of the MATERIAL will not infringe any patent, copyright, trademark or other proprietary rights of others.
2. In no event shall UDE be liable for any use by RECIPIENT of the MATERIAL, or any loss claim, damage or liability of whatsoever kind or nature, which may arise from or in connection with this Agreement or the use, handling or storage of the MATERIAL, except to the extent such damage, loss or liability is caused by gross negligence or wilful misconduct of UDE.
3. RECIPIENT shall at all times during the term of this Agreement and thereafter, indemnify, defend and hold UDE, their trustees, officers, employees and affiliates, harmless against

all claims and expenses, including legal expenses and reasonable attorney's fees, arising out of the death of or injury to any person or out of any damage to property and against any other claim, proceeding, demand, expense and liability of any kind whatsoever resulting from the use of the MATERIAL by RECIPIENT, except to the extent such claims or expenses are caused by gross negligence or wilful misconduct of UDE.

§ 9 Final Provisions

1. If any provisions of this Agreement shall become or be held invalid or unenforceable, all other provisions hereof shall remain in full force and effect. The invalid or unenforceable provision shall be deemed to be automatically amended and replaced by a valid and enforceable provision which accomplishes as far as possible the purpose and the intent of the invalid or unenforceable provision. The same shall apply in the case of an omission.
2. Any changes of the Agreement have to be made in writing.
3. This Agreement shall be construed and interpreted in accordance with the laws of Germany. Exclusive place of jurisdiction is Essen, Germany.

Date:

Date:

UDE

Recipient

(Name / function in block letters)

(Name in block letters)

UDE Scientist

Recipient Scientist

(Name in block letters)

(Name in block letters)