**Material Transfer Agreement**

between

NAME OF ADDRESSEE

A [INSTITUTION/COMPANY] incorporated under the laws of [COUNTRY] [under the identification number IDENTIFICATION NUMBER], with its registered office at [ADDRESS]

Hereinafter „ Recipient“

and

Paul Scherrer Institute (PSI)

a Swiss national research institute, with its principal place of business at 5232 Villigen PSI, Switzerland

Hereinafter „ PSI”

This Material Transfer Agreement regarding …………. is made by and between Recipient and PSI (each a „Party” and collectively the „Parties”).

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RECITALS

1. Recipient is a [DESCRIPTION WHAT PARTNER IS A COMPANY FOR].
2. PSI is Switzerland’s largest research centre for the natural sciences and engineering. It conducts top level research, in particular in the field of matters and materials, and is part of the ETH domain. PSI performs world-class research in three main subject areas: Matter and Material; Energy and the Environment; and Human Health. By conducting fundamental and applied research, PSI works on long-term solutions for major challenges facing society, industry and science.
3. PSI produced a considerable amount of…………... The …………… can be used as ………...
4. Recipient has a strong interest in receiving the …………… material to perform experiments and tests. PSI is willing to provide the requested amount of …………… material for those experiments and tests.
5. This Agreement shall define the terms and conditions under which Recipient will receipt and treat the ...... material.

Now, therefore, the Parties agree as follows:

# DEFINITIONS AND INTERPRETATION

## Definitions

Unless specifically defined otherwise in this Agreement, the following definitions shall apply:

1. **Agreement** means this Material Transfer Agreement, including its recitals and appendices.
2. **Material** means …………..
3. **Purpose** has the meaning as set out in Section 2.2
4. **Results** mean all data, results and inventions, whether patentable or not, directly and solely arising from use of the Material.

## Interpretation

* + 1. For the purpose of clarity, words or expressions may be defined in other Sections. The meaning of such words or expressions shall apply throughout this Agreement.
		2. Where the context so permits or requires, references to Recipient and PSI shall include their respective employees, officers, directors and agents.

# SCOPE OF THE AGREEMENT

PSI will after execution of this Agreement by both Parties provide the Material to the Recipient, DAP Incoterms 2010.

Recipient intends to use the Material for [DESCRIPTION OF THE PURPOSE] (“Purpose”).

The Material will be provided to Recipient with the express understanding that neither Recipient nor PSI will be obliged to enter into any further agreement relating to the Material.

# OWNERSHIP

The Material is the property of PSI and is made available as a service to the research community.

The legal title to the Material shall remain unaffected by this Agreement or the transfer made hereunder.

Nothing in this Agreement shall be construed as granting any license or right in and to the Material to the Recipient. Any improvements or modifications to the Material arising from the Purpose will be deemed to form part of the Material.

# OBLIGATIONS OF THE RECIPIENT

Recipient agrees to the following obligations:

1. not to use the Material in human subjects;
2. to use the Material for the Purpose as set out in Section 2.2 only;
3. not to distribute or make otherwise available the Material to others without PSI’s prior written approval. The Recipient shall refer any request for the Material to PSI;
4. not to apply for any intellectual property based upon or relating to Material;
5. to acknowledge the source of the Material in any publications reporting use of it;
6. to carry out the Purpose under its own responsibility and in accordance with all applicable laws and regulations.

Furthermore, the Recipient agrees to

1. inform PSI on the Purpose and the objectives of Recipient’s research related to the Material;
2. to inform PSI on the progress of the Purpose and the Results;
3. make available any and all Results to PSI and PSI shall be free to use the Results in any form whatsoever.

Upon request of PSI, Recipient shall return to PSI or, at PSI's discretion, destroy, at the end of the Purpose, any unused amount of Material provided by PSI under this Agreement.

# COSTS

The Material is provided for free.

# PUBLICATIONS

Recipient is entitled to publish the Results.

In accordance with scientific customs, Recipient shall reflect expressly the contributions of PSI in all their written or oral publications or presentations concerning the Purpose by acknowledgment or co-authorship. In particular, PSI requires co-authorship in SPECIFICATION ACCORDING TO BILATERAL NEGOTIATIONS, according to the author list provided by PSI.

Recipient shall provide to PSI manuscripts in full length for review at least thirty (30) days prior to their intended publication.

In case that Recipient does not fulfill the requirements, Recipient is obliged to return the Material to PSI immediately.

# REPRESENTATION AND WARRANTIES

Any Material delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. PSI 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.

To the extent permitted by law, PSI is not liable for claims for damages by third parties which may arise from the use, storage or disposal of the Material.

# ASSIGNMENT

Recipient may not assign, transfer or pledge this Agreement or any right or obligation arising from it, by operation of law or otherwise without prior written consent of PSI.

# WAIVER

PSI's failure to exercise or delay in exercising any right, power or privilege under this Agreement shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.

# SEVERABILITY

If any provision of this Agreement is held to be invalid or unenforceable and can be deleted without altering the essence of, this provision will be severed and the remaining provisions will remain in full force or effect.

In the event that such a provision cannot be deleted, the Parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the Parties’ original commercial intention.

# APPLICABLE LAW, PLACE OF JURISDICTION

## Applicable Law

This Agreement, as well as any contractual or non-contractual obligation are governed by the laws of Switzerland, without regard to its conflict of law principles, and excluding the provisions of the Wiener Kaufrecht (United Nations Convention on Contracts for the International Sale of Goods, concluded in Vienna on 11/4/1980).

## Jurisdiction

Any dispute shall be finally settled in accordance with the ordinary courts of Aarau, Switzerland. Notwithstanding the preceding provision, PSI is entitled to apply for interim measures at any competent court having jurisdiction.

This Agreement is executed in two (2) originals, one (1) being remitted to each Party.

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Signatories

NAME OF ADDRESSEE

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Place, date |  | Place, date |
|  |  |  |
|  |
| Signature (Name, title) |  | Signature (Name, title) |

Paul Scherrer Institute (PSI)

|  |  |  |
| --- | --- | --- |
| Villigen, |  | Villigen, |
| Place, date |  | Place, date |
|  |  |  |
|  |
| Signature (Name, title) |  | Signature (Name, title) |