

Agreement No. _____

Simple Letter Agreement for the Transfer of Materials to Recipient Scientists

In response to RECIPIENT's request for MATERIAL (Human Embryonic Stem Cells, WiCell Ref: No. P98222US and its unmodified and undifferentiated progeny or derivatives) for a research _____ program _____ entitled _____

WiCell Research Foundation, Inc. ("PROVIDER") has entered into a Memorandum of Understanding dated _____ (the "MOU") with RECIPIENT which is hereby incorporated by reference and asks that the RECIPIENT and the RECIPIENT SCIENTIST agree to the following before the RECIPIENT SCIENTIST receives the MATERIAL:

1. The above MATERIAL is the property of the PROVIDER and is made available as a service to the research community. Ownership of the MATERIAL shall remain with PROVIDER and transfer of the MATERIAL to the RECIPIENT shall not affect PROVIDER's ownership of the MATERIAL.
2. This MATERIAL is not to be used for diagnostic or therapeutic purposes.
3. The MATERIAL will be used for teaching or non-commercial research purposes. As used herein, non-commercial research purposes specifically excludes research sponsored by a for-profit entity either through supply of materials or funding, except as such research sponsor i) is permitted to use MATERIAL under a separate written agreement with PROVIDER, or ii) receives no rights to the results of the sponsored research. Specifically, MATERIAL shall not be used in a research program sponsored by a for-profit research sponsor who does not have a separate written agreement with PROVIDER permitting such use of MATERIAL unless such sponsor receives no rights, actual or contingent, to the results of the sponsored research.
4. Nothing contained herein shall be considered to be the grant of a commercial license or right under 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, reissues and reexaminations ("WISCONSIN PATENT RIGHTS") or to the MATERIALS. Furthermore, nothing contained herein shall be construed to be a waiver of PROVIDER's patent rights under the WISCONSIN PATENT RIGHTS or PROVIDER's property rights in the MATERIALS.
5. The MATERIAL will not be further distributed to others without the PROVIDER's written consent. The RECIPIENT shall refer any request for the MATERIAL to the PROVIDER. To the extent supplies are available, the PROVIDER or the PROVIDER SCIENTIST agree to make the MATERIAL available, under a separate Simple Letter Agreement to other scientists for teaching or non-commercial research purposes only.
6. The RECIPIENT agrees to acknowledge the source of the MATERIAL in any publications reporting use of it.

7. Upon PROVIDER's written request, RECIPIENT agrees to provide without cost, other than payment of RECIPIENT's actual out-of-pocket costs, reasonable quantities of any RECIPIENT MATERIALS that it makes in the course of its research program to PROVIDER for research purposes only at PROVIDER or the University of Wisconsin after RECIPIENT has publicly disclosed or reasonably characterized such RECIPIENT MATERIALS. RECIPIENT also agrees to grant under the RECIPIENT Patent Rights internal research licenses to PROVIDER and the University of Wisconsin-Madison.
8. Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. THE PROVIDER 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. Unless prohibited by law, RECIPIENT assumes all liability for claims for damages which may arise from RECIPIENT's use, storage, handling or disposal of MATERIAL except that, to the extent permitted by law, PROVIDER shall be liable to the RECIPIENT when the damage is caused by the gross negligence or willful misconduct of the PROVIDER.
9. The RECIPIENT agrees to use the MATERIAL only in compliance with all applicable statutes, regulations and guidelines relating to their handling, use or disposal. Specifically, RECIPIENT agrees that its research program will exclude: (i) the mixing of MATERIAL with an intact embryo, either human or non-human; (ii) implanting MATERIAL or products of MATERIAL in a uterus; and (iii) attempting to make whole embryos with MATERIAL by any method. RECIPIENT shall supply an Annual Certification Statement confirming compliance with the restrictions on the use of MATERIAL supplied by PROVIDER. RECIPIENT agrees that MATERIAL is to be returned to PROVIDER or destroyed upon a material breach of the terms of this Agreement by RECIPIENT.
10. The MATERIAL is provided with a transmittal fee solely to reimburse the PROVIDER for its preparation and distribution costs. The amount of the fee for this transfer of MATERIAL will be \$5000.

The PROVIDER, RECIPIENT and RECIPIENT SCIENTIST must sign both copies of this letter and return one signed copy to the PROVIDER. The PROVIDER will then send the MATERIAL.

WICELL RESEARCH INSTITUTE, INC.

By: _____
Carl E. Gulbrandsen, President

Date: _____

RECIPIENT INFORMATION and AUTHORIZED SIGNATURE

Recipient Scientist:
:

Recipient Organization: _____

Address: _____

Signature of Recipient Scientist: _____

Date: _____

Name of Authorized Official: _____

Title of Authorized Official: _____

Signature of Authorized Official: _____

Date: _____

Reviewed by WiCell's General Counsel:

_____, _____
Elizabeth L.R. Donley, Esq.

(WiCell's attorney shall not be deemed a signatory to this Agreement.)

WiCell Ref: Thomson – P98222US

ANNUAL CERTIFICATION

Annual Certification of Recipient Scientist: I have read and understood the conditions outlined in the Memorandum of Understanding executed by The Regents of the University of California and the WiCell Research Institute, and in the Simple Letter Agreement for the Transfer of Materials executed thereunder on <insert date> and I agree to abide by them in the receipt and use of the MATERIAL. I further certify that, consistent with those agreements, I am not engaged and have not been engaged in commercial research using the MATERIAL or any Third Party Material which requires a license under the WISCONSIN PATENT RIGHTS.

Recipient Scientist: _____

Date: _____

Recipient Scientist: _____

Date: _____

Recipient Scientist: _____

Date: _____