

## NONEXCLUSIVE AGREEMENT

This Agreement between THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY ("Stanford"), an institution of higher education having powers under the laws of the State of California, and \_\_\_\_\_ ("Licensee"), a corporation having a principal place of business at \_\_\_\_\_, is effective on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date").

### 1 BACKGROUND

Stanford and the United States Department of Veterans Affairs ("VA") have an assignment to biological material known as "MFB-F11 cell line". It was developed in the laboratory of Tony Wyss-Coray, and is described in Stanford Docket S07-069. Stanford and the VA have entered into a Cooperative Technology Administration Agreement wherein Stanford has authority to administer and manage the Invention on behalf of both parties. The biological material was developed in the course of research supported by the National Institutes of Health. Licensee wishes to acquire a license to the Biological Material for In-House Research Purposes.

### 2 DEFINITIONS

- 2.1 "Biological Material" means the cell line producing MFB-F11, provided to Licensee pursuant to this Agreement.
- 2.2 "Licensed Field of Use" means Research Purposes only, as hereinafter defined.
- 2.3 "Research Purpose(s)" means any in-house use of the Biological Material for in-vitro and non-human animal in vivo research purposes where no payment or other compensation (other than payments for research) is received from third parties. Research Purpose(s) specifically excludes the sale or transfer of the Biological Material.
- 2.4 "Stanford Indemnitees" means VA, Stanford and Stanford Hospitals and Clinics, and their respective trustees, officers, employees, students, and agents.

### 3 GRANT

- 3.1 **Grant.** Stanford hereby grants, and Licensee accepts, a nonexclusive license in the Licensed Field of Use. The license does not include the right to use any products or processes derived from the Biological Material directly for profit-making or commercial purposes, such as manufacture, use, and sale of product. Licensee agrees to negotiate in good faith a license with Stanford before marketing for sale any product or process derived from Biological Material. Stanford will have no obligation to grant such a license to Licensee, and may grant exclusive or

nonexclusive licenses to other who may be investigating uses of the Biological Material.

- 3.2 **Nonexclusivity.** The license is nonexclusive in the Licensed Field of Use beginning on Effective Date and expiring Fifteen years from Effective date.
- 3.3 **Retained Rights.** Stanford retains the right, on behalf of itself and all other non-profit academic research institutions, to use the Biological Material for any non-profit purpose, including sponsored research and collaborations. Stanford and any such other institution have the right to publish any information using the Biological Material.
- 3.4 **No Transfer.** Licensee is not permitted to transfer Biological Material to any third party without prior written consent from Stanford.

#### 4 GOVERNMENT RIGHTS

This Agreement is subject to Title 35 Sections 200-204 of the United States Code. Among other things, these provisions provide the United States Government with nonexclusive rights to the Biological Material. Licensee will ensure all obligations of these provisions are met.

#### 5 ROYALTIES

- 5.1 **Issue Royalty.** Licensee will pay to Stanford a noncreditable, nonrefundable license issue royalty of \$5,000.00 upon signing this Agreement. Upon receipt of payment, Stanford will send Biological Material to Licensee.
- 5.2 **License Maintenance Fee.** For continued use of Biological Material, Licensee will pay an annual license maintenance royalty of \$5,000.00 beginning on the first anniversary of the Effective Date and each anniversary thereafter. The payments are nonrefundable.
- 5.3 **Non-U.S. Taxes.** All payments to Stanford will be in U.S. Dollars, net of any non-U.S. taxes.
- 5.4 **Interest.** Any payments not made when due will bear interest at the lower of (a) the Prime Rate published in the Wall Street Journal plus 200 basis points or (b) the maximum rate permitted by law.

#### 6 EXCLUSIONS AND NEGATION OF WARRANTIES

- 6.1 **Negation of Warranties.** Stanford provides Licensee the rights granted in this Agreement AS IS and WITH ALL FAULTS. Stanford makes no representations and extends no warranties of any kind, either express or implied. Among other things, Stanford disclaims any express or implied warranty:
  - (A) of merchantability, of fitness for a particular purpose,
  - (B) of non-infringement or

(C) arising out of any course of dealing.

6.2 **No Representation of Biological Material.** Licensee also acknowledges that Stanford does not represent or warrant that the exploitation of Biological Material will be successful.

## 7 INDEMNITY

7.1 **Indemnification.** Licensee will indemnify, hold harmless, and defend all Stanford Indemnitees against any claim of any kind arising out of or related to the exercise of any rights granted Licensee under this Agreement or the breach of this Agreement by Licensee.

7.2 **No Indirect Liability.** Stanford is not liable for any special, consequential, lost profit, expectation, punitive or other indirect damages in connection with any claim arising out of or related to this Agreement, whether grounded in tort (including negligence), strict liability, contract, or otherwise.

7.3 **Workers' Compensation.** Licensee will comply with all statutory workers' compensation and employers' liability requirements for activities performed under this Agreement.

## 8 STANFORD NAMES AND MARKS

Licensee will not identify Stanford or the VA in any promotional statement, or otherwise use the name of any Stanford faculty member, employee, or student, or any trademark, service mark, trade name, or symbol of Stanford or Stanford Hospitals and Clinics, or the VA including the Stanford or VA name, unless Licensee has received Stanford's or the VA's prior written consent. Permission may be withheld at Stanford's or the VA's sole discretion.

## 9 TERMINATION

### 9.1 Termination by Licensee.

(A) Licensee may terminate this Agreement by giving Stanford written notice at least 30 days in advance of the effective date of termination selected by Licensee.

(B) As of the effective date of termination, Licensee will:

- (1) cease use of Biological Material; and
- (2) return to Stanford or destroy all Biological Material.

### 9.2 Termination by Stanford.

(A) Stanford may also terminate this Agreement if Licensee:

- (1) is delinquent on any payment;
- (2) is in breach of any provision; or

- (B) Termination under this Section 9.2 will take effect 30 days after written notice by Stanford unless Licensee remedies the problem in that 30-day period.
- (C) As of the effective date of termination, Licensee will:
  - (1) cease use of Biological Material; and
  - (2) return to Stanford or destroy all Biological Material.

9.3 **Surviving Provisions.** Surviving any termination or expiration are:

- (A) any claim of Licensee or Stanford, accrued or to accrue, because of any breach or default by the other party; and
- (B) the provisions of Articles 6, 7, and 8, and any other provision that by its nature is intended to survive.

**10 ASSIGNMENT**

This agreement may not be assigned.

**11 ARBITRATION**

Any dispute between the parties regarding any payments made or due under this Agreement will be settled by arbitration in accordance with the JAMS Arbitration Rules and Procedures. There parties are not obligated to settle any other dispute that may arise under this Agreement by arbitration.

**12 NOTICES**

All notices under this Agreement are deemed fully given when written, addressed, and sent as follows:

All general notices to Licensee are mailed to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

All financial invoices to Licensee (i.e., accounting contact) are e-mailed to:

\_\_\_\_\_

\_\_\_\_\_

All general notices to Stanford are e-mailed or mailed to:

Office of Technology Licensing  
1705 El Camino Real  
Palo Alto, CA 94306-1106  
[info@otlmail.Stanford.edu](mailto:info@otlmail.Stanford.edu)

All payments to Stanford are mailed to:

Stanford University  
Office of Technology Licensing  
Department #44439  
P.O. Box 44000  
San Francisco, CA 94144-4439

Either party may change its address with written notice to the other party.

### 13 MISCELLANEOUS

- 13.1 **Waiver.** No term of this Agreement can be waived except by the written consent of the party waiving compliance.
- 13.2 **Choice of Law.** This Agreement and any dispute arising under it is governed by the laws of the State of California, United States of America, applicable to agreements negotiated, executed, and performed within California.
- 13.3 **Exclusive Forum.** The state and federal courts having jurisdiction over Stanford, California, United States of America, provide the exclusive forum for any court action between the parties relating to this Agreement. Licensee submits to the jurisdiction of such courts, and waives any claim that such a court lacks jurisdiction over Licensee or constitutes an inconvenient or improper forum.
- 13.4 **Headings.** No headings in this Agreement affect its interpretation.
- 13.5 **Electronic Copy.** The parties to this document agree that a copy of the original signature (including an electronic copy) may be used for any and all purposes for which the original signature may have been used. The parties further waive any right to challenge the admissibility or authenticity of this document in a court of law based solely on the absence of an original signature.

The parties execute this Agreement in duplicate originals by their duly authorized officers or representatives.

THE BOARD OF TRUSTEES OF THE LELAND  
STANFORD JUNIOR UNIVERSITY

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

LICENSEE

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_