



MATERIAL & DATA TRANSFER AGREEMENT

Swiss HIV Cohort Study (SHCS), having its place at **University Hospital Zürich, Division of Infectious Diseases and Hospital Epidemiology, Rämistrasse 100, 8091 Zürich, Switzerland** ("provider") is willing to provide _____ ("INVESTIGATOR") and _____, **University of _____** having its place at _____ ("INSTITUTION"), (collectively "RECIPIENT"), certain Materials subject to the following terms and conditions:

1. "Materials" of PROVIDER shall mean specifically: _____ blood samples (**specify the type of samples**) and any derivatives thereof, all information relating to Materials provided to RECIPIENT by PROVIDER and/or data. "Modifications" shall mean cross-bred progeny and other substances created by RECIPIENT which contain or incorporate the Materials.
2. The Materials shall remain the sole property of PROVIDER. The Materials shall not be transferred by RECIPIENT to anyone other than employees or students working under immediate control and supervision of INVESTIGATOR, and shall not be made available to any other persons within the INSTITUTION or elsewhere. The Materials may not be transferred or taken by RECIPIENT to another institution or company without the prior written consent of PROVIDER. Modifications shall be owned by RECIPIENT, except that, PROVIDER retains ownership rights to the Materials included therein.
3. RECIPIENT shall use the Materials solely for research purposes as specified below. Furthermore, RECIPIENT shall not use the Materials in any manner for commercial purpose. The Materials will be used only as described in the attached research protocol ("Research").
4. Any information relating to the Materials disclosed by PROVIDER to RECIPIENT shall remain the property of PROVIDER, shall be retained in confidence by RECIPIENT, and shall not be disclosed by RECIPIENT to anyone other than employees of INSTITUTION working under immediate control and supervision of INVESTIGATOR, or other employees of the INSTITUTION having a need to know such information.
5. RECIPIENT'S obligations of non-disclosure and restricted use of information shall become effective on the date of disclosure and shall apply to all information received from PROVIDER relating to the Materials, provided that such obligations of non-disclosure and restricted use of information shall not extend to information disclosed to RECIPIENT by PROVIDER which: a) is or becomes part of the public domain, though no action by RECIPIENT; b) was in the possession of RECIPIENT at the time of disclosure and was not acquired from PROVIDER under an obligation of confidentiality; c) RECIPIENT received from a third party not under an obligation of confidentiality with respect to such information; d) is approved for public release by written authorization of PROVIDER; e) is required to be disclosed by law or court order or f) was independently developed by RECIPIENT.
6. In case RECIPIENT is located out of Switzerland and/or in case the Materials and information relating to the Materials must be transferred out of said country, RECIPIENT undertakes and warrants that it will comply with any and all provisions of the applicable Cantonal and Swiss Federal Data Protection Laws.
7. RECIPIENT shall, in accordance with its established practice, keep complete and accurate accounts, notes, data and records of the Research. Upon completion of proposed Research, RECIPIENT shall disclose to PROVIDER any and all information, inventions, data and results obtained from conducting the Research or relating the use of the Materials (hereinafter "Results") which disclosure shall include without limitation, copies of relevant summaries and reports. PROVIDER shall keep confidential all such information, inventions, data and results provided by RECIPIENT to the same extent as for RECIPIENT under clause 5 above, but for a period of five (5) years as from disclosure.
8. In the case RECIPIENT would like to publish results of the investigations done under the present Agreement and related to the Materials, it shall inform the PROVIDER. Authorship shall be determined according to the international scientific standards. In all cases RECIPIENT will acknowledge PROVIDER as source of the Materials and Swiss National Science Foundation as funding agency in any publication relating to the Materials.

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9. RECIPIENT agrees that nothing herein shall create or imply a license to RECIPIENT of any intellectual property rights herein, nor create or imply any obligation to enter into any other agreement.
 10. The Materials provided to RECIPIENT may have biological properties that are unpredictable and unknown at time of transfer, and are to be used in safe manner and in accordance with all applicable governmental rules and regulations. The Materials shall not be used in any study involving human subjects. They are provided by PROVIDER "AS IS". PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE INFORMATION AND MATERIALS AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE. PROVIDER DISCLAIMS ALL WARRANTIES OF NON-INFRINGEMENT WITH RESPECT TO ANY THIRD PARTY RIGHTS AND TITLE, INCLUDING PATENT RIGHTS, IN THE INFORMATION AND MATERIALS.
 11. RECIPIENT agrees to defend, indemnify and hold PROVIDER and its directors, trustees, employees and agents harmless from any claims, liabilities, damages and losses that might arise as a result of RECIPIENT'S use of the Materials except to the extent of wilful misconduct on the part of PROVIDER.
 12. In consideration of PROVIDER providing the Materials, RECIPIENT hereby grants to PROVIDER and its members (Universitätsspital Basel, Universität Basel, Inselspital Bern, Universität Bern, Hôpitaux Universitaires de Genève, Centre Hospitalier Universitaire Vaudois, Kantonsspital St Gallen, Zentrum für Labormedizin St Gallen, Ospedale regionale di Lugano, Istituto Cantonale di Microbiologia, Ticino, University of Zurich and Universitätsspital Zürich) a non-exclusive, paid-up license for research purposes only to each discovery, whether patentable or not, made as a result of RECIPIENT'S research using the Materials ("Invention"). RECIPIENT shall promptly notify PROVIDER in writing of the substance of each such Invention and the filing of any patent application thereon. RECIPIENT shall not license or otherwise make any commercial use of any Invention in the absence of an agreement to be negotiated in good faith by the Parties hereto, providing for, inter alia, the sharing of royalty income.
 13. Upon the conclusion of the research to be performed using the Materials, or in case of termination of this Agreement by PROVIDER, which may be given by certified mail to RECIPIENT upon thirty (30) days written notice, RECIPIENT agrees to discontinue use of the Materials and will arrange for the return to PROVIDER for the lawful disposal of all unused Material, as elected by PROVIDER. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings relating to the subject matter hereof. This agreement may not be modified except by a written instrument signed by all parties. Parties are aware that should the donor of any Materials, excluding information and data, decide to withdraw his/her consent, PROVIDER shall inform RECIPIENT about such withdrawal and the relevant Materials must immediately be returned to PROVIDER or destroyed by RECIPIENT, as instructed by PROVIDER. In case PROVIDER instructs RECIPIENT to destroy Materials, RECIPIENT shall send a written notification to PROVIDER that the relevant Materials has been destroyed
 14. Nothing whatever in this Agreement shall be construed as conferring rights to use in advertising, publicity, or otherwise the name and logo of PROVIDER or its members or any of its/their marks or name of employees.
 15. This Agreement shall be governed by the laws of Switzerland. Any claim or controversy arising out of or related to this Agreement shall be submitted to the ordinary courts in Zürich, Switzerland. RECIPIENT shall not assign or delegate its obligations under this Agreement either in whole or in part without the prior written consent of PROVIDER.

Signatures page follows.....

PROVIDER:

RECIPIENT:

Signed _____

Signed _____

By: _____
SHCS Responsible Investigator

By: _____
INVESTIGATOR

Date: _____

Date: _____

Signed _____

Signed _____
For and on behalf of the INSTITUTION

By: Prof. H. Günthard
President of the SHCS

By: _____

Date: _____

Date: _____