

Material Transfer Agreement

between EVERCYTE and a Not-For-Profit-Organization

This Material Transfer Agreement ("MTA") is between

Purchaser, as defined in the EVERCYTE Quote, its Principal Investigator ("Principal Investigator"), hereafter together referred to as "Purchaser",

and

Evercyte GmbH, Leberstraße 20, 1110 Vienna, Austria (hereafter referred to as "EVERCYTE").

This MTA is effective as of the last date of execution by the parties and governs the purchase and use of all EVERCYTE Materials under the terms and conditions set forth below.

1. Definitions

- **"Commercial Use"** means the sale, license, lease, export, transfer or other distribution of the EVERCYTE Materials to a person or entity not party to this MTA for financial gain or other commercial purposes and/or the use of the EVERCYTE Material:
 - a. to provide a service to a person or entity not party to this MTA for financial gain;
 - b. to produce or manufacture products for general sale or products for use in the manufacture of products ultimately intended for general sale;
 - c. in connection with ADME (Absorption, Distribution, Metabolism and Excretion) testing;
 - d. in connection with drug potency or toxicity testing which does not include either screening multiple cell lines for potential inclusion in a screening assay system or screening multiple compounds in a system for internal research purposes only;
 - e. for research conducted under an agreement wherein a for-profit entity receives a right whether actual or contingent to the results of the research. In addition, Commercial Use means the sale, license, lease, export, transfer or other distribution of any research result(s) developed in Principal Investigator's laboratory by the use of EVERCYTE Material(s) for financial gain or other commercial purposes. Commercial Use specifically does not include Industry Sponsored Academic Research.
- **"EVERCYTE Material(s)"** means materials acquired from EVERCYTE as documented in the EVERCYTE Quote and as detailed in the Product Data Sheet (PDS).
- **"EVERCYTE Quote"** means an order submitted for EVERCYTE Materials in a form and format as defined by EVERCYTE.
- **"Industry Sponsored Academic Research"** means research sponsored by a for-profit organization carried out at a non-profit organization and by the non-profit organization's employees.
- **"License Term"** means an unlimited period beginning with the subsequent month of the delivery of Evercyte Material(s).

The License Term shall end if, either

- Purchaser terminates this MTA by giving one month prior written notice to EVERCYTE; or
- EVERCYTE terminates this MTA by giving written notice to Purchaser within 7 days in case of breach of this MTA, including but not limited to any breach of the scope of use provisions of this MTA. In addition, EVERCYTE may immediately cease without notice to Purchaser

further shipments of EVERCYTE Materials and shall be entitled to seek temporary restraining orders and other preliminary or permanent injunctive relief.

- **“Modification(s)”** means substances created by Purchaser, which contain and/or incorporate a significant or substantial portion of EVERCYTE Material.
- **“PDS”** means Product Data Sheet.
- **“Principal Investigator”** means the Purchaser’s principal scientist or researcher using the EVERCYTE Material(s).
- **“Progeny”** means an unmodified descendant from the EVERCYTE Materials, such as cell from cell.
- **“Unmodified Derivative(s)”** mean substances created by Purchaser that constitute an unmodified functional sub-unit or product not changed in form or character and expressed by the EVERCYTE Material provided by EVERCYTE. Unmodified Derivatives include, but are not limited to, subclones of unmodified cell lines, purified or fractionated subsets of materials provided by EVERCYTE, proteins expressed by DNA/RNA supplied by EVERCYTE, extracellular vesicles secreted from EVERCYTE Material, antibodies or any fragments thereof.
- **“Third Party”** means any person or entity other than EVERCYTE and Purchaser and their affiliates.

2. Scope of Use

- 2.1 Subject to the terms of this MTA, Principal Investigator may use the EVERCYTE Materials provided to Purchaser by EVERCYTE during the License Term for non-exclusive research purposes in one Principal Investigator’s laboratory only. EVERCYTE Material is not intended for use in humans. Purchaser agrees that EVERCYTE Materials designated as biosafety greater than 1 constitute known pathogens and that EVERCYTE Materials not designated this way may be pathogenic under certain conditions (for further details see PDS). Purchaser assumes all risk and responsibility in connection with the receipt, handling, storage, disposal, transfer and Purchaser’s use of the EVERCYTE Materials including without limitation taking all appropriate safety and handling precautions to minimize health or environmental risk. Purchaser agrees that any activity undertaken with the EVERCYTE Materials will be conducted in compliance with all applicable guidelines, laws and regulations, and that Purchaser will obtain all permits, licenses or other approvals required by any governmental authority in connection with purchaser’s receipt, handling, storage, disposal, transfer and use of the EVERCYTE Materials.
- 2.2 Purchaser shall not distribute, sell, lend or otherwise transfer, to a person other than the Principal Investigator, or entity not party to this MTA, the EVERCYTE Material, as defined above, for any reason, without EVERCYTE’s prior written consent. Purchaser may not transfer the EVERCYTE Material to any third parties. Purchaser agrees that any investigator other than the Principal Investigator utilizing the EVERCYTE Material will be required to obtain a separate license. Any licensing of Modifications requires additional rights from EVERCYTE.
- 2.3 Any Commercial Use of the EVERCYTE Material is strictly prohibited without EVERCYTE’s prior written consent. Purchaser acknowledges and agrees that Purchaser’s use of certain EVERCYTE Material may require a license from a person or entity not party to this MTA or be subject to restrictions that may be imposed by a person or entity not party to this MTA.
- 2.4 Upon termination or expiration of this MTA Purchaser shall stop to use Evercyte Material(s) and Purchaser shall confirm in writing by authorized persons the destruction of remaining EVERCYTE Material(s) in Principal Investigator’s laboratory. The Certificate of Destruction is available online (<http://www.evercyte.com/certificate-of-destruction>) or upon request.

3. Industry Sponsored Academic Research

The use permitted under this MTA for Industry Sponsored Academic Research extends only to academic research carried out at the non-profit organization by non-profit organization's employees and only for the extent of the Project. The non-profit organization using the EVERCYTE Material in connection with Industry Sponsored Academic Research agrees to notify the industrial sponsor that any use of the EVERCYTE Material by the industry sponsor will require a separate license from EVERCYTE and that EVERCYTE is under no obligation hereunder to license any EVERCYTE Material to any such industry sponsor.

4. Compliance with Laws

Purchaser is solely responsible for compliance with all foreign and domestic, federal, state and local statutes, ordinances, governmental regulations and guidelines and any other regulations or guidelines pertaining to research that are relevant in connection with the use of EVERCYTE Material. Without limiting the generality of the foregoing, any shipment of EVERCYTE Materials to countries outside of Austria must comply with all applicable foreign and Austrian laws. If there is any conflict between the terms of this MTA and any applicable law or regulation with respect to Materials that are supplied hereunder by EVERCYTE, the terms of the applicable law or regulation shall govern.

5. Intellectual Property; Identification

- 5.1 As between the parties, EVERCYTE shall retain ownership of all right, title and interest in the EVERCYTE Materials, Progeny, Unmodified Derivatives and EVERCYTE Materials contained or incorporated in Modifications.
- 5.2 Purchaser retains ownership of:
 - a. Modifications (except of EVERCYTE Material included therein), and
 - b. those substances created through the use of EVERCYTE Material, but which do not contain EVERCYTE Material.
- 5.3 **Right to License Modifications.** EVERCYTE shall have the right of first refusal to get a license granted by Purchaser to Modifications. Notification of any Modifications shall be given to EVERCYTE at latest fourteen (14) days after discovering of such Modification. Within thirty (30) days of receipt of such notification of Modifications ("Notice Period"), EVERCYTE shall have the right to request a world-wide, non-exclusive, royalty-free, transferable license to develop, make, have made, use, import, sell and offer for sale Modifications during the Term with the right to sublicense to Third Parties. EVERCYTE will be responsible for the characterization and distribution of the Modifications at EVERCYTE's costs. In addition, if EVERCYTE decides to take a license of Modifications within the Notice Period, EVERCYTE shall bear the costs of shipment of the Modifications to EVERCYTE.
- 5.4 Notwithstanding the foregoing, Purchaser acknowledges and agrees that the EVERCYTE Materials are subject to the restrictions noted in the "Scope of Use" section above. Purchaser agrees to acknowledge EVERCYTE indicated by EVERCYTE as the source of the EVERCYTE Material in all research, academic or scholarly publications and in patent applications that reference the EVERCYTE Material. Purchaser explicitly acknowledges that EVERCYTE retains all right, title and interest in the EVERCYTE trademarks, trade-names, logos and EVERCYTE specific designations of EVERCYTE Materials sold by EVERCYTE. Purchaser expressly agrees not to use the EVERCYTE trademarks, trade-names, logos or EVERCYTE specific designations of EVERCYTE Materials sold by EVERCYTE in any way without EVERCYTE's prior written agreement.

6. Miscellaneous

- 6.1 Purchaser may not assign or otherwise transfer this MTA or any rights or obligations under this MTA, whether by operation of law or otherwise. Any such attempted assignment or transfer will be void and of no force or effect.
- 6.2 This MTA, including all documents incorporated herein by reference, constitutes the entire agreement between EVERCYTE and Purchaser with respect to the EVERCYTE Material and supersedes all previous agreements or representations (whether written or oral) between EVERCYTE and Purchaser relating to the same subject matter.
- 6.3 This MTA may not be modified, waived or terminated except in writing and signed by the parties hereto. No term or provision contained herein shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the parties.
- 6.4 If any provision of this MTA is for any reason found to be unenforceable, the remainder of this MTA will continue in full force and effect.
- 6.5 None of the provisions of this MTA are intended to create, nor shall be deemed or construed to create, any relationship between EVERCYTE and Purchaser other than that of independent entities contracting with each other hereunder solely for the purpose of effecting the provisions of this MTA.
- 6.6 Any correspondence concerning the MTA should be addressed to Evercyte GmbH, Leberstraße 20, 1110 Vienna, Austria, e-mail: office@evercyte.com.
- 6.7 **Precedence of Documents.** In the event of conflicting provisions or ambiguities, the following shall take precedence in descending order
 - a. EVERCYTE Quote;
 - b. The provisions of this MTA;
 - c. Evercyte General Terms and Conditions.