



**MATERIAL TRANSFER AGREEMENT FOR THE PROVISION OF
HUMAN- TISSUE FOR (NON-COMMERCIAL) ACADEMIC RESEARCH**

This Agreement is made the _____ day of _____ 2014

The University of Newcastle Upon Tyne an unincorporated charitable organisation established under the Universities of Durham and Newcastle upon Tyne Act 1963, a statute of England, whose address for service is King's Gate, Newcastle upon Tyne, NE1 7RU (**"Newcastle"**), through the Newcastle Brain Tissue Resource (**the "Providing Scientists"**) have collected or intend to collect samples of human brain tissue from cases of _____ (**the "Materials"**) as further detailed in Annex 1 and/or as communicated (including by electronic means) by Newcastle to the Institution. The Institution and Newcastle shall maintain competent records of all communications regarding Samples, including identifying numbers, being transferred by Newcastle.

_____ (**the "Recipient"**) who is an employee of _____, **the "Institution"**) the address of which is _____ wishes to acquire a Supply of Materials (as defined in the attached Terms and Conditions) for research relating to _____ (**the "Project"**) as further detailed in Annex 2.

Newcastle is willing to provide the samples listed in Annex 1 (**the "Samples"**), should they become available, for the duration of the Project (**the "Term"**) on the Terms and Conditions shown below, and the Institution and Recipient agree to comply with those Terms and Conditions.

Agreed by the parties through their authorised signatories:

For and on behalf of
NEWCASTLE

For and on behalf of
INSTITUTION

Read & Understood by
RECIPIENT

Signed

Signed

Signed

Print Name

Print Name

Print Name

Title

Title

Date

Date

Date

TERMS AND CONDITIONS

1. DURATION

- 1.1 This Agreement shall commence on the date hereabove written (“Commencement Date”) and will (subject to earlier termination pursuant to clause 9 or extension pursuant to clause 1.3) continue in force for the Term.
- 1.2 All Materials provided by Newcastle from the Commencement Date shall be subject to the terms and conditions of this Agreement, whether:
 - 1.2.1 one batch of Materials is provided; or
 - 1.2.2 a series or continuing series of Materials is provided, (the frequency of supply of Materials in such instance to be agreed between Newcastle and Institution) (together ‘Supply of Material’).
- 1.3 The Term may be extended with the written agreement of Newcastle. Permission to extend the term of this Agreement must be sought by the Institution no later than three (3) months before the expiry of the Term.

2. DELIVERY OF THE MATERIALS

- 2.1 Newcastle shall, as soon as practicable after the Commencement Date, use reasonable endeavours to supply Institution with the Materials, each Sample of Material bearing a unique research number and any coded phenotypic data, or other data associated to the Sample of Material (“Data”). If this transfer contemplates ongoing collection of Materials, Newcastle cannot guarantee the actual amount of Materials that will be supplied to Institution.
- 2.2 The Institution shall be responsible for all costs incurred in the preparation, transportation and packaging of the Material and Data from Newcastle’s premises to Institution’s premises and the Institution shall pay such costs within 30 days of Newcastle issuing an invoice. Delivery of the Material to Recipient’s laboratory shall be at Recipient’s risk and expense.
- 2.3 The Institution shall inform Newcastle, within five (5) working days of the safe receipt of the Samples and/or Data. The Institution shall be deemed to have safely received each of the Samples and/or Data in the absence of such notification to the contrary.

3. USE OF THE MATERIALS

- 3.1 The Materials, including any progeny or derivatives, and any Data may only be used exclusively by the Institution and solely for carrying out the Project in accordance with the terms of this Agreement. The Institution shall not (directly or indirectly) transfer, distribute or release the Materials or Data to any other person, firm or organisation. None of the Materials provided may be used for any commercial purpose directly or indirectly unless a licence granting the same is executed between Newcastle and Institution.

- 3.2 The Institution covenants and undertakes that the Materials will not be administered to humans and in so far as it is administered to animals, no animal to which the Materials is administered, or animal product derived there from, will be used for food, therapeutic or diagnostic purposes, or kept as a domestic pet or livestock. Any cells which are treated with the Materials will not be used for therapeutic or diagnostic purposes.
- 3.3 The Institution shall handle and store the Materials and Data in accordance with all applicable laws, governmental regulations, and guidelines pertaining to the import, export, storage, use and disposal of Materials such as the Materials and Data and in accordance with any reasonable protocols that Newcastle may have provided or may provide to the Institution dealing with the handling, storage disposal and safety of the Materials and Data.
- 3.4 The Institution agrees that any person within the Institution utilising the Materials or Data will be advised of, and is subject to, the conditions of this Agreement and the Institution will not allow access to and/or use of the Materials or Data by anyone other than those employees or individuals working within the Institution, under the direct supervision of the Recipient, in respect of the Project.
- 3.6 Institution warrants that the Project has been approved scientifically by peer review and has gained appropriate local research and research ethics approval and that any government permits and/or licences required for the transfer of the Materials to the Institution have been acquired by the Institution. Institution shall promptly upon request provide Newcastle with written proof of such approvals and permits etc.
- 3.7 Upon expiry of the Term (or earlier termination under Clause 9.2) the Institution shall (in accordance with all appropriate ethics, guidelines and legislation) return any unused Materials and Data to Newcastle or, at the request of Newcastle, destroy and dispose of any unused Materials and any Data in accordance with the approved local process and shall promptly provide Newcastle with certification that the Materials and Data have been destroyed unless permission to retain Materials and data and genetic data is specifically provided in writing by Newcastle to the Institution.
- 3.8 The Institution agrees that neither the Materials nor Data will be used whether alone or in conjunction with any other information, in any effort whatsoever to establish the individual identities of any subject from whom the Materials was derived.
- 3.9 Subjects from whom Materials has been derived and provided to Newcastle may decide to withdraw consent for use of the Materials. If Newcastle is notified that consent to use any particular Materials has been withdrawn and that the applicable sample(s) should be destroyed, Newcastle will then notify the Institution of the Materials and Data for which consent has been withdrawn and request that the Institution shall destroy the Materials and the Data which was provided, and shall promptly provide Newcastle with certification that the same has been destroyed.

4. INTELLECTUAL PROPERTY RIGHTS

- 4.1 Nothing in this Agreement shall operate to transfer any intellectual property rights in the Materials and/or Data and the Institution understands that no other right or licence to the Materials and Data is granted or implied as a result of Newcastle sending or supplying the Materials to the Institution.
- 4.2 If any commercially useful developments result from the Institution's use of the Materials and/or Data, the Institution shall inform Newcastle as soon as reasonably practicable following the identification of each such commercially useful development and the Institution shall:
 - 4.2.1 grant Newcastle a non-exclusive, worldwide, royalty-free licence to all such developments for internal research purposes only; and
 - 4.2.2 grant Newcastle an equitable share of any revenues that accrue to the Institution from such commercial development, having regards to the significance (if any) of the contribution to that development represented by Newcastle's provision of the Materials and/or Data hereunder.

5. REPORTS AND PUBLICATIONS

- 5.1 The Institution shall provide the Providing Scientist with regular reports (every 12 months unless otherwise reasonably requested by Newcastle) on the progress of the Project, including any raw data arising, and any subsequent findings and provide a manuscript to Newcastle describing the results of such research. Newcastle shall be entitled to use and copy the reports for its own academic research.
- 5.2 The Institution will acknowledge the contribution of Newcastle in any and all written presentations, disclosures and publications resulting from any and all analysis of the Material as well as any Data received from Newcastle using the following acknowledgement: "Tissue for this study was provided by the Newcastle Brain Tissue Resource which is funded in part by a grant from the UK Medical Research Council (G0400074), by NIHR Newcastle Biomedical Research Centre and Unit awarded to the Newcastle upon Tyne NHS Foundation Trust and Newcastle University, and by a grant from the Alzheimer's Society and Alzheimer's Research Trust as part of the Brains for Dementia Research Project."

6. CONFIDENTIALITY

- 6.1 The Institution shall keep confidential (and not disclose, transfer or permit the disclosure or transfer of) any confidential information relating to the Materials (which includes, for the avoidance of doubt, the Materials and Data themselves) disclosed to the Institution by Newcastle pursuant to this Agreement. The Institution shall only disclose the confidential information to those employees or individuals working within the Institution which require such information in order to carry out the Project, if the Institution first informs each of those employees or individuals working within the Institution of the confidential nature of the information and of the obligations of the Institution in respect of the information and ensures such persons comply with the confidentiality and non-disclosure obligations contained in this Agreement.

- 6.2 The Institution shall keep the confidential information referred to in Clause 6.1 at the Institution's premises in a secure environment, protected against theft, damage, loss, misuse or unauthorised access.
- 6.3 The provisions of Clause 6.1 shall not apply to:
- 6.3.1 any information which is or later becomes, generally available to the public other than as a direct or indirect result of the information being disclosed in breach of this Agreement.
 - 6.3.2 any information which either party agrees in writing is not confidential; and
 - 6.3.3 any information which is required to be disclosed by law, an order of any court of competent jurisdiction or any competent judicial, governmental or regulatory body but only to the extent of such required disclosure.

7. WARRANTIES/INDEMNITIES

- 7.1 The Institution warrants that it is legally authorised to receive the Materials and Data that it will follow all laws and regulations regarding transportation and transfer of the Materials and that it has the proper facilities for storing the Materials and Data.
- 7.2 The Institution warrants to Newcastle that it has full legal authority in the country where the personal data (if any) provided by Newcastle to the Institution will be processed to receive, store and process the personal data, to use it for the purposes for which it has been collected and that it will at all times comply with applicable data protection laws.
- 7.3 Any Materials delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. All cultured human tissue cells have a potential for carrying viruses, latent viral genomes, and other infectious agents in a non-apparent state. By accepting the Materials, the Institution assumes full responsibility for the safe and appropriate handling of the Materials. **NEWCASTLE MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIALS WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.**
- 7.4 The Institution will indemnify, defend and hold harmless Newcastle and its employees, students, and agents from any action, claim, proceedings, demands, losses (including but not limited to loss of profit) costs, awards, damages and payments, that may arise directly whether as a result of breach by Institution of this Agreement or from Newcastle's supply of the Materials or otherwise from the import, export, use, handling, storage or disposal of the Materials under this Agreement. In no case will Newcastle, or its employees, students or agents be liable for any claim, loss or demand made by the Institution or made against the Institution by any other party, including any

incidental, special or consequential damages, resulting from the use or handling of the Materials.

- 7.5 Save as in the case of death or personal injury arising from Newcastle's negligence, Newcastle excludes (to the fullest extent permitted by law) all liability for any action, claim, proceedings, demands losses (including but not limited to loss of profits), costs, awards, damages and payments made by Institution that may arise (whether directly or indirectly) in anyway whatsoever from the supply of the Materials, the Institution's use of the Materials or otherwise from the import, export, use, storage or disposal of the Materials under this Agreement.

8 INSURANCE

- 8.1 The Institution shall maintain with a reputable insurer of good standing such insurances as may be necessary to cover its obligations and liabilities as set out in this Agreement and shall supply Newcastle with evidence of such insurances as Newcastle may reasonably require, together with evidence of payment of the premiums.
- 8.2 The Institution shall not take any action nor shall it fail to take any action or (insofar as it is reasonably within its power) permit or allow others to take or fail to take any action as a result of which any of the insurances may be rendered void, voidable, unenforceable, suspended or impaired in whole or in part.
- 8.3 For the avoidance of doubt, any failure by the Institution to comply with its obligations in this Clause 8 shall in no way affect the obligations and liabilities of the Institution as otherwise set out in this Agreement.

9. TERM AND TERMINATION

- 9.1 This Agreement shall continue for the Term unless terminated earlier in accordance with the provisions of Clause 9.2 below.
- 9.2 Newcastle may terminate this Agreement:
- 9.2.1 on three month's written notice to the Institution which can be given at any time; or
 - 9.2.2 if the Institution is in material breach of any of the terms of this Agreement and, where the breach is capable of remedy, the Institution has failed to remedy the same within one month of service of a written notice from Newcastle specifying the breach and requiring it to be remedied.
- 9.3 The expiry or termination of this Agreement howsoever arising is without prejudice to the rights, duties and liabilities of either party accrued prior to termination.
- 9.4 The provisions in this Agreement which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

10. GENERAL

- 10.1 No party may at any time assign, transfer, charge or deal in any other manner with the Agreement or any of its rights under it.
- 10.2 This Agreement including its annex, and the Documents and any other attachments hereto constitutes the entire understanding between the parties in relation to its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement. No party has relied on any warranty or representation except as expressly set out in this Agreement.
- 10.3 All notices under this Agreement must be in writing and delivered to the address detailed above. A copy of each notice under this Agreement shall also be sent to the Business Development Directorate, Newcastle University, 2nd Floor Stephenson Building, Newcastle upon Tyne, NE1 7RU, United Kingdom and marked for the attention of the IP & Commercialisation Manager.
- 10.4 The parties shall not make any announcement or comment upon or otherwise provide any information to any third party (other than its legal advisers) concerning this Agreement (including its existence and terms) without the prior written consent of the other party.
- 10.5 Neither party shall be liable for loss, damage or delay, nor be deemed to be in default due to it not complying with its obligations as a result of an Act of God, fire, strike, labour difficulties, riots, embargoes, delays or shortages in transportation or any other causes beyond such party's reasonable control.
- 10.6 No failure or delay on the part of either party to exercise any right or remedy under this Agreement shall be construed or operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy.
- 10.7 This Agreement shall be governed by and construed in all respects in accordance with English law regardless of the place of execution or place of performance and the parties hereby submit to the exclusive jurisdiction of the English Courts PROVIDED THAT Newcastle at their entire discretion may seek to enforce the provisions of this Agreement in the courts of any territory of its choosing.

ANNEX 1:
MATERIALS

Material Identifiers:

ANNEX 2:
PROJECT